COMMISSION REGULATION (EEC) No 4023/87

of 23 December 1987

providing, for the 1987/88 wine year, for the distillation of table wine referred to in Article 41 (1) of Regulation (EEC) No 822/87

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine [1], as last amended by Regulation (EEC) No 3146/87 [2], and in particular Articles 41 (10), 47 (3) and 81 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy [3], as last amended by Regulation (EEC) No 1636/87 [4],

Having regard to Council Regulation (EEC) No 1678/85 of 11 June 1985 fixing the conversion rates to be applied in agriculture [5], as last amended by Regulation (EEC) No 3882/87 [6],

Whereas Article 41 (1) of Regulation (EEC) No 822/87 provides that in years during which the distillation referred to in Article 39 is decided on, support distillation must be introduced as soon as the said measure enters into force;

Whereas Commission Regulation (EEC) No 4022/87 [7] provided, in respect of the 1987/88 wine year, that the distillation referred to in Article 39 of Regulation (EEC) No 822/87 should be introduced; whereas the distillation provided for in Article 41 (1) of Regulation (EEC) No 822/87 must, therefore, be introduced;

Whereas, if this measure is to make an effective contribution to the improvement of market conditions it is necessary to introduce distillation for all table wines; whereas, however, the minimum buying-in prices for the wines delivered for distillation are fixed at a percentage of the guide prices for the various types of table wine; whereas it is therefore necessary also to define the table wines which have a close economic relationship with each type of table wine;

Whereas, given the lack of a Commission definition of rosé wine and for the sake of clarity, it should be made clear that rosé table wines are treated as red table wines because of the close economic relationship between them;

Whereas Article 47 of Regulation (EEC) No 822/87 provides that only producers fulfilling the obligations laid down in Article 35 and, where appropriate, Articles 36 and 39 of that Regulation during a reference period to be determined may qualify for the intervention measures; whereas that period must therefore be specified;

Whereas, in view of the improvement in market conditions which is expected to result from the application, during the marketing year in question, of the distillation measure provided for in Article 39 of Regulation (EEC) No 822/87, the overall quantity of table wine which may be distilled under support distillation arrangements should be limited to four million hectolitres and the total quantity of table wine for which each producer may submit one or more delivery contractor declarations for approval by the intervention agency should be limited to an appropriate percentage of the quantity of table wine which he has produced during the 1987/88 wine year; whereas the quantity of table wine produced to which the said percentage is applied should be that shown in the production declaration provided for in Commission Regulation (EEC) No 2102/84 of 13 July 1984 on harvest, production and stock declarations relating to wine-sector products [8], as last amended by Regulation (EEC) No 2528/87 [9], and in the records provided for in Commission Regulation (EEC) No 1153/75 of 30 April 1975 prescribing the form of accompanying documents for wine products and specifying the obligations of wine producers and traders other than retailers [10], as last amended by Regulation (EEC) No 3203/80 [11];

Whereas, in certain Member States where wine is produced directly from grapes by the growers, it is possible to determine the quantities eligible for distillation by reference to the area utilized; whereas this approach makes for a fairer distribution of the benefits of the measures, whilst ensuring the same degree of economic effectiveness;

Whereas support distillation must be carried out in accordance with Council Regulation (EEC) No 2179/83 of 25 July 1983 laying down general rules for distillation operations involving wine and the by-products of wine-making [12], as amended by Regulation (EEC) No 2687/84 [13]; whereas, in the context of such distillation, a reminder should also be issued concerning the consequences of failing to submit or of providing incomplete or erroneous declarations;

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(1) OJ No L 84, 27. 3. 1987, p. 1.
(2) OJ No L 300, 23. 10. 1987, p. 4.
(3) OJ No L 164, 24. 6. 1985, p. 9.
(4) OJ No L 153, 13. 6. 1987, p. 1.
(5) OJ No L 164, 24. 6. 1985, p. 11.
(6) OJ No L 365, 24. 12. 1987, p. 13.
(7) See page 45 of this Official Journal.
(8) OJ No L 194, 24. 7. 1984, p. 1.
(9) OJ No L 240, 22. 8. 1987, p. 11.
(10) OJ No L 113, 1. 5. 1975, p. 1.
(11) OJ No L 333, 11. 12. 1980, p. 18.
(12) OJ No L 212, 3. 8. 1983, p. 1.
(13) OJ No L 255, 25. 9. 1984, p. 1.

