

Commission Regulation (EC) No 555/2008 of 27 June 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

TITLE II

SUPPORT PROGRAMMES

CHAPTER I

Procedure for submission

[^{F1}Article 2

Submission of support programmes

1 The first submission of the draft support programme referred to in the first subparagraph of Article 103k(1) of Regulation (EC) No 1234/2007 shall refer to the five financial years 2009 to 2013.

[^{F2}For the financial years 2014 to 2018, Member States shall submit their draft support programme to the Commission by 1 March 2013. By way of derogation, Croatia shall submit its draft support programme by 1 July 2013. If the national envelopes foreseen from the financial year 2014 and onwards are modified after that date, the Member States shall adapt the support programmes accordingly.]

Member States shall make their draft support programme available to the Commission by electronic means using the form in Annex I.

Member States shall submit their financial planning for the draft support programme referred to in the first and second subparagraphs to the Commission in the form set out in Annex II.

2 Member States shall notify the Commission their legislation related to the draft support programmes referred to in paragraph 1 once adopted or modified. This notification can be done by informing the Commission about the site where the legislation concerned is publicly available.

[^{F3} Member States deciding to reduce, from the 2015 financial year onwards, the amount available for the support programmes in order to increase their national ceilings for direct payments referred to in Article 40 of Council Regulation (EC) No 73/2009⁽¹⁾, shall notify these amounts before 1 August 2013. The data submitted in the forms provided in Annexes I, II, III, VII and VIII shall be adapted accordingly if that decrease had not been already foreseen in the draft support programme presented by 1 March 2013.]

4 Member States deciding to set up their support programme including regional particularities may also submit details by region in the form provided for in Annex III.

Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

5 Member States shall bear the responsibility for expenditure between the date on which their support programme is received by the Commission and the date of its applicability according to Article 103k(2), first subparagraph of Regulation (EC) No 1234/2007.]

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) No 568/2012 of 28 June 2012 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector.](#)
- F2** Substituted by [Commission Regulation \(EU\) No 519/2013 of 21 February 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, right of establishment and freedom to provide services, company law, competition policy, agriculture, food safety, veterinary and phytosanitary policy, fisheries, transport policy, energy, taxation, statistics, social policy and employment, environment, customs union, external relations, and foreign, security and defence policy, by reason of the accession of Croatia.](#)
- F3** Substituted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)

Article 3

Modifications of support programmes

1 Revised programmes referred to in Article 5(2) of Regulation (EC) No 479/2008 shall be submitted to the Commission in the form set out in Annex I to this Regulation including, where applicable, the revised financial planning in the form set out in Annex IV to this Regulation.

Member States referred to in Article 5(4) of Regulation (EC) No 479/2008 need not submit the form set out in Annex IV.

Member States shall bear the responsibility for expenditure between the date on which their support programme revision is received by the Commission and the date of its applicability according to Article 5(2) second subparagraph of Regulation (EC) No 479/2008.

2 Except in cases of emergency measures due to natural disasters, changes in respect of support programmes shall not be submitted more than twice per financial year. If a Member State finds it necessary to modify its support programme, it shall submit it by 1 March and by 30 June of each year at the latest with, where appropriate:

- a updated versions of the support programme in the form set out in Annex I and of the financial table in the form set out in Annex IV;
- b the reasons for the proposed changes.

Any transfer concerning the measure as referred to in Article 9 of Regulation (EC) No 479/2008 shall be notified before 1 December preceding the calendar year in which the Single Payment Scheme will be applicable.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

CHAPTER II

Eligible measures

Section 1

Promotion on third-country markets

Article 4

Eligible operations and markets

Wines referred to in Article 10(2) of Regulation (EC) No 479/2008 shall be eligible for promotion on third-country markets provided that:

- (a) the products are intended for direct consumption, export opportunities or potential new market outlets in the targeted third countries exist for them, and they display high added value;
- (b) the origin of the product is indicated as part of an information or promotion operation in the case of wine with a geographical indication;
- (c) the operation supported is clearly defined, including the specification of which products may be taken into account, the marketing operation and the estimated cost;
- (d) [^{F3}for each programming period, the support for the promotion and information lasts no longer than three years for a given beneficiary in a given third-country; however, if necessary, it may be renewed once, for a period no longer than two years;]
- (e) the information and/or promotion messages are based on the intrinsic qualities of the wine, and comply with the legislation applicable in the third countries at which they are targeted;
- (f) The beneficiaries must have enough capacity to face the specific constraints of trade with third countries and have resources to ensure that the measure is implemented as effectively as possible. Member States shall in particular check that enough products in terms of quality and quantity will be available to ensure answering the market demand in the long run after the promotion operation.

