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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2043/89

of 19 June 1989

amending Regulation (EEC) No 823/87 laying down special provisions relating to quality wines produced in specified regions

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

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

Having regard to the opinion of the Economic and Social Committee (3),

Whereas experience gained from applying Regulation (EEC) No 823/87 (4) has shown the need to emphasize the horizontal nature of the said Regulation, which applies to all categories of quality wine produced in specified regions of the Community, hereinafter called 'quality wines psr', but also, for the sake of a more methodical presentation of Community wine legislation, to remove from the Regulation the detailed technical provisions which would be more appropriately included in the special Regulations dealing with these matters which already exist or which have yet to be adopted; whereas in this connection it should be stressed that the provisions of that Regulation apply to all quality wines psr, including sparkling, semi-sparkling and liqueur wines except for certain specific provisions expressly indicated; whereas the detailed provisions, which apply only to quality sparkling wines produced in specified regions, should be transferred to Council Regulation (EEC) No 358/79 of 5 February 1979 on sparkling wines produced in the Community as defined in point 15 of Annex I to Regulation (EEC) No 822/87 (5), as last amendet by Regulation (EEC) No 3805/85 (6);

Whereas the specific rules applicable to special wines produced in a specified region form part of the rules governing in particular the production and where appropriate the entry into free circulation of such wines;

Whereas the location of a vineyard and the annual weather conditions affecting it, and wine-growing techniques including in particular the oenological practices and processes used immediately after the grape harvest, determine to a large extent the characteristics of a quality wine; whereas, for this reason, but also to reduce the risk of adulteration when raw materials change hands, it should be laid down that grapes and grape must may be processed into quality wine only within or in the immediate vicinity of a specified wine-growing region, the name of which should be stated;

Whereas, in order to protect the holdings concerned from losses resulting from a break with traditional commercial practices, Member States should be granted the option of permitting that a quality wine psr be obtained by adjusting the basic product used by adding one or more wine-sector products which do not originate in the specified region whose name is borne by the wine; whereas the exceptional nature of such adjustments must be clearly apparent in the rules of application by a limit on the total volume of the products added and by the provision of a list of the quality wines psr which may undergo these adjustments and a time limit on the validity of the derogation case by case; whereas the Member States must also be granted the option of permitting, in certain cases, grapes and grape must to be processed into quality wines psr outside the specified region whose name is borne by the wine;

Whereas it should be stated that in certain specified regions where Member States have authorized the alcoholic strength of quality wines produced in specified regions to be increased, wine-makers may choose to use any one of the enrichment processes referred to in Article 19 (1) of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine (7), as last

(1) OJ No C 14, 19. 1. 1988, p. 8.
(2) OJ No C 235, 12. 9. 1988, p. 38.
(3) OJ No C 208, 8. 8. 1988, p. 8.
(4) OJ No L 84, 27. 3. 1987, p. 59.
(5) OJ No L 54, 5. 3. 1979, p. 130.
(6) OJ No L 367, 31. 12. 1985, p. 39.
(7) OJ No L 84, 27. 3. 1987, p. 1.

amended by Regulation (EEC) No 1236/89 (1); whereas this choice is, however, subject to the condition that sucrose may be used, after authorization by the Member State, only in the specified regions in which it is used traditionally or exceptionally in accordance with the rules existing prior to 8 May 1970; whereas in order to prevent negative effects on the quality of wines which undergo enrichment the use of rectified concentrated grape must rather than concentrated grape must should be encouraged and Member States should be authorized to prohibit the use of concentrated grape must for increasing the natural alcoholic strength by volume of products intended for processing into a quality wine psr and for sweetening such wine;

Whereas taking into account Council Regulation (EEC) No 4252/88 of 21 December 1988 on the preparation and marketing of liqueur wines produced in the Community (2), certain specific terms traditionally used for quality liqueur wines produced in specified regions should be included in Regulation (EEC) No 823/87; whereas in a few clearly defined cases the particular renown of certain sparkling wines and liqueur wines warrants the name of the specified regions where these wines originate being regarded as specific terms traditionally used, thus simplifying the labelling of those wines;

Whereas quality wines psr are subject to natural and human factors affecting the production and processing of grapes in their geographical region of origin; whereas this region should, therefore, be clearly defined;

Whereas, in order to protect producers from unfair competition and consumers against misunderstanding and fraud, it is necessary to uphold the principle that a region specified for the production of quality wines must be designated by its geographical name; whereas this approach corresponds to the international obligations of several Member States to protect appellations of origin and to state the geographical origin of wines, as laid down in the Lisbon Agreement of 31 October 1958 for the Protection of Appellations of Origin and their International Registration;

Whereas, however, as a result of traditional practice in accordance with French and Portuguese legislation, the terms 'Muscadet', 'Blanquette' and 'Vinho verde' have become equivalent to a geographical name used to designate a quality wine psr; whereas the Kingdom of Spain demarcated before its accession to the Community took effect the region in which the traditional production of the quality sparkling wine marketed under the name 'Cava' is located; whereas there should be an exception for these four quality wines psr from the principle that the specified region from which they are obtained must be designated by its geographical name and these products should be allowed to be designated by the traditional terms referred to above;

Whereas experience has shown the need to draw up more precise rules for reclassifying quality wines psr as table wines and to specify the cases in which the producer has the option of not requesting that a product appearing in his harvest or production declaration as a product suitable for yielding a quality wine psr be classified as a quality wine psr,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 823/87 is hereby amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

1. This Regulation lays down special provisions for quality wines produced in specified regions, hereinafter called "quality wines psr", and for products suitable for yielding a quality wine psr, viz *inter alia:*

— vine varieties,

— fresh grapes,

— grape must,

— grape must in fermentation,

— new wines still in fermentation,

— wine.

— Article 6 (1), (2), (3) and (5),

— Article 7 (2),

— Article 8 (3),

— Article 9,

— Article 18, first subparagraph, second indent,

shall not apply to the categories of quality wines psr referred to in the first, second and third indents of the second subparagraph of paragraph 2 of this Article, for which specific Community provisions apply.

2. "Qualtiy wines psr" shall mean wines regulated by this Regulation, by other specific or implementing Regulations, and which satisfy the provisions of national rules.

The concept of quality wines psr shall include the following categories of quality wines:

— "quality liqueur wines produced in specified regions", hereinafter called "quality liqueur wines psr", which comply with the definition of liqueur wine in point 14 of Annex 1 to Regulation (EEC) No 822/87,

(1) OJ No L 128, 11. 5. 1989, p. 31.
(2) OJ No L 373, 31. 12. 1988, p. 59.

— "quality sparkling wines produced in specified regions", hereinafter called "quality sparkling wines psr", which comply with the definition of sparkling wine in point 15 of Annex I to that Regulation, including quality sparkling wines of the aromatic type,

— "quality semi-sparkling wines produced in specified regions", hereinafter called "quality semi-sparkling wines psr", which comply with the definition of semi-sparkling wine in point 17 of the said Annex I,

— quality wines psr other than those mentioned in the first, second and third indents above.

3. Member States shall forward to the Commission the list of quality wines psr which they have recognized, stating, for each of these quality wines psr, details of the national provisions governing the production and manufacture of these quality wines psr.

The Commission shall have the said list published in the "C" series of the *Official Journal of the European Communities*.'

2. Article 2 is replaced by the following:

'Article 2

Without prejudice to the first indent of the first subparagraph of Article 18, the specific provisions referred to in the first subparagraph of the first paragraph of Article 1 shall, taking into account the traditional conditions of production in so far as these are not such as to prejudice the policy of encouraging quality production and the creation of a single market, be based on the following factors:

(a) demarcation of the area of production;

(b) vine varieties;

(c) cultivation methods;

(d) wine-making methods;

(e) minimum natural alcoholic strength by volume;

(f) yield per hectare;

(g) analysis and assessment of organoleptic characteristics.'

3. Article 3 (1) is replaced by the following:

'1. "Specified region" shall mean a wine-growing area or a combination of wine-growing areas which produces wines with particular quality characteristics and whose name is used, under the conditions referred to in Article 15, to designate those of such wines which are defined in Article 1.'

4. The second subparagraph of Article 4 (1) is deleted.

5. Article 6 is replaced by the following:

'Article 6

1. Quality wines psr may be produced only:

— from grapes of vine varieties which appear on the list provided for in Article 4 (1) and are harvested within the specified region,

— by processing grapes as referred to in the first indent into grape must and processing the must thus obtained into wine, as well as by the production of such wine, within the specified region where the grapes used were harvested.

2. Notwithstanding the first indent of paragraph 1, in the case of a traditional practice governed by special provisions of the Member State of production, that Member State may permit, by means of express authorizations and subject to appropriate control, that a quality wine psr be obtained by adjusting the basic product of that wine by adding one or more wine-sector products which do not originate in the specified region whose name is born by the wine, provided that:

— this type of added wine-sector product is not produced in that specified region with the same characteristics as products not originating therein,

— this adjustment is consistent with the authorized oenological practices and with the definitions referred to in Regulation (EEC) No 822/87,

— the total volume of wine-sector products added which do not originate in the specified region does not exceed 10 % of the total volume of the products used which originate in the specified region.

The Member State may be authorized, under the procedure laid down in Article 83 of Regulation (EEC) No 822/87, to allow in exceptional cases a percentage of added products higher than 10 %,

— the quality wine psr thus obtained appears on a list to be adopted.

Where the wine-sector products added can be produced within the specified region concerned, the authorizations provided for in the first subparagraph shall be transitional in nature and apply for a maximum of 10 years as from 1 September 1989.

3. Notwithstanding the second indent of paragraph 1, a quality wine psr may be produced in an area in immediate proximity to the specified region concerned, where this has been expressly authorized by the Member State concerned subject to certain conditions.

Moreover, Member States may, by means of individual authorizations subject to appropriate control, permit a quality wine psr to be produced by processing grapes into must and must into wine, as well as by producing such wine, even outside an area in immediate proximity to the specified region concerned:

(a) in the case of a traditional practice, provided this practice:

— was in use before 1 September 1970, or, in the case of Member States which acceded to the Community after that date, before the effective date of their accession,

— has continued without interruption since those dates, and

— involves quantities which, for the processor in question, have not increased since that date more than those corresponding to the general market trend;

(b) in other cases and in the case of a practice in use before 1 September 1989, during a transitional period ending on 31 August 1992 at the latest.

4. Any natural or legal person or group of persons which has grapes or musts which satisfy the conditions laid down for obtaining quality wines psr on the one hand and other products not satisfying these conditions on the other hand, shall ensure a separate wine-making process and storage for the former; otherwise, the wine obtained cannot be considered as quality wine psr.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

They shall include in particular:

— the definition of areas in immediate proximity to a specified region, account being taken in particular of the geographical situation and administrative structures,

— the list of quality wines psr which are the subject of the traditional practices referred to in paragraph 2.'

6. The following subparagraph is added to Article 7 (1):

'The minimum natural alcoholic strength by volume referred to in the first subparagraph may be fixed at different levels for the same quality wine psr depending on:

— the subregion, local administrative area or part thereof,

— the vine variety or varieties,

from which the grapes used are obtained.'

7. Article 8 is replaced by the following:

'Article 8

1. The specific vinification and manufacturing methods used for obtaining quality wines psr shall be laid down for each of those wines by each producer Member State concerned.

2. Where weather conditions have made it necessary in one of the wine-growing zones referred to in Article 7, the Member States concerned may permit an increase in the (actual or potential) natural alcoholic strength by volume of fresh grapes, grape must, grape must in fermentation, new wine still in fermentation and wine, suitable for yielding quality wine psr, with the exception of products intended for processing into quality liqueur wine psr.

The increase may not exceed the limits laid down in the third subparagraph of Article 18 (1) of Regulation (EEC) No 822/87.

In years when weather conditions have been exceptionally unfavourable, the increase in alcoholic strength provided for in the first subparagraph may, in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87, attain the limits laid down in Article 18 (2) of that Regulation. Such authorization shall not prejudice the possibility of a similar authorization for table wines as provided for in that Article.

The increase in natural alcoholic strength by volume may be effected only in accordance with the methods and conditions referred to in Article 19 of Regulation (EEC) No 822/87, excepting paragraph 6 thereof. However, Member States may exclude the use of concentrated grape must.

3. The total alcoholic strength by volume of quality wines psr shall not be less than 9 % vol.

However, for certain white quality wines psr appearing on a list to be adopted that have undergone no enrichment, the minimum total alcoholic strength shall be 8,5 % vol.

4. A list of the quality wines psr referred to in the second subparagraph of paragraph 3 shall be drawn up in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.'

8. Article 9 is replaced by the following:

'Article 9

1. The conditions and limits for the acidification and deacidification of fresh grapes, grape must, grape must in fermentation, new wine still in fermentation and wine, suitable for yielding quality wine psr, and the procedure for granting authorizations and derogations, shall be those laid down in Article 21 of Regulation (EEC) No 822/87.

