

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(EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999 (repealed)

TITLE II

SUPPORT MEASURES

CHAPTER I

Support programmes

Section 1

Introductory provisions

Article 3

Scope

This Chapter lays down the rules governing the attribution of Community funds to Member States and the use of those funds by Member States through national support programmes (hereinafter referred to as support programmes) to finance specific support measures to assist the wine sector.

Article 4

Compatibility and consistency

1 Support programmes shall be compatible with Community law and consistent with the activities, policies and priorities of the Community.

2 Member States shall be responsible for the support programmes and ensure that they are internally consistent and drawn up and implemented in an objective manner, taking into account the economic situation of the producers concerned and the need to avoid unjustified unequal treatment between producers.

Member States shall be responsible for providing for, and carrying out, the necessary controls and penalties in case of non-compliance with the support programmes.

3 No support shall be granted:

- a for research projects and measures to support research projects;
- b for measures which are contained in Member States' rural development programmes under Regulation (EC) No 1698/2005.

Section 2

Submission and content of support programmes

Article 5

Submission of support programmes

1 Each producer Member State referred to in Annex II shall, for the first time by 30 June 2008, submit to the Commission a draft five-year support programme containing measures in accordance with this Chapter.

The support measures in the support programmes shall be drawn up at the geographical level which the Member States deem most appropriate. Before being submitted to the Commission, the support programme shall be subject to consultation with the competent authorities and organisations at the appropriate territorial level.

Each Member State shall submit one single draft support programme, which may accommodate regional particularities.

2 Support programmes shall become applicable three months after their submission to the Commission.

However, if the submitted support programme does not comply with the conditions laid down in this Chapter, the Commission shall inform the Member State thereof. In such case, the Member State shall submit a revised support programme to the Commission. The revised support programme shall become applicable two months after its notification unless an incompatibility persists in which case this subparagraph shall apply.

3 Paragraph 2 shall apply *mutatis mutandis* to changes in respect of support programmes submitted by Member States.

4 Article 6 shall not apply where a Member State's only measure in a support programme consists of the transfer to the Single Payment Scheme referred to in Article 9. Article 21 shall apply in such case only in respect of paragraph 1 thereof and in relation to the year in which the transfer takes place.

Article 6

Content of support programmes

Support programmes shall consist of the following elements:

- (a) a detailed description of the measures proposed as well as their quantified objectives;
- (b) the results of consultations held;
- (c) an appraisal showing the expected technical, economic, environmental and social impact;
- (d) a schedule for implementing the measures;

- (e) a general financing table showing the resources to be deployed and the envisaged indicative allocation of the resources between the measures in accordance with ceilings provided for in Annex II;
- (f) the criteria and quantitative indicators to be used for monitoring and evaluation as well as the steps taken to ensure that the support programmes are implemented appropriately and effectively;
- (g) the designation of competent authorities and bodies responsible for implementing the support programme.

Article 7

Eligible measures

- 1 Support programmes shall contain one or more of the following measures:
 - a Single Payment Scheme support in accordance with Article 9;
 - b promotion in accordance with Article 10;
 - c restructuring and conversion of vineyards in accordance with Article 11;
 - d green harvesting in accordance with Article 12;
 - e mutual funds in accordance with Article 13;
 - f harvest insurance in accordance with Article 14;
 - g investments in accordance with Article 15;
 - h by-product distillation in accordance with Article 16;
 - i potable alcohol distillation in accordance with Article 17;
 - j crisis distillation in accordance with Article 18;
 - k use of concentrated grape must in accordance with Article 19.
- 2 Support programmes shall not contain measures other than those listed in Articles 9 to 19.

Article 8

General rules concerning support programmes

- 1 The allocation of the available Community funds as well as the budgetary limits are provided for in Annex II.
- 2 Community support shall only relate to eligible expenditure incurred after the submission of the relevant support programme as referred to in Article 5(1).
- 3 Member States shall not contribute to the costs of measures financed by the Community under the support programmes.
- 4 By way of derogation from paragraph 3, Member States may grant national aid in accordance with the relevant Community rules on State aid for the measures referred to in Articles 10, 14 and 15.