The beneficiaries may be private companies as well as professional organisations, producer organisations, inter-branch organisations or, where a Member State decides so, to public bodies. In any event, Member States shall not make a public body the sole beneficiary of the promotion measure.

[^{F4}]

In order to prevent misuse of the scheme, the elements referred to in paragraphs (a) and (c) shall not in general be permitted to change within the duration of the supported actions unless evidence shows that such changes allow for a better accomplishment.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

Textual Amendments

- F3** Substituted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)
- F4** Deleted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)

Article 5

Selection procedure

1 ^[F5] Member States shall lay down the application procedure and the procedure for the possible renewal, as referred to in point (d) of the first paragraph of Article 4, which shall in particular provide detailed rules on:]

- a verification of the compliance with the requirements and criteria set out in Article 4;
- b deadlines for presentation of applications and for examination of the suitability of each proposed action;
- c the products concerned and their marketing in conformity with the provisions of this Regulation, the national provisions and the relevant specification;
- d conclusion of contracts, including possible standard forms, provision of securities and arrangements for the payment of advances;
- ^[F5e] evaluating any given supported action. In case of renewal in accordance with point (d) of the first paragraph of Article 4, the results of the supported actions shall in addition be evaluated prior to the renewal.]

2 The Member States shall select the application in particular against the following criteria:

- a consistency between the strategies proposed and the objectives set;
- b the quality of the proposed measures;
- c their likely impact and success in increasing demand for the products concerned;
- d assurances that any operator involved is effective and has access to the required technical capacity and that the cost of the measure which he plans to carry out himself is not in excess of the normal market rates.

^[F33] Having examined the applications, Member States shall select those offering the best value for money. Preference shall be given to:

- a micro, small and medium-sized enterprises in the meaning of Commission Recommendation 2003/361/EC⁽²⁾;
- b new beneficiaries who did not receive support in the past; and
- c beneficiaries targeting a new third country for which they have not received support in the past within this scheme.

Member States shall draw up a list within the limit of available funds and shall communicate that list to the Commission using the form set out in Annex VIII in order to allow the other Member States to be informed and to increase coherence of the measure.]

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

4 Two or more Member States may decide to select a joint promotion operation. They shall undertake to contribute to the financing and agree on administrative collaboration procedures to facilitate the monitoring, implementation and checking.

5 Member States shall ensure that any national or regional supported campaign are in agreement with measures financed under Regulation (EC) No 3/2008 or Regulation (EC) No 1698/2005 and measures funded under national and regional campaigns.

6 No support shall be granted under Article 10 of Regulation (EC) No 479/2008 for a given operation supported under Article 20(c)(iii) of Regulation (EC) No 1698/2005 or under Article 2(3) of Regulation (EC) No 3/2008.

7 Member States may provide for support to be advanced before any operation has been implemented, provided that the beneficiary has lodged a security.

8 Where Member States grant national aid for promotion, they shall communicate them in the relevant part of Annexes I, V, VII and VIII to this Regulation.

Textual Amendments

- F3** Substituted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)
- F5** Substituted by [Commission Regulation \(EU\) No 772/2010 of 1 September 2010 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.](#)

[^{F6}Article 5a

Eligible costs

1 Personnel costs of the beneficiary referred to in Article 4 shall be considered eligible if they are incurred in relation to the preparation, implementation or follow-up of the particular supported promotion project, including the evaluation. This includes the costs of the personnel contracted by the beneficiary specifically on the occasion of the promotion project and the costs corresponding to the share of the working hours invested in the promotion project by permanent staff of the beneficiary.

Member States shall only accept personnel costs as eligible if the beneficiaries provide supporting documents setting out the details of the work actually carried out in relation to the particular supported promotion project.

- 2 Overheads incurred by the beneficiary shall be considered eligible only if:
- a they are related to the preparation, implementation or follow-up of the project; and
 - b they do not exceed 4 % of the actual costs of implementing the projects.

Member States may decide whether those overheads are eligible on the basis of a flat rate or on the basis of the presentation of supporting documents. In the latter case, the calculation of those costs shall be based on the accounting principles, rules and methods used in the beneficiary's country.]

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

Textual Amendments

- F6** Inserted by [Commission Implementing Regulation \(EU\) No 752/2013 of 31 July 2013 amending Regulation \(EC\) No 555/2008 as regards national support programmes and trade with third countries in the wine sector.](#)

Section 2

Restructuring and conversion of vineyards

[^{F3} Article 6

Ineligible operations

1 For the purposes of the second subparagraph of Article 103q(3) of Regulation (EC) No 1234/2007, ‘the normal renewal of vineyards which have come to the end of their natural life’ shall mean the replanting of the same parcel of land with the same variety according to the same system of vine cultivation. Member States may establish further specifications, especially as regards to the age of the vineyards replaced.