Whereas it should be stipulated that delivery contracts and declarations must contain the particulars necessary for the identification of the wines to which they refer;

Whereas it is necessary to set certain time limits, applicable to both producers and distillers, for the performance of the operation, in order to ensure that the measure is as effective as possible;

Whereas the price of wine for distillation is usually such that the products obtained by distillation cannot be offered for sale at market rates; whereas it is therefore necessary to provide for aid at a level based on the criteria laid down in Article 8 of Regulation (EEC) No 2179/83, account also being taken of the present uncertainty surrounding prices on the market for the products of distillation;

Whereas it is necessary to avoid the risk that the products of the distillation of certain wines may disturb the market in wine spirits with a designation of origin; whereas, to this end, provision should be made pursuant to Article 3 (2) of Regulation (EEC) No 2179/83 so that the direct distillation of such wines cannot give rise to a product with an alcoholic strength of less than 92 % vol;

Whereas under Article 41 (6) of Regulation (EEC) No 822/87 the minimum price payable for the purchase of the wine is that corresponding to the percentage specified in Article 29 of the said Regulation; whereas the percentage concerned is 82 % in the case of the Member States of the Community as constituted at 31 December 1985; whereas under Article 122 of the Act of Accession of Spain and Portugal the percentage in question is 76 % in the case of Spain;

Whereas provision should be made so that the minimum price guaranteed to producers is, as a rule, paid in time for them to derive therefrom a benefit comparable to that which they would obtain from a commercial sale; whereas this being the case, it is necessary that payment of the aid for the distillation in question should be made as early as possible, with proper performance of the operations being guaranteed by appropriate security arrangements;

Whereas certain wines delivered for the distillation provided for in this Regulation may be fortified for distillation; whereas, consequently, the provisions applicable to the distillation operations should be adjusted in accordance with the rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83;

Whereas, in order that all producers are treated in the same manner where a reduction in the quantities of wine for distillation covered by delivery contracts and declarations has to be decided on, provisions must be made so that distillation operations do not commence until all contracts and declarations have been submitted to the intervention agencies and until the total quantities offered are known;

Whereas the intervention agencies and the Commission must be informed of the performance of the distillation operations and must know in particular the quantities of wine distilled and the quantities of products obtained;

Whereas the measure provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 1987/88 wine year, all table wines shall be eligible for distillation pursuant to Article 41 (1) of Regulation (EEC) No 822/87, subject to a maximum quantity of four million hectolitres.

2. In accordance with Article 47 (1) of Regulation (EEC) No 822/87, producers who, during the 1986/87 wine year, were subject to the obligations referred to in Articles 35, 36 or 39 of Regulation (EEC) No 822/87 shall not be entitled to benefit from the measures provided for in this Regulation unless they provide proper evidence that they have complied with their obligations during the reference periods fixed respectively in Article 16 of Commission Regulation (EEC) No 2672/86 [1], Article 13 of Commission Regulation (EEC) No 2705/86 [2], and Article 22 of Commission Regulation (EEC) No 854/86 [3].

Article 2

The contracts and declarations referred to in Articles 4 (1) and 5 (1) respectively of Regulation (EEC) No 2179/83 shall be submitted for approval to the competent intervention agency not later than 18 March 1988.

Article 3

1. The total quantity of table wine in respect of which each producer may conclude one or more contracts must not exceed 6 % of the quantity of table wine which he produced in 1987/88.