2. The sweetening of a quality wine psr may be authorized by a Member State only if it is carried out:

— in compliance with the conditions and limits laid down in Article 22 of Regulation (EEC) No 822/87,

— within the specified region in which the quality wine psr was produced, or within an area in immediate proximity, except in certain cases to be determined,

— using one or more of the following products:

— grape must,

— concentrated grape must,

— rectified concentrated grape must.

The grape must and concentrated grape must referred to in the third indent of the first subparagraph must originate in the same specified region as the wine for the sweetening of which it is used.

3. The areas in immediate proximity to the specified region and the exceptions referred to in the second indent of the first subparagraph of paragraph 2 shall be determined in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.'

9. The second paragraph of Article 10 is replaced by the following:

'Subject to the provisions of Article 6 (3), such operations may be carried out only in the specified region where the fresh grapes used were harvested.'

10. Article 12 is deleted.

11. Article 13 is hereby amended as follows:

(a) Paragraph 1 is replaced by the following:

'1. Producers shall be obliged to submit wines for which they are requesting the designation "quality wine psr" to an analytical and to an organoleptic test.

(a) The analytical test shall at least measure the factors enabling the quality wine psr in question to be distinguished, as listed in Annex I. The upper and lower limits for such factors shall be laid down by the producer Member State in respect of each quality wine psr.

(b) The organoleptic test shall relate to colour, clarity, smell and taste.'

(b) Paragraph 3 is replaced by the following:

'3. The analytical test provided for in paragraph 1 shall be performed in accordance with the methods referred to in Article 74 of Regulation (EEC) No 822/87.'

12. Article 14 is deleted.

13. Article 15 is hereby amended as follows:

(a) Paragraphs 1, 2, 3 and 4 are replaced by the following:

'1. The Community terms listed in the second subparagraph or the specific terms traditionally authorized, as provided for in paragraph 2, by the national legislation of the producer Member State, to designate particular wines may be used, respectively, only for the wines listed in Article 1 (2).

The Community terms referred to in the first subparagraph are as follows:

— "quality wine produced in a specified region", or "quality wine psr",

— "quality liqueur wine produced in a specified region", or "quality liqueur wine psr",

— "quality sparkling wine produced in a specified region", or "quality sparkling wine psr",

— "quality semi-sparkling wine produced in a specified region", or "quality semi-sparkling wine psr".

2. Without prejudice to any additional terms which may be allowed by Community and national laws, and subject to national provisions on the wines in question being observed, the specific terms traditionally used which are referred to in the first subparagraph of paragraph 1 shall be the following:

(a) Federal Republic of Germany:
an indication of the origin of the wine, accompanied by the terms "Qualitätswein" or "Qualitätswein mit Prädikat", together with one of the following terms: "Kabinett", "Spätlese", "Auslese", "Beerenauslese", "Trockenbeerenauslese" or "Eiswein".

(b) France:
"appellation d'origine contrôlée", "appellation contrôlée", "Champagne", "appellation d'origine vin délimité de qualité supérieure"; "vin doux naturel";

(c) Italy:
"Denominazione di origine controllata", "Denominazione di origine controllata e garantita", "Asti", "Marsala", "vino dolce naturale";

(d) Luxembourg:
"marque nationale" followed by the words "Moselle luxembourgeoise — appellation contrôlée";

(e) Greece:
"Ονομασία προελεύσεως ελεγχόμενη (appellation d'origine contrôlée)", "Ονομασία προελεύσεως ανωτέρας ποιότητος (appellation d'origine de qualité supérieure)", "Σάμος (Samos)", "οίνος γλυκύς φυσικός (vin doux naturel)";

(f) Spain:
"Denominación de origen", "Denominación de origen calificada", "Cava", "Jerez, Xerès or Sherry", "vino generoso", "vino generoso de licor", "vino dulce natural";

(g) Portugal, from the start of the second stage:
"Denominação de origem", "Denominação de origem controlada", "Indicação de proveniência regulamentada", "Porto", "vinho generoso", "vinho doce natural".

3. The "specified region" referred to in Article 3 shall be designated by its geographical name.

However, the terms:

— "Muscadet",

— "Blanquette",

— "Vinho verde", and,

— as regards certain quality sparkling wines psr, "Cava",

shall be recognized, respectively, as names of those respective specified regions which were demarcated and regulated by the Member States concerned before 1 March 1986.