- 2 The following operations are not eligible:
- a day-to-day management of a vineyard;
 - b protection against damage by game, birds or hail;
 - c construction of windbreaks and wind protection walls;
 - d driveways and elevators.]

Textual Amendments

- F3** Substituted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)

Article 7

Procedure and applications

- 1 Member States shall lay down:
- a time limits for the implementation of restructuring operations, which shall not exceed five years;
 - b bodies or individuals that may submit draft applications;
 - c objective criteria for their prioritisation notably in accordance with Article 104(9) of Regulation (EC) No 479/2008;
 - d the content of the request, which shall include detailed descriptions of the proposed measures and proposed deadlines for their execution;
 - e the procedure for the presentation and approval of request, which shall in particular provide for deadlines for the submission of requests and objective criteria for their prioritisation;

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

f a requirement that all requests shall state, for each financial year, the measures to be implemented in that financial year, and the area concerned by each measure and procedures for monitoring such implementation.

2 Member States may lay down a minimum size of the area which may qualify for support for restructuring and conversion, and a minimum size of area resulting from restructuring and conversion and any derogation from this requirement which shall be duly justified and based on objective criteria.

[^{F3}Article 8

Levels of support

1 Subject to the provisions of Article 103q of Regulation (EC) No 1234/2007 and of this Chapter, Member States shall lay down rules setting out the eligible restructuring and conversion actions and their respective eligible costs. The rules shall be designed to ensure that the objective of the scheme is met.

The rules may provide in particular either for the payment of flat-rate amounts, or for maximum levels of support per hectare. In addition, the rules may provide for the adjustment of the support on the basis of objective criteria.

2 In order to avoid overcompensation, where Member States make use of flat rate amounts, these shall be established on the basis of an accurate calculation of the actual costs of each type of operation. Flat rate amounts may be adapted annually if justified.

3 The support is paid for the area planted, defined in conformity with Article 75(1).]

Textual Amendments

F3 Substituted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)

Article 9

Financial management

1 [^{F5}Support shall be paid once it is ascertained that either a single operation or all the operations covered by the support application, according to the choice made by the Member State for the management of the measure, have been implemented and checked on-the-spot, in accordance with Article 81 of this Regulation.]

Where support is normally payable only after implementation of all the operations, support shall nevertheless be paid for single operations implemented if the remaining operations could not be carried out due to *force majeure* or exceptional circumstances within the meaning of Article 40(4) of Regulation (EC) No 1782/2003⁽³⁾.

If checks show that an overall operation covered by the support application has not been fully implemented for reasons other than *force majeure* or exceptional circumstances within the meaning of Article 40(4) of Regulation (EC) No 1782/2003, and where support has been paid after single operations which are part of the overall operation covered by the support application, Member States shall decide to recover the aid paid.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

2 As an exception to paragraph 1, the Member States may provide for support for a given operation, or for all the operations covered by the support application, to be advanced to producers before that any operation has been implemented, provided that implementation has begun and the beneficiary has lodged a security. For the purposes of Regulation (EEC) No 2220/85⁽⁴⁾, the obligation shall be to implement the operations concerned by the end of the second wine year following payment of the advance.

That period may be adjusted by the Member State in cases where:

- a areas concerned are part of an area which has suffered a natural disaster recognised by the competent authorities of the Member State concerned;
- b planned operations cannot be implemented because the plant material suffers health problems which have been certified by a body recognised by the Member State concerned.

In order for support to be paid in advance, any previous operation carried out on the same area, for which the producer also received support in advance, must have been fully implemented.

If checks show that the measure covered by the aid application, and for which an advance has been paid, has not been fully implemented, the Member States may decide to apply a penalty.

Textual Amendments

- F5** Substituted by [Commission Regulation \(EU\) No 772/2010 of 1 September 2010 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.](#)

^{F4}Article 10

[^{F4}Transitional measures]

Textual Amendments

- F4** Deleted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)

^{F7}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

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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.]

Textual Amendments

- F7** Inserted by [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.](#)

Section 3

Green harvesting

Article 11

Definition of green harvesting

For the purposes of Article 12 of Regulation (EC) No 479/2008 and of this Section, leaving commercial grapes on the plants at the end of the normal production cycle (non-harvesting) shall not be considered green harvesting.

In addition, the area of any parcel supported with green harvesting shall not be counted when calculating the yield limits set in the technical specifications of wines with a geographical indication.

