COMMISSION REGULATION (EC) No 625/2003

of 2 April 2003

amending Regulation (EC) No 1623/2000 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine [1], as last amended by Regulation (EC) No 2585/2001 [2], and in particular Articles 26, 33 and 36 thereof,

Whereas:

(1) Chapter I of Title I of Commission Regulation (EC) No 1623/2000 [3], as last amended by Regulation (EC) No 1795/2002 [4], lays down the detailed rules for applying the aid scheme for the use of grapes, grape must, concentrated grape must or rectified concentrated grape must. Experience has shown that the comestible products not eligible under the scheme should be specified in greater detail, the administrative burden placed on users and processors of juice should be lightened and adequate arrangements should be introduced to ensure that proper use of the juice is monitored. The percentage of quantities of comestible products which must be checked must be higher than under other schemes because the product is often used in a Member State other than the one where the aid is paid.

(2) Under the aid scheme for must used to increase the alcoholic strength of wine products, the reference to the method of determining alcoholic strength should be corrected. To facilitate the work of the Member States, they should be responsible for the administration of aid applications. To allow detailed and effective checks, checking arrangements should be specified.

(3) To ensure that problem cases are treated equally, the provisions relating to payment of the aid provided for under the various aid schemes covered by Regulation (EC) No 1623/2000 should be harmonised.

(4) To allow detailed and effective checks to be carried out in the case of aid for the private storage of wine, checking arrangements should be laid down and the tolerance margins for verifying the alcoholic strength of grape must, concentrated grape must and rectified concentrated grape must should be clarified. To facilitate the payment of advances under this measure, the related administrative procedure must be changed.

(5) As regards the arrangements for the distillation of by-products of wine-making, it is fair to modulate aid and prices according to the type of by-product concerned. The flat-rate aid and the flat-rate price should therefore be abolished. In addition, in order to respond to structural changes in the sector, the Member States concerned should be allowed to extend the exemption from the obligation to deliver by-products for distillation to certain categories of producers.

(6) If a Member State decides to vary the buying-in price paid to producers according to yield under the distillation arrangements referred to in Article 28 of Regulation (EC) No 1493/1999, it should be possible to extend the deadline by which the aid is to be paid to distillers.

(7) To ensure that financial transactions under crisis distillation as provided for in Article 30 of Regulation (EC) No 1493/1999 are properly implemented, it should be confirmed that the advance on the price to be paid to distillers by the intervention agency is to be treated the same as the aid provided for in the case of other distillations.

(8) For all distillation measures, the provision relating to the use of part of the wine checked as being representative of all wine delivered for distillation should be abolished. In addition, the advances paid for crisis distillation and treated as aid should be included in the system of penalties, and the same arrangements should be introduced for all the different distillations to ensure that producers are paid the minimum price for their wine where the distiller fails to do so.

(9) Experience has shown that the arrangements for disposing of alcohol obtained under the different distillation measures and held by the intervention agencies should be adjusted. The deadlines for removing alcohol should therefore be fixed on a case-by-case basis where large quantities are involved. To enhance marketing opportunities the present geographical limitations on sales of alcohol should be removed. The conditions for checking the destination of alcohol used in the fuel sector should also be specified.

(10) Since managing the intervention measures requires the Member States to provide the Commission with a great deal of information, the rules for doing so should be laid down.

(11) Regulation (EC) No 1623/2000 should therefore be amended.

[1] OJ L 179, 14.7.1999, p. 1.
[2] OJ L 345, 29.12.2001, p. 10.
[3] OJ L 194, 31.7.2000, p. 45.
[4] OJ L 272, 10.10.2002, p. 15.

(12) Some amendments aim to clarify existing provisions or to provide additional information and are favourable to market operators. They should therefore apply retroactively.

(13) Other amendments aim to improve the conditions governing isolated measures for disposing of alcohol. They should therefore apply from the publication of this Regulation.

(14) By far the majority of amendments provide for technical changes in market management measures. To avoid disrupting the current wine year, these amendments should apply from the next wine year.