The maximum aid rate as laid down in the relevant Community rules on State aid shall apply to the global public financing including both Community and national funds.

Section 3

Specific support measures

Article 9

Single Payment Scheme and support to vine-growers

1 Member States may provide support to vine-growers by allocating to them payment entitlements within the meaning of Chapter 3 of Title III of Regulation (EC) No 1782/2003 in accordance with point O of Annex VII to that Regulation.

2 Member States intending to make use of the possibility referred to in paragraph 1 shall foresee such support in their support programmes including, as regards subsequent transfers of funds to the Single Payment Scheme, by way of changes to those programmes in accordance with Article 5(3).

3 Once effective, support as referred to in paragraph 1 shall:

- a remain in the Single Payment Scheme and no longer be available, or be made available under Article 5(3), for the measures listed in Articles 10 to 19 in subsequent years of the operation of the support programmes;
- b commensurately reduce the amount of funds available for measures listed in Articles 10 to 19 in the support programmes.

Article 10

Promotion on third-country markets

1 Support under this Article shall cover information or promotion measures concerning Community wines in third countries, thereby improving their competitiveness in those countries.

2 The measures referred to in paragraph 1 shall relate to wines with a protected designation of origin or geographical indication or wines with an indication of the wine grape variety.

3 The measures referred to in paragraph 1 may consist only of:

- a public relations, promotional or advertisement measures, in particular highlighting the advantages of the Community products, especially in terms of quality, food safety or environmental friendliness;
- b participation at events, fairs or exhibitions of international importance;
- c information campaigns, in particular on the Community systems covering designations of origin, geographical indications and organic production;
- d studies of new markets, necessary for the expansion of market outlets;
- e studies to evaluate the results of the promotional and information measures.

4 The Community contribution to promotion activities shall not exceed 50 % of the eligible expenditure.

Article 11

Restructuring and conversion of vineyards

1 The objective of measures relating to the restructuring and conversion of vineyards shall be to increase the competitiveness of wine producers.

2 Restructuring and conversion of vineyards shall be supported in accordance with this Article only if Member States submit the inventory of their production potential in accordance with Article 109.

3 Support for restructuring and conversion of vineyards may only cover one or more of the following activities:

- a varietal conversion, including by means of grafting-on;
- b relocation of vineyards;
- c improvements to vineyard management techniques.

The normal renewal of vineyards which have come to the end of their natural life shall not be supported.

4 Support for restructuring and conversion of vineyards may only take the following forms:

- a compensation of producers for the loss of revenue due to the implementation of the measure;
- b contribution to the costs of restructuring and conversion.

5 Compensation of producers for the loss of revenue as referred to in paragraph 4(a) may cover up to 100 % of the relevant loss and take either of the following forms:

- a notwithstanding the provisions of Chapter II of Title V, the permission for the co-existence of both old and new vines for a fixed period which shall not exceed three years, until the end of the transitional regime concerning planting rights;
- b financial compensation.

6 The Community contribution to the actual costs of restructuring and conversion of vineyards shall not exceed 50 %. In regions classified as convergence regions in accordance with Regulation (EC) No 1083/2006⁽¹⁾, the Community contribution to the costs of restructuring and conversion shall not exceed 75 %.

Article 12

Green harvesting

1 For the purposes of this Article, green harvesting means the total destruction or removal of grape bunches while still in their immature stage, thereby reducing the yield of the relevant area to zero.

2 Support for green harvesting shall contribute to restoring the balance of supply and demand in the market in wine in the Community in order to prevent market crises.

3 Support for green harvesting may be granted as compensation in the form of a flat rate payment per hectare to be determined by the Member State concerned.

The payment shall not exceed 50 % of the sum of the direct costs of the destruction or removal of grape bunches and the loss of revenue related to the destruction or removal of grape bunches.

4 The Member States concerned shall establish a system based on objective criteria to ensure that the green harvesting measure does not lead to compensation of individual wine producers in excess of the ceiling referred to in the second subparagraph of paragraph 3.

Article 13

Mutual funds

1 Support for the setting-up of mutual funds shall provide assistance to producers seeking to insure themselves against market fluctuations.