However, Member States may provide that the total quantity in respect of which each producer may conclude one or more contracts must not exceed five hectolitres per hectare of vineyard used for the production of table wine by the producer in question. Such provision may apply to the entire territory of the Member State or to an entire wine-growing zone or to the part of a wine-growing zone located within the territory of the Member State.

The minimum quantity of table wine which may be delivered by a producer shall be five hectolitres.

[1] OJ No L 244, 29. 8. 1986, p. 8.
[2] OJ No L 246, 30. 8. 1986, p. 61.
[3] OJ No L 80, 25. 3. 1986, p. 14.

2. The quantity of table wine to which the percentage specified in the first subparagraph of paragraph 1 is applied shall be, in the case of each producer, the sum of the quantities stated in his production declaration and the quantities produced by him after the date on which the production declaration provided for in Regulation (EEC) No 2102/84 was submitted which are entered in the records referred to in Article 14 of Regulation (EEC) No 1153/75.

Article 4

1. The contracts and declarations referred to in Article 2 shall include at least the following particulars:

(a) the quantity, colour and actual alcoholic strength by volume of the table wine to be distilled;

(b) the name and address of the producer;

(c) the place where the wine is stored;

(d) the name of the distiller or distillery;

(e) the address of the distillery.

Article 5

1. Member States shall communicate to the Commission, not later than 15 April 1988, the data relating to the quantities of table wine covered by the contracts submitted to the intervention agency.

2. Where the communications referred to in paragraph 1 show that the total quantity of table wines covered by contracts submitted to intervention agencies exceeds four million hectolitres, the contracts can be approved only in respect of a certain percentage of the quantity proposed. The said percentage shall be set by the Commission not later than 6 May 1988 in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

3. The intervention agency shall inform the producer of the outcome of the approval procedure not later than 27 May 1988.

4. Approval shall be conditional on compliance with the conditions referred to in Article 10a of Regulation (EEC) No 2102/84.

Article 6

Without prejudice to the second subparagraph of Article 4 (2) of Regulation (EEC) No 2179/83 distillation operations may not commence before 9 May 1988 and may not be carried out after 31 August 1988.

Article 7

Only products with an alcoholic strength of at least 92 % vol may be obtained by the direct distillation of wines made from grapes of varieties which are classified, simultaneously for the same administrative unit, both as wine grape varieties and as varieties intended for the manufacture of wine spirits.

Article 8

1. Without prejudice to Article 44 of Regulation (EEC) No 822/87, the minimum buying-in price referred to in Article 41 (6) of the said Regulation shall be:

— 2,75 ECU per % vol and per hectolitre for table wines of types R I and R II and for table wines having a close economic relationship with those types of table wine,

— 4,08 ECU per % vol and per hectolitre for table wines of type R III,

— 2,55 ECU per % vol and per hectolitre for table wines of type A I and for table wines having a close economic relationship with that type of table wine,

— 5,71 ECU per % vol and per hectolitre for table wines of type A II,

— 6,52 ECU per % vol and per hectolitre for table wines of type A III.

The prices in question shall be 1,73 ECU, 2,58 ECU, 1,60 ECU, 3,59 ECU and 4,11 ECU respectively per % vol and per hectolitre in the case of wine obtained from grapes produced in Spain.

2. The minimum buying-in price referred to in paragraph 1 shall be paid by the distiller to the producer within three months of the day on which each consignment of wine enters the distillery.

