II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 29 June 1982

on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in certain services incidental to transport and travel agencies (ISIC Group 718) and in storage and warehousing (ISIC Group 720)

(82/470/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 49, 57 and 66 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, pursuant to the Treaty, all discriminatory treatment based on nationality with regard to establishment and provision of services is prohibited as from the end of the transitional period; whereas the principle of such treatment based on nationality applies in particular to the right to join professional organizations where the professional activities of the person concerned necessarily involve the exercise of this right;

Whereas, moreover, Article 57 of the Treaty provides that, in order to make it easier for persons to take up and pursue activities as self-employed persons, directives are to be issued for the mutual recognition of diplomas, certificates and other evidence of formal qualifications and for the coordination of the provisions laid down by law, regulation or administrative action in Member States;

Whereas, in the absence of mutual recognition of diplomas and of immediate coordination, it nevertheless appears desirable to facilitate the attainment of freedom of establishment and freedom to provide services in respect of the activities falling within ISIC Groups 718 and 720 by the adoption of measures intended primarily to avoid causing exceptional difficulties for nationals of Member States in which the taking up of such activities is not subject to any conditions;

Whereas, in order to prevent such difficulties arising, the main object of the measures should be to allow, as sufficient qualification for taking up the activities in question, excluding transport activities proper, in host Member States which have rules governing the taking up of such activities, the fact that the activities have been pursued in the country of provenance for a reasonable period of time, such period being, in cases where no previous training is required, sufficiently recent to ensure that the person concerned possesses professional knowledge equivalent to that required of the host country's own nationals;

(1) OJ No 73, 23. 4. 1966, p. 1099/66.
(2) OJ No 201, 5. 11. 1966, p. 3475/66.
(3) OJ No 17, 28. 1. 1967, p. 284/67.

Whereas the activity in question must have been pursued and any vocational training received in the same branch of trade as that in which the beneficiary wishes to establish himself in the host Member State, where the latter country imposes this requirement on its own nationals;

Whereas, in accordance with the general principles of the Treaty as to equality of treatment and with the judgments of the Court of Justice on this matter, the freedom to provide services in each Member State is exercised on the same terms as such State imposes in its laws and regulations on its own nationals engaged in the same activity; whereas it is incumbent on Member States, when they adopt the measures necessary to comply with this Directive, to ensure equivalence of conditions for their own nationals and nationals of other Member States as regards their freedom to engage in the activities concerned, with particular reference to operating conditions and financial guarantees required;

Whereas, in so far as in Member States the taking up or pursuit of the activities referred in this Directive is also dependent in the case of employed persons on the possession of general, commercial or professional knowledge and ability, this Directive should also apply to this category of persons in order to remove an obstacle to the free movement of workers and thereby to supplement the measures adopted in Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community [1];

Whereas, for the same reason, the provisions relating to proof of good repute and proof of no previous bankruptcy should also apply to employed persons,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall adopt the measures set out in this Directive in respect of establishment or provision of services in their territories by natural persons and companies or firms covered by Title I of the General Programmes [2] (hereinafter called 'beneficiaries') in the sector of activities coming within Article 2.

2. This Directive shall also apply to nationals of Member States who, as provided in Regulation (EEC) No 1612/68, wish to pursue as employed persons activities coming within Article 2 of this Directive.

Article 2

This Directive shall apply to the activities appearing in Annex I of the General Programme for the abolition of restrictions on freedom of establishment, ISIC Groups 718 and 720.

These activities shall comprise in particular:

A. (a) acting as an intermediary between contractors for various methods of transport and persons who dispatch or receive goods and who carry out various related activities:

(aa) by concluding contracts with transport contractors, on behalf of principals;

(bb) by choosing the method of transport, the firm and the route considered most profitable for the principal;

(cc) by arranging the technical aspects of the transport operation (e.g. packing required for transportation); by carrying out various operations incidental to transport (e.g. ensuring ice supplies for refrigerated wagons);

(dd) by completing the formalities connected with the transport such as the drafting of way bills; by assembling and dispersing shipments;

(ee) by coordinating the various stages of transportation, by ensuring transit, reshipment, transhipment and other terminal operations;

(ff) by arranging both freight and carriers and means of transport for persons dispatching goods or receiving them;

(b) assessing transport costs, and checking the detailed accounts;

(c) hiring railway cars or wagons for transporting persons or goods;

[1] OJ No L 257, 19. 10. 1968, p. 2.
[2] OJ No 2, 15. 1. 1962, pp. 32/62 and 36/62.

(d) taking certain temporary or permanent measures in the name of and on behalf of a shipowner or sea transport carrier (with the port authorities, ship's chandlers, etc.);

(e) acting as an intermediary in the sale, purchase or hiring of ships;

B. (a) organizing, offering for sale and selling, outright or on commission, single or collective items (transport, board, lodging, excursions, etc.) for a journey or stay, whatever the reason for travelling;

(b) arranging, negotiating and concluding contracts for the transport of emigrants;

C. (a) receiving all objects and goods deposited, on behalf of the depositor, whether under customs control or not, in warehouse, general stores, furniture depots, coldstores, silos, etc.

(b) supplying the depositor with a receipt for the object or goods deposited;

(c) providing pens, feed and sales rings for livestock being temporarily accommodated while awaiting sale or while in transit to or from the market;

D. (a) carrying out inspection or technical valuation of motor vehicles;

(b) measuring, weighing and gauging goods.

Article 3

In respect of the activities listed in Article 2, the usual titles current in Member States are given below for guidance:

Belgium

A. Commissionnaire de transport
Vervoercommissionair
Courtier de transport
Vervoermakelaar
Commissionnaire-expéditeur au transport
Commissionair-expediteur bij het vervoer
Commissionnaire affréteur
Commissionair-bevrachter
Commissionnaire-affréteur routier
Commissionair-wegbevrachter
Affréteur routier
Wegbevrachter
Affréteur fluvial
Binnenvaartbevrachter of rivierbevrachter
Affréteur maritime
Scheepsbevrachter
Agent maritime
Scheepsagent
Courtier de navires
Scheepsmakelaar

B. Agent de voyages
Reisagent
Agent d'émigration
Emigratieagent

C. Entrepositaire
Depothouder

D. Expert en automobiles
Deskundige inzake auto's
Peseur — mesureur — jaugeur juré
Beëdigde wegers, meters en ijkers

Germany

A. Spediteur
Abfertigungsspediteur
Güterkraftverkehrsvermittler
Schiffsmakler
Vermieter von Eisenbahnwagen und Eisenbahnwaggons

B. Reisebürounternehmer
Auswanderungsagent

C. Lagerhalter

D. Kraftfahrzeugsachverständiger
Wäger

Denmark

A. Speditør
Skibsagent

B. Rejsebureau

C. Opbevaring

D. Vejer og måler
Bilinspektør og bilassistent

France

A. Commissionnaire de transport
Courtier de fret routier
Dépositaire de colis
Courtier de fret de navigation intérieure
Agent maritime
Agent consignataire de navires

B. Agent de voyage

C. Entrepositaire
Exploitant de magasin général

D. Expert en automobiles
Peseur — mesureur juré