2 Support for the setting-up of mutual funds may be granted in the form of temporary and degressive aid to cover the administrative costs of the funds.

Article 14

Harvest insurance

1 Support for harvest insurance shall contribute to safeguarding producers' incomes where these are affected by natural disasters, adverse climatic events, diseases or pest infestations.

2 Support for harvest insurance may be granted in the form of a financial Community contribution which must not exceed:

- a 80 % of the cost of the insurance premiums paid for by producers for insurance against losses as a result of adverse climatic events which can be assimilated to natural disasters;
- b 50 % of the cost of the insurance premiums paid for by producers for insurance against:
 - (i) losses referred to in (a) and against other losses caused by adverse climatic events;
 - (ii) losses caused by animals, plant diseases or pest infestations.

3 Support for harvest insurance may only be granted if the insurance payments concerned do not compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers may have obtained from other support schemes related to the insured risk.

4 Support for harvest insurance shall not distort competition in the insurance market.

Article 15

Investments

1 Support may be granted for tangible or intangible investments in processing facilities, winery infrastructure and marketing of wine which improve the overall performance of the enterprise and concern one or more of the following:

- a the production or marketing of products referred to in Annex IV;

- b the development of new products, processes and technologies related to the products referred to in Annex IV.

2 Support under paragraph 1 at its maximum rate shall be limited to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises⁽²⁾. For the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean islands within the meaning of Council Regulation (EC) No 1405/2006 of 18 September 2006 laying down specific measures for agriculture in favour of the smaller Aegean islands⁽³⁾ and the French overseas departments, no size limits shall apply for the maximum rate. For enterprises that are not covered by Article 2(1) of Title I of Annex to Recommendation 2003/361/EC with less than 750 employees or with a turn-over of less than EUR 200 million, the maximum aid intensity shall be halved.

Support shall not be granted to enterprises in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty.

3 The eligible expenditure shall exclude the elements referred to in Article 71(3)(a) to (c) of Regulation (EC) No 1698/2005.

4 The following maximum aid rates in relation to the eligible investment costs shall apply to the Community contribution:

- a 50 % in regions classified as convergence regions in accordance with Regulation (EC) No 1083/2006;
- b 40 % in regions other than convergence regions;
- c 75 % in the outermost regions in accordance with Council Regulation (EC) No 247/2006 of 30 January 2006 laying down specific measures for agriculture in the outermost regions of the Union⁽⁴⁾;
- d 65 % in the smaller Aegean islands within the meaning of Regulation (EC) No 1405/2006.

5 Article 72 of Regulation (EC) No 1698/2005 shall apply *mutatis mutandis* to support referred to in paragraph 1.

Article 16

By-product distillation

1 Support may be granted for the voluntary or obligatory distillation of by-products of wine-making which has been carried out in accordance with the conditions laid down in point D of Annex VI.

The amount of aid shall be fixed per % volume and per hectolitre of alcohol produced. 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.

2 The maximum applicable aid levels shall be based on collection and processing costs and fixed in accordance with the procedure referred to in Article 113(1).

3 The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

Article 17

Potable alcohol distillation

1 Support may be granted until 31 July 2012 to producers, for wine which is distilled into potable alcohol in the form of a per-hectare aid.

2 The relevant contracts concerning the distillation of wine as well as the relevant proofs of delivery for distillation shall be submitted before support is granted.

Article 18

Crisis distillation

1 Support may be granted until 31 July 2012 for voluntary or obligatory distillation of surplus wine decided upon by Member States in justified cases of crisis so as to reduce or eliminate the surplus and at the same time ensure supply continuity from one harvest to the next.

2 The maximum applicable aid levels shall be fixed in accordance with the procedure referred to in Article 113(1).

3 The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

4 The share of the available budget used for the crisis distillation measure shall not exceed the following percentage shares as calculated against the globally available funds laid down in Annex II per Member State in the respective budget year:

- 20 % in 2009,
- 15 % in 2010,
- 10 % in 2011,
- 5 % in 2012.

5 Member States may increase the available funds for the crisis distillation measure beyond the annual ceilings given in paragraph 4 by way of contributing national funds in accordance with the following limits (expressed in terms of percentage of the respective annual ceiling given in paragraph 4):

- 5 % in the wine year 2010,
- 10 % in the wine year 2011,
- 15 % in the wine year 2012.