Article 9

1. The amount of the aid referred to in Article 41 (8) of Regulation (EEC) No 822/87 shall, in relation to the prices specified in Article 8, be as follows:

(a) where the product obtained by distillation meets the definition of neutral spirits given in the Annex to Regulation (EEC) No 2179/83:

— 2,26 ECU and 1,23 ECU per % vol and per hectolitre if it has been obtained from red table wines of types R I or R II,

— 3,61 ECU and 2,09 ECU per % vol and per hectolitre if it has been obtained from red table wines of type R III,

— 2,06 ECU and 1,09 ECU per % vol and per hectolitre if it has been obtained from white table wines of type A I,

— 5,27 ECU and 3,11 ECU per % vol and per hectolitre if it has been obtained from white table wines of type A II,

— 6,09 ECU and 3,64 ECU per % vol and per hectolitre it if has been obtained from white table wines of type A III;

(b) where the product obtained by distillation is a wine spirit with the quality characteristics laid down by the relevant national provisions:

— 2,15 ECU and 1,12 ECU per % vol and per hectolitre if it has been obtained from red table wine of types R I or R II,

— 3,50 ECU and 1,98 ECU per % vol and per hectolitre if it has been obtained from red table wines of type R III,

— 1,95 ECU and 0,98 ECU per % vol and per hectolitre if it has been obtained from white table wines of type A I,

— 5,16 ECU and 3,00 ECU per % vol and per hectolitre if it has been obtained form white table wines of type A II,

— 5,98 ECU and 3,53 ECU per % vol and per hectolitre if it has been obtained from white table wines of type A III;

(c) where the product obtained by distillation is a distillate or raw alcohol with an alcoholic strength of at least 52 % vol:

— 2,15 ECU and 1,12 ECU per % vol and per hectolitre if it has been obtained from red table wines of types R I or R II,

— 3,50 ECU and 1,98 ECU per % vol and per hectolitre if it has been obtained from red table wines of type R III,

— 1,95 ECU and 0,98 ECU per % vol and per hectolitre if it has been obtained from white table wines of type A I,

— 5,16 ECU and 3,00 ECU per % vol and per hectolitre if it has been obtained from white table wines of type A II,

— 5,98 ECU and 3,53 ECU per % vol and per hectolitre if it has been obtained from white table wines of type A III.

2. Without prejudice to the third subparagraph of Article 3 (1), the aid shall be calculated on the basis of the amount corresponding to the wine actually delivered, account being taken of the tolerance referred to in Article 6 (2) of Regulation (EEC) No 2179/83.

Article 10

1. The provisions of this Regulation relating to red wines shall apply also to rosé wines.

2. The provisions of this Regulation relating to a given type of table wine shall apply also to table wines which have a close economic relationship with that type of table wine.

For the purposes of this Regulation and without prejudice to Article 47 (2) of Regulation (EEC) No 822/87, the following shall be considered as having a close economic relationship with table wine of type:

— A I: white table wines which are not of types A I, A II or A III,

— R I: red table wines which have an actual alcoholic strength of less than 12,5 % vol and which are not of types R I or R III,

— R II: red table wines which have an actual alcoholic strength or more than 15 % vol and which are not of type R III.

3. The product of coupage of a wine suitable for yielding white table wine or of a white wine with a wine suitable for yielding a red table wine or with a red table wine, in accordance with Article 125 (1) of the Act of Accession, may be delivered for distillation in Spain. To that end it shall be treated in the same way as a white table wine of type A I.

Article 11

The distiller must, within four months of the date on which evidence is furnished that the entire quantity of wine specified in the contract has been distilled, provide the intervention agency with evidence that he has paid the minimum buying-in price laid down in Article 8 (1) within the time limit set in Article 8 (2).

If such evidence is not provided within the set time limit, the intervention agency shall recover the aid paid. However, if the evidence is provided after the expiry of the time limit but not later than 28 February 1989, the intervention agency shall recover only 20 % of the aid paid.

If it is found that the distiller has not paid the producer the minimum buying-in price, the intervention agency shall, before 1 May 1989, pay the producer an amount equal to the aid, if necessary through the intervention agency of his Member State.

Article 12

1. The amount of the advance payment referred to in Article 9 (1) of Regulation (EEC) No 2179/83 shall be paid within three months of submission of proof that the security has been lodged.