Article 12

Conditions for the implementation of green harvesting

- 1 In relation to the green harvesting measure, Member States shall:
- a adopt detailed provisions on the implementation of the measure, including:
 - (i) prior notification of green harvesting;
 - (ii) the amount of compensation to be paid;
 - (iii) rules to ensure that the areas concerned will be kept in good vegetative conditions and that no negative impact on the environment nor any negative phytosanitary consequences result from the application of the measure and ensure that it is possible to check that the measure is carried out correctly; in relation to these objectives Member States may apply restrictions to the measure based on objective and non discriminatory criteria, including timing of different varieties, environmental or phytosanitary risks or the method;
 - b set the deadline for applications of green harvesting between 15 April and 31 May of each year;

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

- c establish by 31 May an expected market situation justifying the application of green harvesting to restore market balance and to prevent crisis;
- d ensure that the measure is carried out correctly by controlling whether a green harvesting operation is performed successfully; areas receiving green harvesting support shall be systematically verified on the spot after the execution; the plots checked shall be those which are the subject of an application for aid.

The control referred to in point (d) of the first subparagraph shall include:

- (i) verification of the existence of the vineyard concerned and whether the given area has been properly tended;
- (ii) that all bunches have been totally removed or destroyed;
- (iii) which method has been used; each farmer applying for green harvesting aid shall keep evidence of the costs of the operation.

In order to ensure that no more marketable grapes are left in the supported parcel, all controls shall take place between 15 June and 31 July of each year and, in any case, they will be complete by the normal time of Veraison (Baggiolini stage M, BBCH stage 83) in any given area.

- 2 Green harvesting shall not be applied on the same parcel for two consecutive years.
- 3 In case of complete or partial damage of the crops due to in particular natural disaster within the meaning of Article 2(8) of Commission Regulation (EC) No 1857/2006⁽⁵⁾ before the date of green harvesting, no support shall be granted.
- 4 In case of complete or partial damage occurring between the payment of the green harvesting support and the harvesting period, no harvest insurance financial compensation of the loss of income may be granted for the area already supported.

Article 13

Application procedure

- 1 Member States shall lay down the application procedure shall in particular provide for the applicable premium to the producer concerned and the information required to accompany the application. The application shall contain details on the area, the average yield, the method to be used as well as the grape variety and the type of wine produced from it.
- 2 Member States shall verify whether the applications are well founded. For this purpose, they may foresee that a written undertaking of the producer is lodged upon application. In case the application is withdrawn without duly justified reason they may provide for the producer concerned to bear the costs incurred concerning the treatment of its request.

Article 14

Compensation

- 1 Each year Member States shall calculate the direct costs of green harvesting according to the different methods manual, mechanical and chemical that they allow in relation to Article 12(1)(a)(iii). In case more than one method is used on the same given area, compensation shall be calculated on the basis of the cheapest method.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

2 The Member States shall define the loss of revenue caused by green harvesting on the basis of objective and non-discriminatory criteria.

Subject to Article 12(4) of Regulation (EC) No 479/2008 Member States shall fix the level of support provided for in Article 12(3) of that Regulation on the basis of standard costs and standard assumptions of loss of revenue. Member States shall ensure that the calculations:

- a contain only elements that are verifiable;
- b are based on figures established by appropriate expertise;
- c indicate clearly the source of the figures;
- d are differentiated to take into account regional or local site conditions as appropriate.

The premium is paid for the area planted, defined in conformity with Article 75(1) of this Regulation.

Section 4

Mutual funds

Article 15

Level of the aid

The measure referred to in Article 13 of Regulation (EC) No 479/2008, may be introduced by the Member States in their support programme according to the following rules:

- (a) the support period should not exceed three years;
- (b) support for the administrative cost of setting up mutual funds shall be limited, in the first, second and third year of operation of the mutual fund respectively, to the following proportion of the contribution of the producers to the mutual fund in the first, second and third year of its operation:
 - (i) 10 %, 8 % and 4 % in the Member States which acceded to the Community on 1 May 2004 or thereafter;
 - (ii) 5 %, 4 % and 2 % in other Member States;
- (c) Member States may fix ceilings for the amounts of the administrative costs that may be received for the setting up of mutual funds;
- (d) Member States shall adopt detailed provisions for the implementation of that measure.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

Section 5

Harvest insurance

Article 16

Conditions of eligibility

The measure referred to in Article 14 of Regulation (EC) No 479/2008, may be introduced by the Member States in their support programme according to the following rules:

- (a) in relation to harvest insurance measures, Member States shall adopt detailed provisions on the implementation of those measures, including those necessary to ensure that harvest insurance measures do not distort competition in the insurance market;
- (b) producers applying for the scheme shall make their insurance policy available to the national authorities in order to allow the Member States to comply with the condition referred to in Article 14(2) of Regulation (EC) No 479/2008;
- (c) member States shall fix ceilings on the amounts that may be received for the support in order to respect the conditions referred to in Article 14(3) of Regulation (EC) No 479/2008. Where appropriate, Member States may fix the level on the basis of standard costs and standard assumptions of income loss. Member States shall ensure that the calculations:
 - (i) contain only elements that are verifiable;
 - (ii) are based on figures established by appropriate expertise;
 - (iii) indicate clearly the source of the figures;
 - (iv) are differentiated to take into account regional or local site conditions as appropriate.

