Commission Regulation (EC) No 42/2009 of 20 January 2009 amending Regulation (EC) No 555/2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector

COMMISSION REGULATION (EC) No 42/2009

of 20 January 2009

amending Regulation (EC) No 555/2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999[(1)], and in particular Articles 22, 84 and 107 thereof,

Whereas:

(1) For the optimal use of funds potentially available to increase competitiveness in the wine sector, it is appropriate to allow, as much as possible, for Member States to make use of possibilities both under the wine support programmes, notably under the restructuring and conversion measure according to Article 11 of Regulation (EC) No 479/2008 and investments according to Article 15 of the same Regulation, and the rural development funds. To ensure exclusion of double funding of the same measure under these two funds, as foreseen in Article 4(3) of Regulation (EC) No 479/2008, a clear demarcation line should be established at the level of the operations.

(2) In accordance with the second sentence of the second subparagraph of Article 16(1) of Regulation (EC) No 479/2008, no aid shall be paid for the volume of alcohol contained in the by-products to be distilled which exceeds 10 % in relation to the volume of alcohol contained in the wine produced. It should be clarified that Member State can foresee to respect this limit via controls at the level of the individual producers or alternatively at the national level.

(3) Point (vi) of Article 41(c) of Commission Regulation (EC) No 555/2008[(2)] obliges producers to include information concerning the presence of wine grape varieties obtained from interspecific crossings (direct producer hybrids or other varieties not belonging to the *Vitis vinifera* species) on the analysis report. However, for technical reasons this information should not be required and should therefore be deleted from the said provision.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 42/2009. (See end of Document for details)*

(4) Article 103(1)(b) of Regulation (EC) No 555/2008 lays down that table 10 of the Annex to Commission Regulation (EC) No 1227/2000[(3)] shall continue to apply unless otherwise provided in an implementing regulation on the labelling and presentation of wines to be adopted on the basis of Article 63 of Regulation (EC) No 479/2008. However, the reference should be made to table 9 of the Annex to Regulation (EC) No 1227/2000.

(5) Article 5(8), the third paragraph of Article 16 and the second paragraph of Article 20 of Regulation (EC) No 555/2008 foresee that where Member States grant national aids they should communicate those in the relevant part of the form set out in Annex VII to that Regulation. Therefore, Annex VII should be amended to include this information.

(6) Regulation (EC) No 555/2008 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 555/2008 is amended as follows:

1. In Article 1, the following paragraph is added:

3. For the purposes of Title II, "operation" shall mean a project, contract or arrangement, or other action included in a given support programme, corresponding to any of the activities under the measures referred to in Article 7(1) of Regulation (EC) No 479/2008 and implemented by one or more beneficiaries.

2. After Article 10, the following Article 10a is inserted in Section 2 of Chapter II of Title II:

Article 10a

Compatibility and consistency

1 The support for costs of restructuring and conversion referred to in Article 11(4)(b) of Regulation (EC) No 479/2008 shall not cover purchase expenses of farm vehicles.

2 No operation shall be included for support pursuant to Article 11 of Regulation (EC) No 479/2008 under a national support programme in accordance with Title II of that Regulation for a given Member State or region which is included for support in the rural development programme of that Member State or region under Regulation (EC) No 1698/2005.

3 Member States shall present the operations they include in their support programmes for the restructuring and conversion measure in the relevant part of Annex I in such detail as to allow for verification that that operation is not included for support in their rural development programmes.

3. Article 20 is replaced by the following:

Article 20

Compatibility and consistency

1 No support shall be granted for marketing operations which received support under Article 10 of Regulation (EC) No 479/2008.

Where Member States grant national aid for investments, they shall communicate them in the relevant part of the forms set out in Annexes I, V and VII to this Regulation.

2 No operation shall be included for support pursuant to Article 15 of Regulation (EC) No 479/2008 under a national support programme in accordance with Title II of that Regulation for a given Member State or region which is included for support in the rural development programme of that Member State or region under Regulation (EC) No 1698/2005.

3 Member States shall present the operations they include in their support programmes for the investment measure in the relevant part of Annex I in such detail as to allow for verification that that operation is not included for support in their rural development programmes.

4. After Article 25, the following Article 25a is inserted in Section 7 of Chapter II of Title II:

Article 25a

Verification of conditions

The competent authorities of the Member States shall take all necessary steps to verify respect of the conditions and the limit referred to in Article 24(1) of this Regulation in conjunction with Article 16(3) of Regulation (EC) No 479/2008. Member States may verify the respect of this limit at the level of each producer or at the national level. Member States which opt for verification at the national level shall not include in the alcohol balance the quantities which are not intended for distillation (withdrawal under supervision) nor those which are intended for the development of products other than alcohol for industrial use.

5. In Article 41(c), point (vi) is deleted.

6. In Article 103(1), point (b) is replaced by the following:

(b) Table 9 of the Annex to Regulation (EC) No 1227/2000 shall continue to apply unless otherwise provided in an implementing regulation on the labelling and presentation of wines to be adopted on the basis of Article 63 of Regulation (EC) No 479/2008;.

7. Annex VII is replaced by the text in Annex to this Regulation.

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 42/2009. (See end of Document for details)*

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

Done at Brussels, 20 January 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission