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COUNCIL DIRECTIVE

of 16 December 1970

laying down detailed provisions for the attainment of freedom of establishment in respect of self-employed persons providing agricultural and horticultural services

(71/18/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 54 (2) and (3) thereof;

Having regard to the General Programme for the abolition of restrictions on freedom of establishment,[1] and in particular Title IV F 6 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[2];

Having regard to the Opinion of the Economic and Social Committee[3];

Whereas the General Programme for the abolition of restrictions on freedom of establishment lays down a timetable for the attainment of freedom of establishment as regards 'agricultural services' which differs from that laid down in respect of freedom to provide such services; whereas, in accordance with this latter timetable, the Council adopted on 14 December 1964 a Directive laying down detailed provisions for the attainment of freedom to provide services in agriculture and horticulture; whereas freedom of establishment in respect of agriculture and horticulture is to be attained by the end of the transitional period;

Whereas certain activities are common both to agricultural services and to forestry, in particular ploughing; whereas freedom of establishment was attained in respect of forestry by the Council Directive of 24 October 1967 [4] concerning freedom of establishment and freedom to provide services in forestry and logging; whereas agricultural services provided in connection with the work of mixed forestry and agricultural concerns are already covered by that Directive;

Whereas other Directives will be adopted in respect of activities of agronomists and veterinary surgeons and in respect of animal care centres;

Whereas freedom of establishment in respect of the construction of plant for water catchment, irrigation and drainage, and of land draining and reclamation operation—activities often connected with certain agricultural services covered by this Directive—has been attained under the Council Directives of 7 July 1964[5] concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 23-40 (industry and small craft industries) and concerning transitional measures in respect of activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 23-40 (industry and small craft industries);

Whereas the General Programme provides that restrictions on the right to join professional or trade organisations must be abolished where the professional activities of the person concerned necessarily involve the exercise of this right;

Whereas the conditions of movement and residence for all persons enjoying freedom of establishment were the subject of two Directives adopted by the Council on 25 February 1964[6];

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[1] OJ No 2, 15.1.1962, p. 36/62.
[2] OJ No C 139, 28.10.1969, p. 20.
[3] OJ No C 10, 27.1.1970, p. 19.
[4] OJ No 263, 30.10.1967, p. 6.
[5] OJ No 117, 23.7.1964, pp. 1880/64 and 1863/64.
[6] OJ No 56, 4.4.1964, pp. 845/64 and 850/64.

Whereas, where necessary, Directives have been or will be adopted on the co-ordination of the safeguards required by Member States of companies or firms for the protection of the interests of members and of others;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall abolish, in respect of the natural persons and companies or firms covered by Title I of the General Programme for the abolition of restrictions on freedom of establishment (hereinafter called 'beneficiaries'), the restrictions referred to in Title III of that General Programme affecting the right of establishment as regards the activities specified in Article 2.

Article 2

1. The provisions of this Directive shall apply to the agricultural and horticultural services covered by Annex V to the General Programme, namely:

(a) technical assistance;

(b) spraying, weed killing and pest control;

(c) pruning;

(d) picking, packing and presentation;

(e) operation of irrigation systems;

(f) letting out for hire of agricultural machinery;

(g) soil cultivation and tillage;

(h) reaping and harvesting, threshing, baling and collecting, whether by mechanical or non-mechanical means;

(i) activities not elsewhere specified.

2. For the purposes of this Directive, the term 'agricultural and horticultural services' refers to all activities falling within Group 011 of the International Standard Industrial Classification of all Economic Activities (Statistical Office of the United Nations, Statistical Papers, Series M, No 4, Rev. 1, New York, 1958), and in particular:

(a) general agriculture, including the growing of field crops, viticulture, and the cultivation of tropical produce; growing of fruits, nuts, seeds, vegetables, flowers, both in the open and under glass; landscaping;

(b) raising of livestock, poultry, rabbits, fur-bearing or other animals, bees; and the production of meat, milk, wool, skins and fur, eggs, honey.

3. A detailed list of the services to be included under the various headings in paragraph 1 is given in the Annex to this Directive.

Article 3

1. Member States shall in particular abolish the following restrictions:

(a) those which, in pursuance of provisions laid down by law, regulation or administrative action, prevent beneficiaries from establishing themselves in the host country under the same conditions and with the same rights as nationals of that country;

(b) those existing by reason of administrative practices which result in treatment being applied to beneficiaries that is discriminatory by comparison with that applied to nationals.

2. The restrictions to be abolished shall include in particular those arising out of measures which prevent or limit establishment by beneficiaries by the following means:

(a) *in Belgium*

— the obligation to hold a *carte professionnelle* (Article 1 of the Law of 19 February 1965);

(b) *in Luxembourg*

— the limited period of validity of authorisations granted to foreign nationals (Article 21 of the Law of 2 June 1962).

Article 4

Member States shall in particular ensure:

(a) that beneficiaries pursuing activities in their territory enjoy the same rights as their own nationals with regard to:

— access to the various forms of credit, aid and subsidy for which their laws provide;

— the customary taxation allowances, in particular those relating to the purchase of motor fuel used in performing the service in question;

(b) that beneficiaries have the same rights as their own nationals with regard to the conclusion of contracts under public or private law in the pursuit of their professional activity and in particular contracts for work which falls within the scope of programmes to improve the structure of agriculture, including the submission of tenders in this connection, and participation as a main contractor or as sub-contractor;