COMMISSION REGULATION (EEC) No 2373/83

of 22 August 1983

laying down, for the 1983/84 wine-growing year, detailed implementing rules concerning the distillation provided for in Article 11 of Regulation (EEC) No 337/79

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 1595/83 (2), and in particular Articles 11 (5) and 65 thereof,

Whereas Article 11 (1) of Regulation (EEC) No 337/79 provides that preventive distillation of table wines and wines suitable for producing table wines may be decided on whenever such a measure seems necessary in the light of harvest forecasts or in order to improve the quality of products marketed; whereas tentative forecasts for harvests point to heavy production in terms of quantity; whereas it is therefore appropriate, given the surpluses on the wine market, to implement this measure;

Whereas preventive distillation must be carried out in accordance with the provisions of 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 (3);

Whereas trade in the products used in the preparation of wine delivered for distillation threatens to give rise to abuses in certain wine-growing zones or parts thereof; whereas for those zones or parts thereof the status of producer should therefore be restricted to producers who have produced wine from fresh grapes which they themselves have obtained;

Whereas it should be specified that delivery contracts and declarations must contain the information necessary for identification of the wines to which they relate;

Whereas certain time limits for the operation should be laid down for both producers and distillers to ensure that the measure is as effective as possible; whereas these time limits must be fixed bearing in mind the date specified in Article 41 of Regulation (EEC) No 337/79 for compulsory distillation;

Whereas the price of wine for distillation normally prevents the sale of the products of distillation at market prices; whereas an aid, fixed on the basis of the criteria set out in Article 8 of Regulation (EEC) No 2179/83, is therefore needed;

Whereas preventive distillation is open to all table wines and wines suitable for yielding table wine; whereas, however, the minimum buying-in prices of wines delivered for distillation are fixed as a percentage of the guide prices for the various types of table wine; whereas the table wines which are in a close economic relationship with each type of table wine should therefore be defined;

Whereas, in the absence of a Community definition of rosé wine and in the interests of clarity, it should be stated that rosé table wines must be treated in the same way as red table wines owing to the close economic relationship between them;

Whereas provision should be made for the minimum price guaranteed to producers to be paid to them, as a general rule, within a period which will enable them to obtain a profit comparable to that which they would have obtained from a commercial sale; whereas, in these circumstances, it is essential to pay the aid due to them for the distillation in question at the earliest opportunity, while guaranteeing that operations are correctly carried out by means of an appropriate system of securities;

Whereas wine delivered for preventive distillation can be fortified; whereas the provisions applicable to distillation operations should therefore be adapted, in accordance with the rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83;

Whereas the intervention agencies and the Commission should be informed of the progress of distillation operations and should in particular be aware of the quantities of wine distilled and the quantities of products obtained;

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

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 163, 22. 6. 1983, p. 48.
(3) OJ No L 212, 3. 8. 1983, p. 1.

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down detailed implementing rules for the 1983/84 wine year concerning the arrangements referred to in Article 11 of Regulation (EEC) No 337/79 for the preventive distillation of table wines and wines suitable for yielding table wine.

For the purposes of the application of this Regulation and by way of derogation from the first indent of the first subparagraph of Article 2 (1) (a) of Regulation (EEC) No 2179/83, producers, for the purposes of wine-growing zone A and the German part of wine-growing zone B, shall include natural or legal persons or groups of persons who have produced wine from fresh grapes obtained by themselves.

Article 2

1. 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 by 20 January 1984 at the latest.

However, if the decision referred to in Article 41 (1) of Regulation (EEC) No 337/79 is adopted, the date referred to in the first subparagraph shall be replaced by the date of publication of the said decision in the *Official Journal of the European Communities.*

2. The contracts and declarations referred to in paragraph 1 shall specify :

(a) the quantity, colour and actual alcoholic strength by volume of the wine to be distilled, stating whether it is table wine or wine suitable for yielding table wine ;

(b) the name and address of the producer ;

(c) the place where the wine is stored ;

(d) the name of the distiller or of the distillery ;

(e) the address of the distillery.

3. The intervention agency shall notify the producer of the results of the approval procedure within 30 days of the date of submission of the contract or declaration.

Article 3

Distillation operations must be carried out by 30 June 1984.

