COUNCIL REGULATION (EEC) No 1442/88

of 24 May 1988

on the granting, for the 1988/89 to 1995/96 wine years, of permanent abandonment premiums in respect of wine-growing areas

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas the steadily increasing imbalance on the market in wine is such that action must be taken on a scale and of an effectiveness to bring production, in the medium term, definitively back to the level of demand;

Whereas experience gained in the reduction of wine-growing potential, in particular under Council Regulation (EEC) No 777/85 of 26 March 1985 on the granting, for the 1985/86 to 1989/90 wine years, of permanent abandonment premiums in respect of certain areas under vines (3), as amended by Regulation (EEC) No 3775/85 (4), shows that the effort made must be stepped up; whereas, in particular, the facility for abandonment must be extended to all classes of wine-growing areas;

Whereas an incentive should be given to the abandonment of wine-growing areas through the grant, during the next eight wine years, of premiums in amounts to be varied on the basis of the productivity of the areas concerned, covering the cost of the grubbing-up operations, the loss of replanting rights and the loss of future income;

Whereas, in the cases of holders who definitively abandon farming, the measure may be made more attractive if provision is made for replacing the single premium scheme by a system of annual premiums;

Whereas a reduction in the number of wine-growing holdings will reduce the dispersion of supply on the market and simplify market management; whereas there should therefore be a further incentive for holders abandoning the whole of their holdings;

Whereas account should be taken of the situation of institutional and market prices applicable in Spain during the transitional period laid down in the Act of Accession to the European Communities, in order to ensure a balance between the level of the abandonment premiums and income resulting for holders from the abovementioned prices;

Whereas, to enable the payment of abandonment premiums to be properly administered, deadlines should be set for the submission of applications and conditions to be complied with by the applicant should also be laid down;

Whereas the abandonment of wine-growing areas by holders who are members of cooperative organizations jointly processing grapes harvested by their members may reduce the quantities of grapes delivered and thereby increase processing costs; whereas, it is therefore fair to provide that such negative effects may be compensated for; whereas, bearing in mind the differences which exist in wine-growing structures within the Community, any compensation scheme should be adopted by the Member States;

Whereas, as a matter of fairness, holders implementing this scheme and thus contributing to the effort to restore lasting sound conditions on the market should enjoy a decrease in, ranging as far as exemption from, their contribution to the scheme for compulsory distillation of table wines referred to in Article 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (5), as last amended by Regulation (EEC) No 1441/88 (6); whereas a reasonable arrangement would be for this decrease to be dependent on the reduction of the wine-growing potential carried out and to require, for the grant of such benefit, that the reduction in question should represent at least 50 hl;

Whereas the lessening of farming activities may, in certain wine-growing areas, cause serious problems, particularly from the view-point of depopulation, and call into question the policy adopted on quality; whereas provision should therefore be made for the possibility of not applying or only partially applying the abandonment scheme, whilst fixing limits ensuring that the measure will be effectively applied and will observe the necessary balance between the different wine-growing areas of the Community; whereas in addition, provision should be made for procedures to alleviate any difficulties that may arise, and in cases of emergency, for the possibility of suspending or limiting the application of the abandonment scheme;

(1) OJ No C 100, 15. 4. 1988, p. 11.
(2) Opinion delivered on 20 May 1988 (not yet published in the Official Journal).
(3) OJ No L 88, 28. 3. 1985, p. 8.
(4) OJ No L 362, 31. 12. 1985, p. 39.
(5) OJ No L 84, 27. 3. 1987, p. 1.
(6) See page 1 of this Official Journal.

Whereas the permanent abandonment premium serves the interests of the Community and is designed to contribute to the achievement of the objectives laid down in Article 39 (1) (a) of the Treaty; whereas at the same time it aims to contribute to the re-establishment of the balance between production and use; whereas provision should be made, for an initial period of two wine years to finance this measure in equal parts by the 'Guarantee' and 'Guidance' sections of the European Agricultural Guidance and Guarantee Fund.

Whereas, in order to ensure maximum effectiveness for the proposed measure, it is necessary to fix time-limits for the payment of premiums to the recipients, and to provide for the possibility of advances being paid against a security and for payment to Member States by the European Agricultural Guidance and Guarantee Fund of advances corresponding to the Community contribution, while ensuring that the payment of premiums and the final contribution by the Fund are subject to grubbing up being carried out under the conditions laid down;

HAS ADOPTED THIS REGULATION:

Article 1

1. Holders:

(a) of cultivated wine-growing areas for the production of:

— wine,

— table grapes,

— grapes for drying, or

(b) of cultivated wine-growing areas used as root-stock nurseries provided that the root-stock varieties are listed in the classification of vine varieties,

shall, during the 1988/89 to 1995/96 wine years, on application and as provided for in this Regulation for the permanent abandonment of wine-growing, qualify for:

— a permanent abandonment premium,

— preferential arrangements as regards distillation.