For the purposes of Article 14 of Regulation (EC) No 479/2008, an ‘adverse climatic event which can be assimilated to a natural disaster’ shall have the same meaning as in Article 2(8) of Commission Regulation (EC) No 1857/2006.

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

Section 6

Investments

Article 17

Eligible measures

The supported investments shall respect the Community standards applicable to the investment concerned.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

Eligible expenditure shall be:

- (a) the construction, acquisition, including leasing, or improvement of immovable property;
- (b) the purchase or lease-purchase of new machinery and equipment, including computer software up to the market value of the asset; other costs connected with the leasing contract, such as lessor's margin, interest refinancing costs, overheads and insurance charges, shall not be eligible expenditure;
- (c) general costs linked to expenditure referred to in points (a), and (b), such as fees of architects and engineers and consultation fees, feasibility studies, the acquisition of patent rights and licences.

By way of derogation from point (b), and only for micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC⁽⁶⁾, Member States may, in duly substantiated cases, establish the conditions under which the purchase of second-hand equipment may be regarded as eligible expenditure.

Simple replacement investments shall not be eligible expenditure so as to make sure that the aim of the measure, i.e. the improvement in terms of adjustment to market demand and increased competitiveness, is met by these investments in the processing chain measure.

Article 18

Eligible measures for the development of new products

Costs for the development of new products, processes and technologies as referred to in Article 15(1)(b) of Regulation (EC) No 479/2008, shall concern preparatory operations, such as design, product, process or technology development and tests and tangible and/or intangible investments related to them, before the use of the newly developed products, processes and technologies for commercial purposes.

Simple replacement investments shall not be eligible expenditure so as to make sure that the aim of the measure, i.e. the improvement in terms of adjustment to market demand and increased competitiveness, is met by these supports.

[^{F8}Article 19

Financial management

1 Support shall be paid once it is ascertained that either a single operation or all the operations covered by the support application, according to the choice made by the Member State for the management of the measure, have been implemented and controlled on the spot.

Where support is normally payable only after implementation of all the operations, by way of derogation from the first subparagraph, support shall be paid for single operations implemented if the remaining operations could not be carried out due to *force majeure* or exceptional circumstances as referred to in Article 31 of Council Regulation (EC) No 73/2009⁽⁷⁾.

If checks show that an overall operation covered by the support application has not been fully implemented for reasons other than *force majeure* or exceptional circumstances

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as referred to in Article 31 of Regulation (EC) No 73/2009, and where support has been paid after single operations which are part of the overall operation covered by the support application, Member States shall decide to recover the aid paid.

2 Beneficiaries of investment support may request the payment of an advance from the competent paying agencies if this option is included in the national support programme.

[^{F9}The amount of the advances shall not exceed 20 % of the public aid related to the investment, and its payment shall be subject to the establishment of a bank guarantee or an equivalent guarantee corresponding to 110 % of the amount of the advance. However, in the case of investments for which the individual decision to grant support is taken in the financial years 2013, 2014 or 2015, the amount of the advances may be increased up to 50 % of the public aid related to that investment. For the purposes of Commission Implementing Regulation (EU) No 282/2012⁽⁸⁾ the obligation shall be to spend the total amount advanced in the implementation of the operation concerned two years after its payment.]

The guarantee shall be released when the competent paying agency establishes that the amount of actual expenditure corresponding to the public aid related to the investment exceeds the amount of the advance.]

Textual Amendments

- F8** Substituted by [Commission Regulation \(EC\) No 702/2009 of 3 August 2009 amending and correcting 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.](#)
- F9** Substituted by [Commission Implementing Regulation \(EU\) No 752/2013 of 31 July 2013 amending Regulation \(EC\) No 555/2008 as regards national support programmes and trade with third countries in the wine sector.](#)

[^{F10} 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.]

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Textual Amendments

- F10** Substituted by 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.

Section 7

Disposal of by-products

Article 21

Fixing a minimum percentage of alcohol

1 Subject to point 1 of Annex VI.D to Regulation (EC) No 479/2008, Member States shall establish the volume of alcohol that must be contained in the by-products in relation to that contained in the wine produced. Member States may modulate the minimum percentage of alcohol on the basis of objective and non-discriminatory criteria.

2 Should the relevant percentage fixed by Member States in application of the first paragraph not be reached, those subject to the obligation shall deliver a quantity of wine from their own production, thus ensuring attainment of that percentage.