(15) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1623/2000 is hereby amended as follows:

1. Chapter I of Title I is replaced by the following:

'CHAPTER I

MANUFACTURE OF GRAPE JUICE

Article 3

Purpose of the aid

Aid under Article 35(1)(a) of Regulation (EC) No 1493/1999 shall be granted to processors who:

(a) being themselves producers or groups of producers, process or have processed on their behalf grapes from their own harvest and grape must and concentrated grape must obtained entirely from their own grape crop into grape juice; or

(b) buy directly or indirectly from producers or groups of producers grapes produced in the Community and grape must and concentrated grape must for the purpose of processing them into grape juice.

The grape must and concentrated grape must used must come from grapes produced in the Community.

Article 4

Manufacture of other comestible products from grape juice

The grape juice or concentrated grape juice obtained may be processed into any comestible products other than wine products as referred to in Annex I to Regulation (EC) No 1493/1999 or the products referred to in Article 35(1)(b) and (c) of that Regulation.

Article 5

Technical requirements relating to products

1. The raw materials for the manufacture of grape juice referred to in Article 3 must be of sound and fair merchantable quality and suitable for processing into grape juice.

2. The grape must used and the must obtained from grapes used must have a density at 20 °C of between 1,055 and 1,100 grams per cubic centimetre.

3. At the time it is used to manufacture comestible products, the grape juice must comply with Council Directive 2001/112/EC (*).

Article 6

Administrative rules applicable to processors for inspection purposes

1. Processors who undertake operations for the manufacture of grape juice throughout the current wine year shall submit, before the start of each wine year, a grape juice processing schedule to the competent authority of the Member State. If the processor is undertaking operations for the manufacture of grape juice for the first time after the start of a wine year the schedule must be drawn up before operations commence.

The schedule shall contain the following information:

(a) the type of the raw materials intended for processing (grapes, grape must or concentrated grape must);

(b) the place where the grape must and concentrated grape must intended for processing are stored;

(c) the place where processing is to be carried out.

2. Processors who carry out operations for the manufacture of grape juice only on specified dates shall submit, at least three working days before the operations are to start, a processing statement to the competent authority of the Member State.

The processing statement shall contain the following information:

(a) the information required under the second subparagraph of paragraph 1;

(b) the quantity of grapes, grape must or concentrated grape must intended for processing;

(c) the density of the grape must and concentrated grape must;

(d) the starting date and probable duration of processing operations.

The statement must cover a minimum quantity of:

(a) 1,3 tonnes for grapes;

(b) 10 hectolitres for grape must;

(c) 3 hectolitres for concentrated grape must.

3. In addition to the information referred to in paragraphs 1 and 2, Member States may ask processors to provide further information.

4. The competent authority of the Member State shall stamp the schedules and statements provided for in paragraphs 1 and 2 and return a copy to the processor.

5. As an exception to paragraphs 1, 2 and 3, Member States may introduce simplified procedures for processors who use no more than 5 tonnes of grapes or 40 hl of grape must or 12 hl of concentrated grape must each wine year.

6. Processors shall keep stock records showing the following information taken from the accompanying documents or registers referred to in Article 70 of Regulation (EC) No 1493/1999:

(a) the quantities and the density of the raw materials entering their premises each day and, where applicable, the name and address of the seller;

(b) the quantities and density of raw materials used each day;

(c) the quantities of grape juice produced each day;

(d) the quantities of grape juice leaving their premises each day and the name and address of the consignee, or the quantities of grape juice used each day by the processor.

The supporting documents relating to the stock records shall be made available to the inspection authorities on the occasion of any checks.

Article 7

Administrative rules applicable to users for inspection purposes

1. For the purposes of this Chapter, "user" means any operator carrying out one of the following operations: bottling, packaging or presenting the grape juice or concentrated grape juice, storing with a view to sale to one or more undertakings responsible for carrying out the preceding or following operations, or preparing other comestible products from that juice.

Such operations may also be carried out by processors as referred to in Article 3.

2. Users shall submit to the competent authority of the place of unloading a written undertaking not to process the grape juice into the wine products referred to in Annex I to Regulation (EC) No 1493/1999 or the products referred to in Article 35(1)(b) and (c) of that Regulation.

The Member States shall lay down the requirements for submitting such undertakings. However, the undertaking must be submitted before the grape juice or concentrated grape juice is used, and no later than four months after the submission of the aid application referred to in Article 8 of this Regulation.

Export shall be regarded as compatible with such undertakings.