Member States shall, where applicable, notify the Commission of the addition of national funds referred to in the first subparagraph and the Commission shall approve the transaction before such funds are made available.

Article 19

Use of concentrated grape must

1 Support may be granted until 31 July 2012 to wine producers who use concentrated grape must including rectified concentrated grape must to increase the natural alcoholic strength of products in accordance with the conditions laid down in Annex V.

2 The amount of the aid shall be fixed per % volume potential alcoholic strength and per hectolitre of the must used for enrichment.

3 The maximum applicable aid levels for this measure in the different wine growing zones shall be fixed in accordance with the procedure referred to in Article 113(1).

Article 20

Cross-compliance

Where farmers are found not to have complied on their holding, at any time during three years from payment under the support programmes for restructuring and conversion or at any time during one year from payment under the support programmes for green harvesting, with the statutory management requirements and the good agricultural and environmental condition referred to in Articles 3 to 7 of Regulation (EC) No 1782/2003, the amount of the payment shall, where non-compliance is the result of an action or omission directly imputable to the farmer, be reduced or cancelled, partially or wholly depending on the severity, extent, permanence and repetition of the non-compliance, and the farmer shall, where applicable, be ordered to reimburse it in accordance with the conditions set out in those provisions.

Section 4

General provisions

Article 21

Reporting and evaluation

1 Each year and for the first time by 1 March 2010, Member States shall submit to the Commission by 1 March a report on the implementation of the measures provided for in their support programmes during the previous financial year.

Those reports shall list and describe the measures for which Community assistance under the support programmes was granted and shall in particular provide details on the implementation of the promotion measures referred to in Article 10.

2 Member States shall submit to the Commission, by 1 March 2011 and, a second time, by 1 March 2014, an evaluation of the costs and benefits of the support programmes as well as an indication of how to increase their efficiency.

The Commission shall submit to the European Parliament and the Council, by 31 December 2011, a report on the implementation of the promotion measures referred to in Article 10.

Article 22

Implementing measures

The measures necessary for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 113(1).

Those measures may include, in particular:

- (a) the format of presentation of the support programmes;
- (b) rules concerning changes to support programmes after they have become applicable;
- (c) detailed rules for the implementation of the measures provided for in Articles 10 to 19;
- (d) the conditions under which assistance through Community funds is to be communicated and publicised;
- (e) details on reporting.

CHAPTER II

Financial transfer

Article 23

Financial transfer to rural development

1 As from the budget year 2009, the amounts fixed in paragraph 2, based on historical expenditure under Regulation (EC) No 1493/1999 for intervention measures to regulate agricultural markets as referred to in Article 3(1)(b) of Regulation (EC) No 1290/2005, shall be available as additional Community funds for measures in wine-producing regions under the rural development programming financed under Regulation (EC) No 1698/2005.

2 The following amounts shall be available in the given calendar years:

- 2009: EUR 40,5 million,
- 2010: EUR 80,9 million,
- from 2011 onwards: EUR 121,4 million.

3 The amounts set in paragraph 2 shall be allocated among Member States in accordance with Annex III.

Member States which have no amounts entered in the current table in Annex III because of the small size of the otherwise resulting amounts in accordance with the financial key applied to determine the amounts for Annex III (less than EUR 2,5 million to be transferred in 2009) may decide to transfer those amounts now included in Annex II wholly or partially to Annex III for use in their rural development programmes. In such case the Member States concerned shall notify the Commission of this transfer by 30 June 2008 and the Commission shall modify paragraph 2 as well as Annexes II and III accordingly.

- (1) Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (OJ L 210, 31.7.2006, p. 25). Regulation as last amended by Regulation (EC) No 1989/2006 (OJ L 411, 30.12.2006, p. 6).
- (2) OJ L 124, 20.5.2003, p. 36.
- (3) OJ L 265, 26.9.2006, p. 1.
- (4) OJ L 42, 14.2.2006, p. 1. Regulation as last amended by Commission Regulation (EC) No 1276/2007 (OJ L 284, 30.10.2007, p. 11).