As regards still wines the word "κάβα" and/or "cava" may be used to designate Greek table wines and Greek quality wines psr other than quality sparkling wines psr, in order to provide information concerning the ageing of such wines.

4. If a Member State uses the name of a specified region as referred to in Article 3 to designate a quality wine psr or, where appropriate, a wine intended for processing into such a quality wine psr, that name may not be used to designate products of the wine sector not produced in that region and/or products not designated by that name in accordance with the provisions of the relevant Community and national rules. This shall also apply if a Member State has used the name of a local administrative area or part thereof or a small locality solely to designate a quality wine psr or, where appropriate, a wine intended for processing into such a quality wine psr.

Without prejudice to the Community provisions concerning specific types of quality wine psr, Member States may, in the case of certain conditions of production which they shall determine, authorize the name of a specified region to be accompanied by details relating to the method of manufacture or the type of product or by the name of a vine variety or a synonym thereof.

Notwithstanding the first subparagraph, the Council, acting by a qualified majority on a proposal from the Commission may, in the case of a traditional practice which is in accordance with the legislation of the Member State concerned, authorize, for a transitional period ending on 31 August 1991, the use subject to conditions to be determined of the names of certain specified regions also to describe table wines.';

(b) the first subparagraph of paragraph 5 is replaced by the following:

'5. The following may be used for the description and presentation of a beverage other than a wine or grape must only if there is no risk of confusion as to the nature, origin or source and composition of such beverage:

— the name of a specified region as referred to in Article 3 included on the list drawn up pursuant to Article 1 (3) with respect to quality wines psr of the Community as constituted on 1 January 1981,

— the name of a vine variety as referred to in Article 4,

— a traditional specific term referred to in paragraph 2, or

— provided that they are attributed by a Member State for the description of a wine under the Community provisions adopted pursuant to Article 72 (1) of Regulation (EEC) No 822/87:

— the name of a geographical unit which is smaller than the specified region, or

— an additional traditional term.';

(c) paragraphs 7, 8 and 9 are replaced by the following:

'7. No wine referred to in Article 1 (2) may be marketed unless it bears:

— the name of the specified region granted it by the producer Member State, and

— one of the Community terms referred to in the second subparagraph of paragraph 1 or one of the specific terms traditionally used referred to in paragraph 2, or more than one of those specific terms traditionally used where this is provided for by the Member State concerned.

The Community term and the name of the specified region concerned must appear on the commercial or official documents accompanying shipments of the wines referred to in this paragraph.

8. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.'

14. The following Article is added:

'Article 15a

1. Member States shall draw up the rules in accordance with which, at the production stage:

(a) a producer may:

— not request the classification as a quality wine psr of a product which appears in his harvest or production declaration as a product suitable for yielding quality wine psr,

— downgrade a quality wine psr, in particular to a table wine;

(b) the competent body to be designated by the Member States may downgrade a quality wine psr.

2. The downgrading of a quality wine psr at the marketing stage shall be effected:

(a) by the competent body of the Member State in whose territory the wine is located:

— where the wine originates in that Member State, or

— where small quantities to be determined by the Council acting by a qualified majority on a proposal from the Commission are concerned;

(b) by the competent body of the Member State of origin of the wine in cases not referred to in (a).

The downgrading referred to in the first subparagraph shall be decided upon in particular where the competent body has established that:

— the wine has undergone a change during storage or transport which has caused the properties of the quality wine psr in question to deteriorate or alter,

— the wine has been the subject of prohibited treatments or is not legally described as a quality wine psr.

3. Detailed rules for the application of this Article, in particular as regards the use to be made of downgraded quality wines psr and the conditions governing such use, shall be adopted, where necessary, in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.'

15. Article 17 is deleted.

16. Article 18 is replaced by the following:

'Article 18

Producer Member States may, taking into account fair and traditional practices:

— in addition to the factors listed in Article 2, determine such other conditions of production and characteristics as shall be obligatory for quality wines psr,

— in addition to the other provisions laid down in this Regulation, lay down any additional or more stringent characteristics or conditions of production, manufacture and movement in respect of the quality wines psr produced in their territory.

Pursuant to the second indent of the first subparagraph, the Member States may in particular limit the maximum residual sugar content of a quality wine psr, particularly as regards the relationship between the actual alcoholic strength by volume and the residual sugar.'

Article 2

This Regulation shall enter into force on 1 September 1989.

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

Done at Luxembourg, 19 June 1989.

For the Council

The President

C. ROMERO HERRERA