

Commission Regulation (EC) No 436/2009 of 26 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept (repealed)

TITLE II

COMPULSORY DECLARATIONS AND THE GATHERING OF INFORMATION TO MONITOR THE WINE MARKET

Article 6

Purpose

This title concerns the detailed rules for implementing Regulation (EC) No 479/2008 as regards compulsory declarations and the gathering of information to monitor the wine market.

Article 7

Definitions

For the purposes of this title:

- (a) 'harvesters' shall mean natural or legal persons or groups of such persons who harvest grapes;
- (b) 'retailers' shall mean any natural or legal persons or groups of such persons whose business activity includes the sale directly to the consumer of wine in small quantities, to be defined by each Member State, having regard to the special features of trade and distribution, but not those who use cellars equipped for storing and facilities for bottling wines in large quantities.

CHAPTER I

Compulsory declarations

Article 8

Harvest declarations

1 Harvesters shall submit each year to the competent authorities in the Member States a harvest declaration for the administrative unit specified, containing at least the information specified in Annex II and, where appropriate, Annex III.

Member States may authorise the submission of one declaration per holding.

2 The following shall not be required to submit a harvest declaration:

- a harvesters whose entire grape production is intended for consumption unprocessed or for drying or for processing directly into grape juice;
- b harvesters whose holdings comprise less than 0,1 hectares of area under vines and no part of whose harvest has been or will be marketed in any form whatsoever;
- c harvesters whose holdings comprise less than 0,1 hectares of area under vines and who deliver their entire harvested production to a cooperative winery or group to which they belong or with which they are associated.

In the case where subparagraph (c) applies, the harvesters must submit to the cooperative winery or group a declaration stating:

- a the name and address of the wine-grower;
- b the quantity of grapes delivered;
- c the size and location of the areas under vines concerned.

The cooperative winery or group shall check the accuracy of the data contained in this declaration against the information at its disposal.

3 By way of derogation from paragraph 1, and without prejudice to the obligations resulting from Article 9, Member States may exempt from the obligation to submit harvest declarations:

- a harvesters who themselves process the whole of their harvest of grapes into wine or have it processed into wine on their behalf;
- b harvesters associated with or belonging to a cooperative winery or group who deliver the whole of their harvest to that cooperative winery or group as grapes and/or must, including the harvesters referred to in Article 9(3).

Article 9

Production declarations

1 Natural or legal persons or groups of such persons, including cooperative wineries, who have produced wine and/or must from the current harvest, shall submit each year to the competent authorities designated by the Member States a production declaration containing at least the information specified in Annex IV.

Member States may authorise the submission of one declaration per winemaking establishment.

2 The harvesters referred to in Article 8(2) and producers who obtain, by winemaking on their premises using products bought in, less than 10 hectolitres of wine which has not been or will not be marketed in any form whatsoever shall not be required to submit a production declaration.

3 Exemption from the obligation to submit a production declaration shall also be granted to harvesters belonging to or associated with a cooperative winery that is required to submit a declaration, who deliver their production of grapes to that winery but reserve the right to obtain by winemaking a quantity of wine of less than 10 hectolitres for their family consumption.

4 In the case of natural or legal persons or groups of such persons who market products upstream of wine, the Member States shall take the necessary measures to ensure that producers required to submit declarations are able to obtain the various data that they must give in the declarations.

Article 10

Treatment and/or marketing declarations

1 Member States may lay down that natural or legal persons or groups of such persons, including cooperative wineries, who, before the date specified in Article 16(1), have treated and/or marketed products upstream of wine for the current wine year shall submit a treatment and/or marketing declaration to the competent authorities.

2 Exemption from the obligation to submit a treatment and/or marketing declaration shall be granted to harvesters belonging to or associated with a cooperative winery that is required to submit a declaration, who deliver their production of grapes to that winery but reserve the right to obtain by winemaking a quantity of wine of less than 10 hectolitres for their family consumption.

Article 11

Stock declarations

Natural or legal persons or groups of such persons other than private consumers and retailers shall submit each year to the competent authorities in the Member States a stock declaration for grape must, concentrated grape must, rectified concentrated grape must and wine which they hold at 31 July, containing at least the information set out in Annex V. Community wine products produced from grapes harvested during the same calendar year shall not be included in this declaration.

However, Member States whose annual wine production does not exceed 50 000 hectolitres may exempt traders other than retailers who hold small stocks from the obligation to make the declarations provided for in the first subparagraph, provided that the competent authorities are in a position to give the Commission a statistical assessment of those stocks held in the Member State.

CHAPTER II

Common provisions

Article 12

Forms

1 Member States shall draw up the model forms for the various declarations and shall ensure that the said forms contain at least the information specified in Annexes II, III, IV and V.

The forms may be issued and used using computerised systems in accordance with any detailed rules laid down by the competent authorities in the Member States.

2 The forms referred to above need not include an explicit reference to the area if the Member State is able to determine this with certainty from the other information contained in the declaration, such as the area in production and the total harvest of the holding, or from information in the vineyard register.

3 The information contained in the declarations referred to in paragraph 1 shall be centralised at national level.

Article 13

Relationship with the vineyard register

By way of derogation from Articles 8 and 9 of this Regulation and from Annexes II and IV thereto, Member States which have, in accordance with Article 108 of Regulation (EC) No 479/2008, established an annually updated vineyard register or similar administrative control instrument may exempt the natural or legal persons, groups of such persons or harvesters referred to in those Articles from the obligation to declare the area.