Article 4

1. The minimum buying-in price referred to in Article 11 (2) of Regulation (EEC) No 337/79 shall be :

— 2,07 ECU per % vol per hectolitre in the case of red table wines of types R I and R II,

— 3,08 ECU per % vol per hectolitre in the case of red table wines of type R III,

— 1,92 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 4,30 ECU per % vol per hectolitre for white table wines of type A II,

— 4,91 ECU per % vol per hectolitre for white table wines of type A III.

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 date of reception at the distillery of each lot of wine delivered.

3. If the compulsory distillation referred to in Article 41 of Regulation (EEC) No 337/79 is not decided on at the latest by 20 January 1984 the prices referred to in paragraph 1 shall be increased by :

— 0,17 ECU per % vol per hectolitre for red table wines of types R I and R II,

— 0,26 ECU per % vol per hectolitre for red table wines of type R III,

— 0,16 ECU per % vol per hectolitre for white table wines of type A I and for wines suitable for yielding table wine,

— 0,36 ECU per % vol per hectolitre for white table wines of type A II,

— 0,41 ECU per % vol per hectolitre for white table wines of type A III.

4. Where the increase in the minimum buying-in price referred to in paragraph 3 is applicable, the distiller shall pay the relevant amount to the producer :

— with the minimum buying-in price if this has not yet been paid,

— by 31 March 1984 if the minimum buying-in price has already been paid.

Article 5

1. The amount of the aid referred to in Article 11 (3) of Regulation (EEC) No 337/79 shall be as follows :

(a) where the product of the distillation corresponds to the definition of neutral alcohol given in the annex to Regulation (EEC) No 2179/83 :

— 1,53 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,56 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,38 ECU per % vol per hectolitre for products derived from white table wines of type A I and from wines suitable for yielding table wine,

— 3,79 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,41 ECU per % vol per hectolitre for products derived from white table wines of type A III ;

(b) where the product of the distillation is wine spirits having the quality characteristics provided for in the relevant national provisions :

— 1,48 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,51 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,33 ECU per % vol per hectolitre for products derived from white table wines of type A I and from wines suitable for yielding table wine,

— 3,74 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,36 ECU per % vol per hectolitre for products derived from white table wines of type A III ;

(c) where the product of distillation is a distillate or raw alcohol, having an alcoholic strength of 52 % vol or more :

— 1,47 ECU per % vol per hectolitre for products derived from red table wines of types R I and R II,

— 2,50 ECU per % vol per hectolitre for products derived from red table wines of type R III,

— 1,32 ECU per % vol per hectolitre for products derived from white table wines of type A I and for wines suitable for yielding table wine,

— 3,73 ECU per % vol per hectolitre for products derived from white table wines of type A II,

— 4,35 ECU per % vol per hectolitre for products derived from white table wines of type A III.

2. The aid shall be calculated on the basis of the amount corresponding to the wine actually delivered, allowance being made for the tolerances referred to in Article 6 (2) of Regulation (EEC) No 2179/83.

Where the increase in the minimum buying-in price referred to in Article 4 (3) is applicable, an amount equal to the increase shall be added to the aid. The intervention agency shall pay this amount within the period specified in the first subparagraph of Article 7 (3) of Regulation (EEC) No 2179/83.

However, where the period referred to in the second subparagraph expires before the abovementioned increase is applicable, the intervention agency shall pay the increase not later than 30 April 1984.

Article 6

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

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

For the purposes of the application of this Regulation, the following shall be considered to be in a close economic relationship with the type of table wine indicated :

— 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 actuai alcoholic strength of not more than 12,5 % vol which are not of types R I or R III,

— R II : red table wines of an actual alcoholic strength exceeding 12,5 % vol which are not of type R III.

Article 7

Within four months of the date of submission of proof that the total quantity of wine covered by the contract has been distilled, the distiller shall be required to supply the intervention agency with proof that he has paid :

— the minimum buying-in price referred to in Article 4 (1) within the period referred to in Article 4 (2),

— and, where appropriate, the increase in the minimum buying-in price referred to in Article 4 (3) by the time limit referred to in Article 4 (4).

If such proof is not submitted within the period set, the aid paid shall be recovered by the intervention agency. However, if this proof is submitted after expiry of the period but by 31 December 1984, the intervention agency shall recover only 20 % of the aid paid.