3 For the purpose of determining the volume of alcohol contained in the by-products in relation to that contained in the wine produced, the standard wine natural alcoholic strengths by volume to be applied in the different wine-growing zones shall be:

- a 8,0 % for zone A;
- b 8,5 % for zone B;
- c 9,0 % for zone C I;
- d 9,5 % for zone C II;
- e 10,0 % for zone C III.

Article 22

Disposal of by-products

Producers shall be required to withdraw the by-products of wine-making, or any other processing of grapes, under supervision subject to the following conditions:

- (a) the by-products shall be withdrawn without delay and no later than the end of the wine year in which they were obtained; Member States may fix an earlier deadline; withdrawal, together with an indication of the estimated quantities, shall be either entered in the registers kept in accordance with Article 112(2) of Regulation (EC) No 479/2008, or certified by the competent authority;
- (b) withdrawal shall respect applicable Community legislation, in particular as regards the environment.

Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

The withdrawal of the wine lees in question shall be regarded as having taken place once the lees have been denatured to make their use in winemaking impossible and where the delivery of the denatured lees to third parties has been entered in the registers kept in accordance with Article 112(2) of Regulation (EC) No 479/2008. Member States shall take the measures necessary to ensure that such transactions are checked. They may have a system of prior recognition of the concerned third parties.

Member States may decide that producers who, during the wine year in question, do not produce more than 25 hectolitres of wine or must themselves on their own premises are not required to withdraw their by-products.

Article 23

Disposal with by-product distillation

1 Producers may fulfil the obligation of disposal for a part or for the entirety of the by-products of wine-making or any other processing of grapes, by delivering the by-products to distillation.

2 Member States may require that the delivery to distillation of a part or of the entirety of the by-products of wine making or of any other processing of grapes is made compulsory for a part or for the entirety of their producers, on the basis of objective and non-discriminatory criteria. This obligation can be also fulfilled by the delivery of wine to the vinegar industry.

3 The relevant Member States may introduce a system of certification of distillers according to a procedure that they lay down.

Article 24

Purpose of the aid

1 The aid referred to in Article 16 of Regulation (EC) No 479/2008 shall be paid, subject to the condition referred to in paragraph 3 and within the limit of the second subparagraph of paragraph 1 of the same Article, to distillers that process the products delivered to distillation into raw alcohol with an alcoholic strength of at least 92 % vol.

2 The relevant aid shall include a lump-sum amount destined to compensate the costs of collection of these products which shall be transferred from the distiller to the producer, if the relevant costs are borne by the latter.

3 Member States may provide for support to be advanced provided that the beneficiary has lodged a security.

4 Member States shall adopt detailed rules for applying the measure provided for in this Article.

Article 25

Amount of the aid

1 The maximum amount of the aid referred to in Article 16 of Regulation (EC) No 479/2008 to be paid to distillers is established by % volume alcohol and by hectolitre in the following manner:

Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

- a for raw alcohol obtained from mares: EUR 1,1/%vol./hl;
- b for raw alcohol obtained from wine and lees: EUR 0,5/%vol./hl.

2 Member States shall fix, within the limits provided for in paragraph 1 on the basis of objective and non-discriminatory criteria, the amount of aid and the lump-sum compensation for the collection costs referred to in Article 24(2), and communicate them to the Commission in the relevant part of Annexes I, V and VII forms. These amounts may be adjusted according to different production typologies, on the basis of objective and non-discriminatory criteria.

[^{F7}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.]

Textual Amendments

- F7** Inserted by [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.](#)

F⁴Section 8

[^{F4}Potable alcohol distillation

F⁴Article 26

Purpose of the aid

.....

F⁴Article 27

Amount of the aid

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Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

^{F4}Section 9

Crisis distillation

^{F4}Article 28

Definition of the measure

.....

^{F4}Article 29

Modalities of the aid

.....

^{F4}Article 30

Amount of the aid

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^{F4}Article 31

National aid

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^{F4}Section 10

Use of concentrated grape must

^{F4}Article 32

Purpose of the aid

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^{F4}Article 33

Amount of the aid

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Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

^{F4}Article 34

Checks]

CHAPTER III

Reporting, evaluation and general provisions

Article 35

Reporting and evaluation

[^{F11}1 Member States shall submit to the Commission by 1 March each year, a report on the implementation of the measures provided for in their support programmes referred to in Section 4 of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013 of the European Parliament and of the Council⁽⁹⁾ during the previous financial year.

Those reports shall list and describe the measures for which Union assistance under the support programmes was granted.