In such cases the competent authorities of the Member States shall themselves complete the declarations by indicating the area on the basis of the data in the vineyard register.

Article 14

Exemptions

1 Member States whose wine-growing area does not exceed 500 hectares and which have obtained some of the information to be included in the declarations referred to in Articles 8, 9 and 10 from other administrative instruments may omit that information from those declarations.

Member States whose wine-growing area does not exceed 500 hectares and which have obtained all of the information to be included in the declarations referred to in Articles 8, 9 and 10 from other administrative instruments may exempt operators from submitting one or other of those declarations.

2 Member States whose wine production does not exceed 50 000 hectolitres per wine year and which have obtained some of the information to be included in the declarations referred to in Article 11 from other administrative instruments may omit that information from those declarations.

Member States whose wine production does not exceed 50 000 hectolitres per wine year and which have obtained all of the information to be included in the declarations referred to in Article 11 from other administrative instruments may exempt operators from submitting those declarations.

3 Member States which have a computerised system with which a link can be established between declarants, declared production and the vineyard parcels concerned can exempt producers from the requirement to indicate the parcel codes provided for in Annex II drawn up in accordance with Article 8. A link can, in particular, be established by means of the code for the wine-growing unit, reference to a block of parcels or a reference in the vineyard register.

Article 15

Criteria to be complied with

1 To convert quantities of products other than wine into hectolitres of wine, Member States may set coefficients that may vary according to different objective criteria having

a bearing on the conversion. Member States shall communicate the coefficients to the Commission along with the summary provided for in Article 19(1).

2 The quantity of wine to be entered in the production declaration provided for in Article 9 shall be the total quantity obtained on completion of the principal alcoholic fermentation, including the wine lees.

Article 16

Dates for submitting declarations

1 The declarations referred to in Articles 8 and 9 shall be submitted not later than 15 January. However, Member States may set an earlier date or dates. They may also set a date at which the quantities held are taken into account in making declarations.

2 The declarations referred to in Article 11 shall be submitted not later than 10 September in respect of quantities held at 31 July. However, Member States may set an earlier date or dates.

Article 17

Inspections

Member States shall introduce any inspections and measures necessary to ensure the accuracy of the declarations.

Article 18

Penalties

1 Persons required to submit harvest, production or stock declarations who do not submit such declarations by the dates specified in Article 16 of this Regulation shall not benefit, except in cases of *force majeure*, from the measures provided for in Articles 12, 15, 17, 18 and 19 of Regulation (EC) No 479/2008 for the wine year in question or the following wine year.

However, if the dates set down in Article 16 of this Regulation are exceeded, but not by more than 10 working days, this shall result only in a proportional reduction in the percentage of the amounts to be paid for the wine year in question laid down by the competent body in accordance with the deadline, without prejudice to the imposition of national penalties.

2 Except in the case of *force majeure*, when the declarations provided for in paragraph 1 are deemed to be incomplete or inaccurate by the competent authorities of the Member States, and when knowledge of the missing or inaccurate information is essential for proper application of the measures laid down in Articles 12, 15, 17, 18 and 19 of Regulation (EC) No 479/2008, the aid to be paid shall be reduced proportionately by an amount set by the competent body depending on the seriousness of the infringement, without prejudice to national penalties.

CHAPTER III

Communications to be made by the Member States

Article 19

Reporting by Member States

- 1 The Member States shall send the Commission, by electronic means:
 - a in relation to the current wine year:
 - (i) not later than 15 September, the estimates of the likely quantity of wine products obtained on their territory;
 - (ii) not later than 30 November, the estimates of the supplies of wine products and quantities used on their territory;
 - (iii) not later than 15 April, the definitive result of the production declarations;
 - b in relation to past wine years:
 - (i) not later than 30 November, a summary of the end-of-year stock declarations;
 - (ii) not later than 15 December, the provisional report on the previous wine year;
 - (iii) not later than 15 March, the final report on the wine year before the previous wine year.
- 2 Those reports shall be sent to Eurostat, the Statistical Office of the European Communities.

Member States shall notify the Commission of any important new facts likely to alter substantially the estimate of available quantities and quantities used based on final data for past years.

- 3 With a view to establishing price trends, Member States whose wine production during the past five years was on average more than 5 % of total Community wine production shall communicate the following to the Commission in relation to the wines referred to in paragraph 1 of Annex IV to Regulation (EC) No 479/2008:
 - a not later than the 15th of each month, a summary of the quotations for the previous month; or
 - b by 1 August 2009, the public information sources they consider credible for the recording of prices.

Member States shall ensure that the Commission has the right to publish the figures in the information sources referred to in point (b) of the first subparagraph.

Member States shall make a limited selection of the markets to be monitored, identifying a total of eight of the most representative quotations for white and red wine produced on their territories.

The prices shall be those for unpacked goods ex-producer's premises and shall be expressed in euro per degree-hectolitre or per hectolitre.

CHAPTER IV

General and final provisions

Article 20

General provision

This Regulation shall not affect any provisions of Member States on harvest, production, treatment and/or marketing or stock declarations which provide for the supply of fuller information, in particular by covering a wider range of persons than those provided for in Articles 8, 9 and 11.