If it is ascertained that the distiller has not paid the minimum buying-in price to the producer, the intervention agency shall pay the producer, before 1 May 1985, an amount equal to the aid, where appropriate through the intervention agency of the producer's Member State.

Article 8

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. For the purposes of the release of the security referred to in paragraph 1, proof that the total quantity of wine has been distilled and, where appropriate, proof of payment of the buying-in price for the wine within the period set, shall be provided by 31 October 1984.

However, if the proofs referred to in the first subparagraph are provided after the deadline set in that subparagraph but before 1 February 1985, the amount to be released shall be 80 % of the security, the difference being forfeit.

If these proofs are not provided before 1 February 1985, the entire security shall be forfeit.

Where the increase in the minimum buying-in price referred to in Article 4 (3) has been applied, the intervention agency shall make the necessary adjustments when the security is released.

Article 9

1. In the case referred to in Article 26 of Regulation (EEC) No 2179/83, the contract or declaration relating to delivery for fortification for distillation shall be submitted for approval to the competent intervention agency at the latest by 20 January 1984.

The intervention agency shall inform the producer of the result of the approval procedure within 15 days following the date of submission of the contract or declaration.

2. The wine may be fortified for distillation only after approval of the contract or declaration and at the latest by 30 June 1984.

3. Fortified wine may not be distilled after 31 July 1984.

4. The processor shall send to the intervention agency at the latest by the 10th of each month a statement of the quantities of wines which have been delivered to him during the previous month.

5. For wine fortified for distillation, the processor shall receive an aid, calculated per hectolitre and per % actual alcoholic strength before fortification, of :

— 1,45 ECU in the case of red table wines of types R I and R II,

— 2,46 ECU in the case of red table wines of type R III,

— 1,30 ECU for white table wines of type A I and for wines suitable for yielding table wine,

— 3,68 ECU for white table wines of type A II,

— 4,29 ECU for white table wines of type A III.

To receive the aid, the processor must submit, at the latest by 30 June 1984, an application to the competent intervention agency, attaching copies of the accompanying documents relating to the transport of the wine for which the aid is applied for or a summary of those documents.

The Member States may require that the copies or summary referred to in the second subparagraph be endorsed by a supervisory authority.

The aid shall be paid at the latest three months after the date of submission of proof that the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 has been lodged and, in any event, after the date on which the contract or declaration has been approved.

If the increase referred to in Article 4 (3) is due, it shall be paid by the time limit referred to in Article 4 (4).

6. Subject to Article 23 of Regulation (EEC) No 2179/83, the security shall be released only if, at the latest by 30 November 1984, proof is furnished :

— that the total quantity of wine covered by the contract or declaration has been fortified and distilled,

— that the buying-in price of the wine has been paid to the producer within the period referred to in Article 4 (2),

— where appropriate, that the increase in the buying-in price referred to in Article 4 (3) has been paid to the producer by the time limit referred to in Article 4 (4).

If the proofs referred to in the first subparagraph are not furnished by 30 November 1984 at the latest, the intervention agency shall recover the aid from the processor of the fortified wine.

However, if these proofs are furnished after the deadline laid down but before 1 March 1985, the intervention agency shall recover an amount equal to 20 % of the amount paid.

If it is found that the fortified wine processor has not paid the buying-in price to the producer, the intervention agency shall pay the producer, before 1 April 1985, an amount equal to the aid, where appropriate through the intervention agency of the producer's Member State.

Where the increase in the minimum buying-in price referred to in Article 4 (3) has been applied, the intervention agency shall make the necessary adjustments when the security is released.

Article 10

1. Member States shall notify the Commission, not later than 29 February 1984, of the quantities of wine covered by approved distillation contracts.

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

3. Member States shall inform the Commission by telex, not later than the 20th day of each month, for the previous month, of the quantities of wine distilled and the quantities, expressed in pure alcohol, of products obtained, distinguishing between the latter in accordance with paragraph 2.

4. Member States shall report, not later than 30 September 1984, any cases in which the distiller or processor has failed to meet his obligations and the measures taken as a consequence.

Article 11

The amounts referred to in this Regulation shall be coverted into national currencies using the representative rate in force on 16 December 1983 for the wine sector, which shall apply from 1 September 1983 for this purpose.

Article 12

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

It shall apply from 1 September 1983.

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

Done at Brussels, 22 August 1983.

For the Commission

Poul DALSAGER

Member of the Commission