2. Subject to Article 23 of Regulation (EEC) No 2179/83, the security referred to in the first paragraph shall be released only if proof that the total quantity of wine has been distilled and, where appropriate, proof of payment of the purchase price for the wine within the period set is provided before 1 November 1988.

If the proof referred to in the first subparagraph is provided after the deadline set in that subparagraph but before 1 February 1989, the amount to be released shall be 80 % of the security.

Article 13

1. In cases as referred to in Article 26 of Regulation (EEC) No 2179/83, contracts or declarations concerning the delivery of wine to be fortified for distillation shall be submitted for approval to the competent intervention agency not later than 18 March 1988.

The intervention agency shall notify the producer of the outcome of the approval procedure not later than 27 May 1988.

2. Wine may not be fortified for distillation until the contract or declaration has been approved and, in any case, not before 9 May 1988 and not later than 31 July 1988.

3. The fortified wine may not be distilled after 31 August 1988.

4. The fortifier shall send the intervention agency, by the 10th of each month at the latest, a statement of the quantites of wine delivered to him during the previous month.

5. Fortifiers of wine for distillation shall qualify for aid which, per hectolitre and per % vol of actual alcohol before conversion into wine fortified for distillation, shall be fixed as follows in relation to the prices specified in Article 8 :

— 2,11 ECU and 1,09 ECU for red table wines of types R I and R II,

— 3,44 ECU and 1,94 ECU for red table wines of type R III,

— 1,91 ECU and 0,96 ECU for white table wines of type A I,

— 5,07 ECU and 2,95 ECU for white table wines of type A II,

— 5,88 ECU and 3,47 ECU for white table wines of type A III.

In order to receive the aid the fortifier shall submit an application to the competent intervention agency not later than 14 August 1988, attaching copies of the accompanying documents for the transport of the wine for which aid is requested or a summary statement of their contents.

Member States may require that the copies or statement referred to in the second subparagraph be stamped by a control authority.

The aid shall be paid within three months of the date on which evidence is provided that the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 has been lodged, but in all cases after the date on which the contract or declaration is approved.

6. Subject to Article 23 of Regulation (EEC) No 2179/83, the security shall be released only if, not later than 28 November 1988, evidence is provided :

— that all the the wine covered by the contract or declaration has been fortified for distillation and distilled, and

— that the buying-in price for the wine has been paid to the producer within the time limit specified in Article 4 (2).

If the evidence referred to in the first subparagraph is not provided by 28 November 1988, the intervention agency shall recover the aid from the fortifier.

However, if the said evidence is provided after the expiry of the time limit but before 1 March 1989, the intervention agency shall recover only 20 % of the amount paid.

If it is found that the fortifier has not paid the producer the buying-in price, the intervention agency shall, before 1 April 1989, pay the producer an amount equal to the aid, if necessary through the intervention agency of his Member State.

Article 14

1. Member States shall notify the Commission not later than 17 June 1988, of the quantities of wine which are covered by approved delivery contracts.

2. Distillers shall send the intervention agency, not later than the 10th of each month, a statement of the quantities of wine distilled during the previous month, broken down by the the categories specified in the first subparagraph of Article 3 (1) of Regulation (EEC) No 2179/83.

3. Member States shall send the Commission by telex, not later than the 20th of each month for the previous month, a statement of the quantites of wine and fortified wine which have been distilled and the quantities of products obtained, expressed in terms of pure alcohol and broken down as provided for in paragraph 2.

4. Member States shall send notification, not later than 30 November 1988, of cases where distillers or fortifiers have not fulfilled their obligations and of the action taken in consequence.

Article 15

The amounts specified in this Regulation shall be converted into national currencies at the representative rates applicable to the wine sector on 1 September 1987.

Article 16

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 December 1987.

For the Commission

Frans ANDRIESSEN

Vice-President