Those reports shall be presented by Member States to the Commission in the form set out in Annexes V and VI to this Regulation. The information contained in the appropriate tables shall refer to each year in respect of the measures of the support programme:

- a a statement of expenditure by financial year already incurred in the programming period which will in no cases overshoot the budgetary limit for the Member State as laid down in Annex VI to Regulation (EU) No 1308/2013;
- b forecasts for subsequent financial years until the end of the planned period of implementation of the support programme, up to the budgetary limit for the Member State as laid down in VI to Regulation (EU) No 1308/2013 and in coherence with the most updated submission sent in accordance with Article 3 of this Regulation.]

2 In the same communication, technical data related to the implementation of the measures in the support programme, shall be presented by the Member States in the form set out in Annex VII. The details on the implementation of the promotion measure shall be presented by the Member States in the form set out in Annex VIII.

3 References to a given financial year shall refer to payments actually made by Member States between 16 October and 15 October of the following year.

[^{F11}4 Member States shall, by 1 March 2014 and, a second time, by 1 March 2017, submit to the Commission an evaluation of the costs and benefits of the support programmes as well as an indication of how to increase their efficiency.

Those evaluations shall be presented by the Member States to the Commission in the form set out in Annexes V and VI. In addition the following items shall be inserted in the conclusions:

- C1 : Evaluation of the costs and benefits of the support programme,
- C2 : Ways to increase the efficiency of the support programme.]

Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

5 Member States shall communicate to the Commission the measures taken to comply with the provisions foreseen in Article 9(1) and 12(1)(d). The communication shall be made in the form set out in Annexes VIIIA and VIIIB.

[^{F36} Member States deciding to transfer, for 2014 and from 2015 onwards, the entire amount of their national envelope for the support programmes in order to increase their national ceilings for direct payments referred to in Article 40 of Regulation (EC) No 73/2009, shall not be required to submit the forms set out in Annexes V to VIIC to this Regulation.]

7 Member States shall record the details of all support programmes, whether or not amended, and of all measures carried out in pursuance of programmes.

Textual Amendments

- F3** Substituted by [Commission Implementing Regulation \(EU\) No 202/2013 of 8 March 2013 amending Regulation \(EC\) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.](#)
- F11** Substituted by [Commission Implementing Regulation \(EU\) No 168/2014 of 21 February 2014 amending Regulation \(EC\) No 555/2008 as regards reporting and evaluation of Member States' support programmes.](#)

Article 36

Exclusion

None of the financial support from the national support programmes may be granted to producers concerned by unlawful areas referred to in Articles 85 and 86 of Regulation (EC) No 479/2008 and for graft nurseries as referred to in Article 60(3) of this Regulation.

Article 37

Payment delay to beneficiaries

Member States shall for each measure with the exception of Article 9 of Regulation (EC) No 479/2008:

- (a) set the application deadline;
- (b) after the date of lodging a valid and complete application, pay the beneficiaries within:
 - (i) seven months for measures which can be completed and controlled within one year;
 - (ii) a reasonable period to be set by the Member State and to be communicated to the Commission in the relevant parts of Annex I for measures which cannot be completed and controlled within one year.

Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

^{F12}Article 37a

Communication related to State aid

1 Notwithstanding Article 5(8), the third paragraph of Article 16 and the second subparagraph of Article 20(1) of this Regulation, when Member States grant State aid in accordance with Article 103n(4) of Council Regulation (EC) No 1234/2007⁽¹⁰⁾, they shall communicate to the Commission the following:

- a when applicable, the list of aid measures already authorised under Articles 87, 88 and 89 of the Treaty to be used for the implementation of the programmes or the reason why the national aid in question has been exempted from any notification obligations;
- b in other cases, the elements that are needed for the appraisal under competition rules.

2 If paragraph (1)(a) is applicable, Member States shall fill in Table 1 of Annex VIIIc,

- a indicating whether support will be granted in respect of Commission Regulation (EC) No 1535/2007⁽¹¹⁾ on de minimis support for primary production in the agriculture sector or Commission Regulation (EC) No 1998/2006⁽¹²⁾ for processing and marketing of agricultural products; or
- b providing the registration number and the reference to the Commission exemption Regulation adopted on the basis of Council Regulation (EC) No 994/98⁽¹³⁾ under which the measure was introduced; or
- c providing the case number and reference number under which the measure has been declared compatible with the Treaty by the Commission.

3 If paragraph (1)(b) is applicable, Member States shall transmit to the Commission

- a Table 2 of Annex VIIIc for each of the measures referred to in Articles 103p, 103t and 103u of Regulation (EC) No 1234/2007 for which national aid is granted;
- b Table 3 of Annex VIIIc in case of national aid granted for the measure promotion on third country markets as referred to in Article 103p of Regulation (EC) No 1234/2007;
- c Table 4 of Annex VIIIc in case of national aid granted for the harvest insurance measure referred to in Article 103t of Regulation (EC) No 1234/2007;
- d Table 5 of Annex VIIIc in case of national aid granted for the investments measure referred to in Article 103u of Regulation (EC) No 1234/2007.

