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COUNCIL DIRECTIVE

of 24 October 1967

laying down detailed provisions for the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in forestry and logging

(67/654/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 54 (2) and (3) and 63 (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 E thereof;

Having regard to the General Programme for the abolition of restrictions on freedom to provide services,[2] and in particular Title V C thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament[3];

Having regard to the Opinion of the Economic and Social Committee[4];

Whereas the timetable in the General Programmes provides for the abolition of all discriminatory treatment based on nationality in forestry and logging (ISIC Major Group 02)[5] between the end of the second year of the third stage and the end of the transitional period;

Whereas activities in forestry and logging include the sale by the producer of the products of his operations;

whereas, however, this Directive does not apply to itinerant trading, nor to retail selling by producers who are not established in the host country;

Whereas certain forestry activities and certain other ancillary activities pursued by persons engaged in forestry work are excluded from the scope of this Directive, since such activities fall within other categories of the ISIC and are therefore dealt with in other Council Directives;

Whereas, however, it follows from the definition given for ISIC Group 400 that where an undertaking whose activities are classified within another Group pursues for its own use and as an ancillary activity construction, repair or demolition work, such activity falls not within Group 400, but within that of the main activity;

Whereas the General Programme for the abolition of restrictions on freedom of establishment 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 freedom to provide services entails that, where a service is performed in the country of the recipient, the person providing the service should not be obliged to satisfy requirements which persons established in that country satisfy solely by reason of the stable and permanent nature of their activity in such country, as may be the case in certain circumstances in certain Member States with regard to enrolment in the commercial register or membership of certain professional or trade organisations;

Whereas the position of paid employees accompanying a person providing services or acting on his behalf will be governed by the provisions laid down in pursuance of Articles 48 and 49 of the Treaty;

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[1] OJ No 2, 15.1.1962, p. 36/62.

[2] OJ No 2, 15.1.1962, p. 32/62.

[3] OJ No 96, 28.5.1966, p. 1509/66.

[4] OJ No 205, 7.12.1965, p. 3064/65.

[5] 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.

Whereas the conditions of movement and residence for all persons enjoying freedom of establishment and freedom to provide services were the subject of two Directives adopted by the Council on 25 February 1964[1];

Whereas the Recommendation of 8 November 1962[2] addressed by the Commission to the Member States, which provides that 'tools, instruments or equipment... temporarily imported into one Member State from another Member State to be used in the performance of any kind of work in the importing Member State should be covered by the rules governing temporary admission, provided that they do not remain in the importing Member State for more than six months', is of particular importance in relation to freedom to provide services in forestry and logging;

Whereas, finally, freedom of establishment and freedom to provide services in respect of forestry activities will, in particular as regards technical assistance and the use of toxic or otherwise dangerous products, be made easier by the mutual recognition of diplomas, certificates and other evidence of formal qualifications and by the co-ordination of certain national rules; whereas further Directives will have to be issued to this end;

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 Programmes for the abolition of restrictions on freedom of establishment and freedom to provide services (hereinafter called 'beneficiaries'), the restrictions referred to in Title III of those General Programmes affecting the right to take up and pursue the activities specified in Article 2.

Article 2

1. The provisions of this Directive shall apply to activities of self-employed persons in forestry and logging being activities covered by Annex IV to the General Programme for the abolition of restrictions on freedom of establishment, which constitute Major Group 02, Groups 021 and 022, of the International Standard Industrial Classification of all Economic Activities[3].

2. A detailed list of the different activities falling within the Groups referred to in paragraph 1 is given in the Annex to this Directive.

3. These Groups of activities shall be understood to include also construction, repair and demolition work ancillary to the main activity undertaken because it is necessary for the pursuit of that activity, and in particular: construction of timber-chutes, installation of cable railways, construction and maintenance of forest roads and rides, construction of shelters and accomodation for forestry workers.

4. The provisions of this Directive shall not apply to itinerant trading pursued by beneficiaries.

Article 3

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

(a) those which prevent beneficiaries from establishing themselves or providing services 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 or provision of services 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);

— the requirement that, for the purposes of being recognised as an approved contractor, and thereby being permitted to carry out State-subsidised work in forests administered by the State, by communes or by public bodies, a person shall possess Belgian nationality or, in the case of a company or firm, that its capital shall be at least two-thirds Belgian-owned (*Arrêté-loi* of 3 February 1947; *Arrêté du Régent* of 29 March 1947; *Arrêté ministériel* of 31 March 1947);

(b) *in France:*

— the requirement that foreign nationals shall obtain a *carte professionnelle d'exploitant agricole* or an *autorisation d'exploiter* (*Décret* No 54-72 of 20 January 1954; *Arrêté* of 30 March 1955);

— the obligation to hold a *carte spéciale d'étranger* (*Décret-loi* of 12 November 1938; Law of 8 October 1940);

(c) *in Luxembourg:*

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

[1] OJ No 56, 4.4.1964, pp. 845/64 and 850/64.

[2] OJ No 125, 30.11.1962, p. 2767/62.

[3] Statistical Office of the United Nations, Statistical Papers, Series M, No 4, Rev. 1, New York, 1958.