3. Where processors dispatch the grape juice to a user within the Community:

(a) processors shall indicate on the accompanying document referred to in Article 70(1) of Regulation (EC) No 1493/1999 whether the manufacture of the grape juice has been or will be subject to an aid application from them and the actual or planned date of submission of the application;

(b) users shall send the accompanying document to the competent authority of the place of unloading no later than 15 days after receipt of the product;

(c) where users dispatch the juice they have received to another operator within the Community they shall ensure that that operator signs their written undertaking and shall submit it to the competent authority within the time limit set in the second subparagraph of paragraph 2;

(d) the competent authority, after having received the written undertaking, shall stamp the accompanying document and send a copy of the stamped accompanying document to the processor of the grape juice in question no later than 30 days after receipt of the undertaking.

4. Under Article 2 of Commission Regulation (EC) No 2729/2000 (**), during the wine year the competent authorities shall check by sampling, on the basis of a risk analysis, to ensure that the undertaking referred to in paragraph 2 of this Article has been respected. The checks shall relate to at least 10 % of the quantities covered by applications for the stamping of the accompanying documents provided for in paragraph 3(d) of this Article received during the previous wine year.

Article 8

Aid applications

1. Processors as referred to in Article 6(1) shall submit aid applications to the competent authority of the Member State no later than six months after the end of the wine year. These shall be accompanied by the following documents:

(a) a copy of the processing schedule referred to;

(b) a copy of the stock records referred to in Article 6(6) or a summary thereof; the Member States may require such copies and summaries to be certified by an authority responsible for inspections.

Member States may require further documentation.

2. Processors as referred to in Article 6(2) shall submit aid applications to the competent authority of the Member State no later than six months after the end of the processing operations. These shall be accompanied by the following documents:

(a) a copy of the processing statement referred to;

(b) a copy of the stock records referred to in Article 6(6) or a summary thereof; the Member States may require such copies and summaries to be certified by an authority responsible for inspections.

Aid applications shall indicate the quantity of raw materials actually processed and the day on which the processing operations were completed.

3. The processor shall submit to the competent authority of the Member State, no later than six months after submitting the aid application:

(a) a copy of the accompanying document stamped by the competent authority as laid down in Article 7(3)(d);

(b) a copy of the accompanying document bearing the customs stamp certifying export.

4. As an exception to paragraphs 1 and 2, Member States may introduce simplified procedures for processors who use no more than 5 tonnes of grapes or 40 hl of grape must or 12 hl of concentrated grape must each wine year. These procedures must be completed no later than six months after the end of the wine year.

Article 9

Aid amounts and rules

1. Aid for the use of grapes, grape must and concentrated grape must shall be fixed per unit of quantity of raw material actually used as follows:

(a) for grapes: EUR 4,952 per 100 kg;

(b) for grape must: EUR 6,193 per hl;

(c) for concentrated grape must: EUR 21,655 per hl.

2. Except in cases of *force majeure*, no aid shall be payable on quantities of raw materials in excess of the following ratio between the raw material and the grape juice obtained:

(a) 1,3 for grapes, in 100 kg per hl;

(b) 1,05 for must, in hl per hl;

(c) 0,30 for concentrated must, in hl per hl.

Where the product obtained is concentrated grape juice, those ratios shall be multiplied by five.

Article 10

Payment of the aid

The competent authority shall pay the aid within three months of the date of presentation of the required documentation referred to in Article 8.

Article 11

Advance payments

1. Processors may request advance payment of an amount equal to the aid referred to in Article 9 calculated for the raw materials which they can prove have entered their premises, provided they have lodged a security with the competent authority. That security shall be 120 % of the amount of the advance.

2. Advances shall be paid by the competent authority within three months of presentation of proof that the security has been lodged. However, no advances shall be paid before 1 January of the wine year concerned.

3. After the competent authority has checked the required documentation referred to in Article 8 the security referred to in paragraph 1 of this Article shall be released in full or in part in accordance with the procedure laid down in Article 19 of Regulation (EEC) No 2220/85.

Article 11a

Penalties and cases of *force majeure*

1. If the processor presents the required documentation referred to in Article 8 late, but within six months of expiry of the deadline referred to in that Article, the aid shall be reduced by 30 %.

If the processor presents the documentation after the six months referred to above have elapsed, no aid shall be paid.

2. If a check reveals that the user has not complied with the undertakings referred to in Article 7(2) and (3) the aid shall be recovered from the processor. If the user is domiciled in a Member State other than that where the processor is domiciled the Member State concerned shall notify the Member State where the processor is domiciled of the non-compliance without delay.