4 The elements communicated in form of any of the tables of Annex VIIIc must be valid over the entire life cycle of the programme without prejudice to any subsequent changes of the programmes.

5 Notwithstanding Article 103n(4) of Regulation (EC) No 1234/2007 and without prejudice to Article 3(2) of this Regulation, Member States granting national aid shall modify their support programme for the future, by filling in the appropriate tables of Annex VIIIb by 15 October 2009 at the latest. Article 103k(2) of Regulation (EC) No 1234/2007 apply to these modifications.]

Textual Amendments

- F12** Inserted by [Commission Regulation \(EC\) No 702/2009 of 3 August 2009 amending and correcting 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.](#)

Status: Point in time view as at 25/02/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)

F⁶Article 37b

Communication related to advances

1 Where advances are granted in accordance with Articles 5(7), 9(2), 19(2) and 24(3), beneficiaries are requested to provide for each project annually to the paying agencies the following information:

- a costs statements justifying, by measure, the use of the advances until 15 October; and
- b a confirmation, by measure, of the balance of unused advances remaining on 15 October.

Member States shall define in their national rules the date of transmission of this information in order for it to be included in the current annual accounts of the paying agencies referred to in Article 6 of Regulation (EC) No 885/2006 within the deadline laid down in Article 7(2) of that Regulation.

2 Paragraph 1 shall not apply to the annual accounts of 2013, except where advances of more than 20 % and up to 50 % of the public aid related to the investments are granted in accordance with the second subparagraph of Article 19(2).

3 For the purposes of Article 18(2) of Implementing Regulation (EU) No 282/2012, the evidence of final entitlement to be produced shall be the last costs statement and confirmation of the balance referred to in paragraph 1.

Concerning advances under Articles 9(2) and 19(2) of this Regulation, the last costs statement and confirmation of the balance referred to in paragraphs 1 and 2 shall be provided by the end of the second financial year after their payment.]

Textual Amendments

- F6** Inserted by [Commission Implementing Regulation \(EU\) No 752/2013 of 31 July 2013 amending Regulation \(EC\) No 555/2008 as regards national support programmes and trade with third countries in the wine sector.](#)

Status: Point in time view as at 25/02/2014.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 555/2008, TITLE II. (See end of Document for details)*

- (1) [^{F1}[^{F3}OJ L 30, 31.1.2009, p. 16.]]
- (2) [^{F3}OJ L 124, 20.5.2003, p. 36.]
- (3) OJ L 270, 21.10.2003, p. 1.
- (4) OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1913/2006 (OJ L 365, 21.12.2006, p. 52).
- (5) OJ L 358, 16.12.2006, p. 3.
- (6) OJ L 124, 20.5.2003, p. 36.
- (7) [^{F8}OJ L 30, 31.1.2009, p. 16.]
- (8) [^{F9}Commission Implementing Regulation (EU) No 282/2012 of 28 March 2012 laying down common detailed rules for the application of the system of securities for agricultural products (OJ L 92, 30.3.2012, p. 4).]]
- (9) [^{F11}Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).]
- (10) [^{F12}OJ L 299, 16.11.2007, p. 1.]
- (11) OJ L 337, 21.12.2007, p. 35.
- (12) OJ L 379, 28.12.2006, p. 5.
- (13) OJ L 142, 14.5.1998, p. 1.]

Textual Amendments

- F1** Substituted by Commission Implementing Regulation (EU) No 568/2012 of 28 June 2012 amending Regulation (EC) No 555/2008 as regards the submission of support programmes in the wine sector.
- F3** Substituted by Commission Implementing Regulation (EU) No 202/2013 of 8 March 2013 amending Regulation (EC) No 555/2008 as regards the submission of support programmes in the wine sector and trade with third countries.
- F8** Substituted by Commission Regulation (EC) No 702/2009 of 3 August 2009 amending and correcting 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.
- F9** Substituted by Commission Implementing Regulation (EU) No 752/2013 of 31 July 2013 amending Regulation (EC) No 555/2008 as regards national support programmes and trade with third countries in the wine sector.
- F11** Substituted by Commission Implementing Regulation (EU) No 168/2014 of 21 February 2014 amending Regulation (EC) No 555/2008 as regards reporting and evaluation of Member States' support programmes.
- F12** Inserted by Commission Regulation (EC) No 702/2009 of 3 August 2009 amending and correcting 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.

Status:

Point in time view as at 25/02/2014.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 555/2008, TITLE II.