COUNCIL DIRECTIVE 97/3/EC

of 20 January 1997

amending Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas by Directive 77/93/EEC (4), the Council laid down protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community; whereas the protection of plants against such organisms is absolutely necessary to increase agricultural productivity which is one of the objectives of the common agricultural policy;

Whereas the completion of the internal market entailed the application of the Community plant-health regime established by Directive 77/93/EEC to the Community, as an area without internal frontiers;

Whereas several measures have been adopted to strengthen effective application of the Community plant-health regime in the internal market, which is intended to protect the different areas of the Community (Member States, regional or local entities as well as individual plant growers) against damage caused by the introduction of harmful organisms;

Whereas, in addition, it is necessary to establish a system of Community financial contributions to share at Community level the burden of possible risks which might remain in trade under the Community plant-health regime;

Whereas, in order to prevent infections by harmful organisms introduced from third countries, there should be a Community financial contribution aimed at reinforcing the plant health inspection infrastructure at the Community's external frontiers;

Whereas the regime should also provide for adequate contributions to certain expenses for specific measures, which Member States have adopted to control and, where applicable, eradicate infections by harmful organisms introduced from third countries or from other areas in the Community, and, where possible, to repair the damage caused;

Whereas the details of the mechanism for granting the Community financial contribution should be determined under a rapid procedure;

Whereas it must be ensured that the Commission is informed in full of the possible causes for the introduction of the harmful organisms concerned;

Whereas, in particular, the Commission shall monitor correct application of the Community plant-health regime;

Whereas, should it be established that the introduction of the harmful organisms has been caused by inadequate examinations or inspections, Community law shall apply in respect of the consequences, taking into account certain specific measures,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/93/EEC is hereby amended as follows:

1. The following paragraph shall be inserted after paragraph 6 of Article 12:

'6a. There shall be a Community financial contribution for Member States in order to strengthen inspection infrastructures insofar as they relate to plant-health checks carried out in accordance with the fourth subparagraph of paragraph 6.

The purpose of this contribution shall be to improve the provision, at inspection posts other than those at the place of destination, of the equipment and facilities required to carry out inspection and examination and, where necessary, to carry out the measures provided for in paragraph 8, beyond the level already achieved by complying with the minimum conditions stipulated in the implementing provisions pursuant to paragraph 6, fourth subparagraph.

The Commission shall propose the entry of suitable appropriations for that purpose in the general budget of the European Communities.

Within the limits set by the appropriations available for these purposes, the Community contribution shall cover up to 50 % of expenditure relating directly to improving equipment and facilities.

(1) OJ No C 31, 9. 2. 1990, p. 8 and OJ No C 205, 6. 8. 1991, p. 16.
(2) OJ No C 106, 22. 4. 1991, p. 36 and OJ No C 255, 20. 9. 1993, p. 242.
(3) OJ No C 201, 26. 7. 1993, p. 31.
(4) OJ No L 26, 31. 1. 1977, p. 20. Directive as last amended by Commission Directive 96/78/EC (OJ No L 321, 12. 12. 1996, p. 20).

The details shall be laid down in an implementing Regulation, in accordance with the procedure laid down in Article 16a.

The allocation and the amount of the Community financial contribution shall be decided in accordance with the same procedure in the light of the information and documents submitted by the Member State concerned and, where appropriate, the results of investigations carried out on the Commission's authority by the experts referred to in Article 19a, and depending on the appropriations available for the purposes concerned.';

2. The following Articles shall be inserted:

'Article 19b

In the event of the actual or suspected appearance of a harmful organism as a result of its introduction or spread within the Community, Member States may receive a "plant-health control" financial contribution from the Community pursuant to Articles 19c and 19d to cover expenditure relating directly to the necessary measures which have been taken or are planned for the purpose of combating that harmful organism in order to eradicate or, if that is not possible, contain it. The Commission shall propose the entry of suitable appropriations for that purpose in the general budget of the European Communities.

Article 19c

1. The Member State concerned may receive, at its request, the Community financial contribution referred to in Article 19b, where it is established that the harmful organism concerned, whether or not listed in Annexes I and II:

— has been notified under Article 15 (1) or (2) (a), and

— constitutes an imminent danger for all or part of the Community due to its appearance in an area where the organism had either not been known to occur previously or had been or was being eradicated, and

— was introduced into that area through consignments of plants, plant products or other objects from a third country or another area of the Community.

2. The following shall be regarded as necessary measures within the meaning of Article 19b:

— destruction, disinfection, disinfestation, sterilization, cleaning or any other treatment carried out officially or upon official request in respect of:

  — plants, plant products or other objects constituting the consignment(s) through which the harmful organism was introduced into the area in question and which are recognized as being contaminated or liable to be contaminated,

  — plants, plant products and other objects, recognized as being contaminated or liable to be contaminated by the harmful organism introduced, which have been grown from plants in the consignment(s) concerned or have been in close proximity to the plants, plant products or other objects of those consignments or to plants grown from them,

  — growing substrates and land recognized as being contaminated or liable to be contaminated by the harmful organism concerned,

  — production material, packaging, wrapping and storage material, storage or packaging premises and means of transport which have been in contact with all or some of the plants, plant products and other objects referred to above,

— inspections or testing carried out officially or upon official request to monitor the presence or extent of contamination by the harmful organism which has been introduced,

— prohibitions or restrictions in respect of the use of growing substrates, cultivable areas or premises, as well as plants, plant products or other objects other than material from the consignment(s) in question or grown therefrom where they result from official decisions taken on the grounds of plant-health risks related to the harmful organism introduced.

3. Payments made from public funds in order to:

— cover all or part of the costs of the measures described in the first and second indents of paragraph 2, except for those related to the regular running costs of the competent official body concerned, or

— to compensate for all or part of the financial losses other than loss of earnings resulting directly from one or more of the measures described in the third indent of paragraph 2,

shall be considered to be expenditure directly relating to the necessary measures referred to in paragraph 2.

By way of derogation from the second indent of the first subparagraph an implementing Regulation may specify, in accordance with the procedure laid down in Article 16a, cases in which compensation for loss of