2. The grant of the permanent abandonment premium shall entail for the grower forfeiture of replanting rights in respect of the area for which the premium is granted.

Article 2

1. The amount of the premium per hectare is hereby fixed as follows:

(a) for areas of not less than 10 ares but not more than 25 ares cultivated with wine-grape varieties and constituting the entire wine-growing area of the holding concerned: 3 600 ECU;

(b) for areas of more than 25 ares cultivated with wine-grape varieties:

— 1 200 ECU if the average yield per hectare is not more than 20 hl,

— 2 800 ECU if the average yield per hectare is more than 20 hl but not more than 30 hl,

— 3 500 ECU if the average yield per hectare is more than 30 hl but not more than 40 hl,

— 3 800 ECU if the average yield per hectare is more than 40 hl but not more than 50 hl,

— 5 250 ECU if the average yield per hectare is more than 50 hl but not more than 90 hl,

— 7 150 ECU if the average yield per hectare is more than 90 hl but not more than 130 hl,

— 9 200 ECU if the average yield per hectare is more than 130 hl but not more than 160 hl,

— 10 200 ECU if the average yield per hectare is more than 160 hl,

(c) for areas cultivated with varieties classified in the administrative unit concerned either as table grapes or as both table and wine grapes:

— 10 800 ECU in the case of large-grape varieties, trained by the pergola method, contained in a list to be drawn up,

— 8 400 ECU in the case of varieties other than those referred to in the first indent trained by the pergola method,

— 7 200 ECU in the case of the varieties refered to in the first indent trained by a method other than the pergola method,

— 6 000 ECU in the case of varieties other than those referred to in the first indent trained by a method other than the pergola method;

(d) for areas for the production of wine for making wine spirits of designated origin in the Charentes region: 7 200 ECU;

(e) for areas cultivated with varieties classified in the administrative unit concerned as dried-grape varieties or as both dried-grape and other varieties: 7 200 ECU;

(f) for areas cultivated as root-stock nurseries: 6 000 ECU.

2. The amounts specified in paragraph 1, with the exception of the amount referred to in paragraph 1 (a), shall be increased by 600 ECU per hectare if the areas concerned constitute the entire wine-growing area cultivated by the applicant.

3. The yield per hectare of the grubbed-up areas referred to in paragraph 1 (b) shall be calculated on the basis of the average yield declared for the recipient's holding and an on-the-spot assessment, carried out by the competent body of the Member State concerned prior to grubbing up, of the productive capacity of the wine-growing area to be grubbed up.

4. As regards Spain, the premiums provided for in paragraph 1 and the amount referred to in paragraph 2 shall be fixed in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87 so that the difference between the amounts referred to in Article 2 (1) (a) of Regulation (EEC) No 777/85 and those in paragraphs 1 and 2 is reduced by three sevenths at the beginning of the 1988/89 wine year and by successive uniform instalments at the beginning of each subsequent wine year, the Community level being applicable in that Member State from the 1992/93 wine year.

Article 3

The following shall not qualify for the permanent abandonment premium :

(a) cultivated wine-growing areas located on holdings which total 25 ares or less, with the exception of areas of not less than 10 ares where the areas constitute the entire cultivated wine-growing area of the holding concerned ;

(b) cultivated wine-growing areas in respect of which infringements of Community or national provisions regarding planting have been recorded since 1976 ;

(c) wine-growing areas which are no longer tended ;

(d) wine-growing areas which were planted after the entry into force of this Regulation.

Article 4

1. Applications for premiums must be submitted before 31 December of each wine year, to the departments appointed by the Member States.

Where applications relate to cultivated wine-growing areas under wine-grape varieties, they shall be supplemented by an official declaration stating the yield per hectare calculated in accordance with Article 2 (3).

2. The grant of the premium shall be subject to a written declaration in which the applicant undertakes to grub up the vines on the areas in respect of which the premium has been applied for or to have them grubbed up before 15 May of the year following that in which the application is submitted.

3. The premium shall be granted only if the applicant :

— has, in accordance with national laws and on submission of his application, the right to make use of the relevant area,

— produces, where he does not meet the condition specified in the first indent, the written agreement of the owner of the area.