3. Except in cases of *force majeure*, if processors are found not to have complied with the obligations imposed on them under this Chapter other than the obligation to process into grape juice the raw materials covered by the aid application the aid shall be reduced. The Member State concerned shall set the rate of that reduction.

4. If the quantity of raw material actually used is between 95 % and 99,9 % of the quantity for which the advance was paid the security referred to in Article 11 shall be forfeit for the quantity not processed during the wine year.

Except in cases of *force majeure*, if the quantity of raw material actually used is less than 95 % of the quantity for which the advance was paid, the security shall be forfeit in its entirety.

5. In cases of *force majeure*, the competent authority of the Member State shall determine the measures which it deems appropriate in the light of the reasons invoked and shall inform the Commission thereof.

(*) OJ L 10, 12.1.2002, p. 58.
(**) OJ L 316, 15.12.2000, p. 16.'

2. Article 13(2) is replaced by the following:

'2. The potential alcoholic strength of the products listed in paragraph 1 shall be determined by applying the figures in the table of equivalence in Annex I hereto to the readings at 20 °C from a refractometer used in accordance with the method laid down in the Annex to Commission Regulation (EC) No 558/93 (*).

A tolerance of 0,2 shall be allowed in checks by the competent authorities.

(*) OJ L 58, 11.3.1993, p. 50.'

3. The following third paragraph is added to Article 14:

'However, the Member States may provide for several aid applications to be submitted covering some of the operations to increase alcoholic strength.'

4. The following Article 14a is added:

'*Article 14a*

Checks

1. The competent authorities of the Member States shall take all necessary steps to ensure the checks needed in order to verify in particular the identity and volume of the product used to increase the alcoholic strength and compliance with Annex V, points C and D, to Regulation (EC) No 1493/1999.

2. Producers shall be obliged to allow the checks referred to in paragraph 1 at any time.'

5. Article 16 is replaced by the following:

'*Article 16*

Payment of the aid

The competent authority shall pay the aid no later than 31 August following the end of the current wine year.'

6. Article 29(1)(c) is replaced by the following:

'(c) the reading obtained at a temperature of 20 °C with a refractometer used in accordance with the method referred to in the Annex to Regulation (EEC) No 558/93. A tolerance shall be permitted of 0,5 for grape must and 1 for concentrated grape must and rectified concentrated grape must.'

7. Article 34(2) is replaced by the following:

'2. Without prejudice to paragraph 6, products under contract may undergo only such oenological treatments and processes as are necessary for their preservation. A variation shall be permitted in the volume entered in the contract which may not exceed 2 % for wine and 3 % for grape must, concentrated grape must and rectified concentrated grape must. When there has been a change of vat, the variation permitted is set at 3 % to 4 % respectively.'

8. The following Article 35a is added:

'*Article 35a*

Checks

1. The competent authorities of the Member States shall take any measures required to ensure the checks necessary to verify the identity and volume of the product covered by the contract and compliance with Article 34.

2. Producers shall be obliged to allow the checks referred to in paragraph 1 at any time.'

9. Article 37 is replaced by the following:

'*Article 37*

Payment of the aid

1. The competent authority shall pay the aid no later than three months after the expiry date of the storage contract.

2. In cases where a contract has been terminated in accordance with Articles 33 or 35, the aid payable shall be in proportion to the actual duration of the contract. The competent authority shall pay the aid no later than three months after the day on which the contract is terminated.'

10. Article 38 is replaced by the following:

'*Article 38*

Advance payments

1. Producers may request that an advance be paid to them provided that they have lodged a security for 120 % of the advance in favour of the intervention agency. Without prejudice to Article 32, the amount of the advance shall be calculated on the basis of the amount of the aid for the product in question, as referred to in Article 25.

2. Advances shall be paid by the competent authority within three months of presentation of proof that the security has been lodged.

3. Once the aid is paid by the competent authority, the security referred to in paragraph 1 shall be released.

Where entitlement to the aid is lost in accordance with Article 36(1)(a), the whole security shall be forfeit.

Where the application of Article 36(1)(b) results in an aid amount that is lower than the sum already paid, the security shall be reduced by 120 % of the amount paid in excess of the aid due. Securities reduced in this way shall be released not later than three months after the date of expiry of the contract.