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COUNCIL DIRECTIVE

of 12 January 1967

concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons concerned with:

1. matters of 'Real Estate' (excluding 6401) (ISIC Group ex 640)

2. the provision of certain 'Business services not elsewhere classified' (ISIC Group 839)

(67/43/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

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 A 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 General Programmes provide for the abolition, before the end of the second year of the second stage, of all discriminatory treatment based on nationality as regards establishment and provision of services in matters of real estate and in respect of business services not elsewhere classified;

Whereas it is possible to simplify the procedure for attaining freedom of establishment and freedom to provide services by combining these two fields of activity in a single Directive;

Whereas certain activities pertaining to matters of real estate or to the provision of business services not elsewhere classified are not covered by this Directive, either because they belong to branches of activity for which separate Directives are to be adopted or because, in accordance with the General Programmes, they are to be liberalised at a later date;

Whereas certain activities economically related to those covered by this Directive but belonging to branches falling within other Groups of the ISIC Nomenclature have been or will be the subject of separate Directives;

Whereas the provisions of this Directive concerning employment agencies do not apply to public employment offices;

Whereas separate Directives,[5] applicable to all activities of self-employed persons, concerning provisions relating to the movement and residence of beneficiaries, and where necessary Directives 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, have been or will be adopted;

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 should be abolished where the professional activities of the person concerned necessarily involve the exercise of this right;

Whereas the position of paid employees accompanying a person providing services or acting on his be-

[1] OJ No 2, 15.1.1962, p. 36/62.
[2] OJ No 2, 15.1.1962, p. 36/62.
[3] OJ No 96, 2.6.1965, p. 1704/65.
[4] OJ No 33, 1.3.1965, p. 507/65.

half will be governed by the provisions laid down in pursuance of Articles 48 and 49 of the Treaty;

Whereas in the fields covered by this Directive it does not seem appropriate to adopt at this moment measures concerning the co-ordination of provisions and the recognition of diplomas, certificates and other evidence of formal qualifications, but whereas transitional measures may be adopted if necessary;

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 Articles 2 and 3 of this Directive.

Article 2

(Real Estate)

1. The provisions of this Directive shall apply to activities of self-employed persons in matters concerning immoveable property as referred to in Annex I to the General Programme for the abolition of restrictions on freedom of establisment (Group ex 640, excluding the activities of a land surveyor).

2. This Group includes all operations relating to immoveable property carried on by individuals, companies or firms who in the course of their trade or profession derive income from:

— the purchase, sale, letting or management:
  — of immoveable property, whether or not built upon, and in particular of premises used for industrial, commercial, or other trade or professional purposes, or for residential purposes; or
  — of rights relating to such property;

— or from the pursuit of activities as an expert or an agent in respect of transactions relating to such property or rights.

3. Restrictions affecting such professional or trade activities shall be abolished irrespective of the description applied to the persons pursuing those activities.

The customary descriptions currently used in the Member States are as follows:

in Belgium:

— agents immobiliers, marchands de biens, conseils immobiliers,
makelaars-handelaars in onroerende goederen, raadgevers in onroende zaken,

— lotisseurs,
verkavelaars,

— administrateurs de biens, gérants et régisseurs d'immeubles,
beheerders van onroerende goederen,

— syndics de copropriété,
syndici van medeëigendom,

— agences de location,
verhuuragentschappen,

— promoteurs d'opérations de construction,
promotoren van bouwverrichtingen,

— sociétés immobilières sous leurs diverses formes,
vennootschappen in onroerende goederen onder hun verschillende vormen,

— experts immobiliers,
deskundigen inzake onroerende goederen;

in Germany:

— Immobilien-, Hypotheken- und Finanzmakler,

— Immobilientaxatoren, Immobilienschätzer, Immobiliensachverständige,

— Immobilienhändler,
Grundstücksverwertungsgesellschaften,

— Baubetreuer,

— Immobilien-, Haus- und Vermögensverwalter;

in France:

— marchands de biens et agents immobiliers,

— lotisseurs,

— administrateurs de biens, gérants et régisseurs d'immeubles,

— syndics de copropriété,

— agences de location,

— promoteurs d'opérations de construction,

— sociétés immobilières sous leurs diverses formes,

— experts immobiliers et fonciers;