4. Member States may bring forward the dates referred to in the first subparagraph of paragraph 1 and in paragraph 2.

Article 5

For the grant of the permanent abandonment premium, associated crop areas shall be expressed as pure cultivation areas on the basis of the conversion factor usually used for the production area concerned.

Article 6

The amount of the permanent abandonment premium shall be paid no later than the end of the calendar year following that in which the application for the premium was submitted, provided the applicant has furnished proof that grubbing up has in fact taken place.

At the request of the holder, the premium shall be paid in advance to him, provided he has put up a security to be determined.

Article 7

1. Member States may provide that, for holders who are members of a wine cooperative or other association of wine-growers, the premiums provided for in Article 2 (1) shall be reduced by up to 15 %. In such case, the sums corresponding to this reduction shall be paid to the cooperatives or associations in question.

2. Without prejudice to paragraph 1, Member States may provide for measures comprising national compensation for wine cooperatives and other associations of wine-growers who furnish proof that :

— they have had to reduce their activity as a result of the lower level of deliveries from their members following the grant of the permanent abandonment premium,

— the area cultivated by their members has been reduced by at least 10 % compared with that cultivated during the 1987/88 wine year.

The amount of the national compensation may not exceed the losses due to the reduction in activity.

3. Member States shall inform the Comission of any provisions they may adopt pursuant to this Article.

Article 8

1. Holders entitled to the premium as a result of permanently abandoning an area intended for the production of table wine shall also qualify, at their request, for exemption from the obligation referred to in Article 39 of Regulation (EEC) No 822/87, which shall be :

— total where the holding has undergone a reduction in table wine production potential of more than 50 %,

— at one or more levels to be fixed in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87, where the reduction in potential is between 20 % and 50 %,

provided always that the reduction in potential is at least 50 hl.

No exemption shall be allowed where the reduction in potential is less than 20 %.

The exemption provided for in the first subparagraph shall not apply to the quantity resulting from an increase, after the abandonment premium is granted, in production potential due to an increase in the area under vines and/or yield.

2. The percentage reduction in table wine production potential shall be equal to the ratio between the quantity obtained by multiplying the yield determined in accordance with Article 2 (3) by the area grubbed up and average table wine production declared for the holding during the five wine years preceding grubbing up; however, the quantities produced in the highest-producing wine year and the lowest-producing wine year shall be disregarded in calculating such average production.

Article 9

If the holder qualifies for the annual allowance referred to in the first indent of Article 3 (1) of Council Regulation (EEC) No 1096/88 of 25 April 1988, establishing a Community scheme to encourage the cessation of farming [1], the permanent abandonment premium referred to in Article 1 of this Regulation may be granted, at the request of the party concerned, in the form of an annual premium of an eligible maximum amount of 1 350 ECU/ha which would be granted for the length of time fixed shall exclude, in respect of wine-growing areas, the supplementary premium per hectare referred to in the second indent of Article 3 (1) of Regulation (EEC) No 1096/88.

Article 10

1. Member States shall verify that the undertakings referred to in Article 4 (2) and (3) are being complied with.

2. Member States shall inform the Commission of the results of such verification.

Article 11

Before 1 April 1990 the Council shall conduct an exhaustive analysis of all aspects of the grubbing-up measures adopted and shall act by a quaified majority on the basis of a Commission proposal as regards any adjustments which prove necessary.

Article 12

1. On receipt of a reasoned application, the Commission may, acting in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87, authorize a Member State not to apply the measures laid down in this Regulation up to a limit of 10 % of the wine-producing potential of the Member State concerned in areas where:

— natural conditions, or
— the risk of depopulation, or
— any risk to the policy on quality, or
— entitlement to restructuring premiums granted under Council Regulation (EEC) No 458/80 of 18 February 1980 on collective projects for the restructuring of vineyards [2],

argue against a reduction in production.

2. The Commission may also take into account the socio-economic difficulties of certain areas other than those referred to in paragraph 1, especially where alternative crops offer few opportunities. Where these difficulties are particularly acute, the Commission may authorize the Member State concerned not to apply the measures laid down in this Regulation in such areas, beyond a percentage of the wine-producing potential of the area in question to be fixed by the Commission in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

3. For the purposes of paragraphs 1 and 2, an area shall mean a geographical administrative unit with a homogeneous wine-growing character.

4. The application of the measures referred to in paragraphs 1 and 2 shall not concern more than 10 % of the production potential of the Member State concerned. Production potential shall be calculated on the basis of average production for the 1985/86, 1986/87 and 1987/88 wine years.

5. The Council, acting by a qualified majority on a proposal from the Commission, may take the necessary measures to avoid any clear imbalance in the application of this Regulation as between Member States, or as between regions within Member States, especially in areas facing serious social and economic problems.

Pending the decision of the Council, the Commission may, in an emergency, and if grubbing up is likely to be on a vast scale, suspend or limit the implementation of this Regulation in one or more administrative units.

Article 13

The Commission shall take all action necessary to ensure that the holders concerned by the measures laid down in this Regulation have full and detailed information. Such action must enable the holders to have knowledge of all factors needed in the assessment leading to a decision whether or not to abandon some or all of their wine-growing areas.

Article 14

1. Expenditure borne by the Member States pursuant to this Regulation shall be eligible for the European Agricultural Guidance and Guarantee Fund ('Guarantee' and 'Guidance' sections, hereinafter referred to as 'the Fund'.

[1] OJ No L 110, 29. 4. 1988, p. 1.

[2] OJ No L 57, 29. 2. 1980, p. 27.

2. The Fund shall reimburse to the Member States 70 % of the expenditure borne pursuant to this Regulation.

For the 1988/89 and 1989/90 wine years, 50 % of this reimbursement shall come from the 'Guarantee' section and 50 % from the 'Guidance' section.

The arrangements for apportionment between the 'Guarantee' section and the 'Guidance' section will be reviewed in the light of the results achieved in rationalizing the market, in connection with the measures laid down in Article 11.

3. The Fund shall pay the Member States an advance on the basis of a notification of:

— the areas for which applications for the granting of the permanent abandonment premium had been submitted before the deadline established in accordance with Article 4,

— an undertaking to pay the appropriations received from the Fund before the end of the same year to recipients who meet the condition set out in Article 4 (2).

That advance shall be equal to a maximum of 70 % of the premiums applied for.

Article 15

1. Applications for contributions from the Fund shall be submitted by the Member States before 1 May of each year.

2. The Commission shall take a decision on these applications as speedily as possible in accordance with the procedure laid down in Article 7 (1) of Regulation (EEC) No 729/70.

Article 16

1. The amount due by the Fund to the Member States shall be fixed definitively after the presentation, before 1 April each year, of a statement of the permanent abandonment premiums paid during the previous year to recipients.

2. Advances not expended during the year in respect of which they were received shall be deducted from sums to be paid in respect of the following year.

3. Detailed rules for the application of Articles 14 and 15 of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 17

1. Without prejudice to Article 8 of Regulation (EEC) No 729/70, Member States shall, in accordance with their national laws, regulations and administrative provisions, take the necessary measures to recover the amounts paid in cases where the undertakings referred to in Article 4 are not complied with. They shall inform the Commission of action taken in this connection and, in particular, shall periodically notify it of the state of administrative and judicial procedures relating thereto.

2. The sums recovered shall be paid to the paying agencies or departments and deducted by them from the expenditure financed by the Fund in proportion to Community financing.

3. The financial consequences of failure to recover amounts paid out shall be borne by the Community in proportion to Community financing.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 18

Member States shall inform the Commission, as part of the communication referred to in Article 9 (1) of Regulation (EEC) No 822/87, during the wine years referred to in Article 1 (1), of the wine-growing areas which have been grubbed up in return for the corresponding premium. The Commission shall take account of this information in the report referred to in Article 9 (2) of Regulation (EEC) No 822/87.

Article 19

This Regulation shall not impede the granting of aid provided for by national rules designed to achieve objectives similar to those sought by this Regulation. The grant of such aid, with the exception of the compensation provided for in Article 7, shall be subject to review on the basis of Articles 92, 93 and 94 of the Treaty.

Article 20

Subject to special provisions, detailed rules for the application of this Regulation, in particular those relating to:

— the guarantee referred to in the second paragraph of Article 6,

— application to those holders who are members of a wine cooperative of the exemption from compulsory distillation provided for in Article 8,

shall be adopted in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

Article 21

In the title of Regulation (EEC) No 777/85, in the first subparagraph of Article 1 (1) and in Article 9 (2) thereof, the term '1989/90' is hereby replaced by '1987/88'.

Article 22

This Regulation shall not apply to Portugal.

Article 23

This Regulation shall enter into force on the third day following that 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, 24 May 1988.

For the Council

The President

H.-D. GENSCHER