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COUNCIL DIRECTIVE

of 25 February 1964

concerning the attainment of freedom of establishment and freedom to provide services in respect of activities in wholesale trade

(64/223/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 with regard to establishment and provision of services in wholesale trade;

Whereas wholesale trade in medicinal and pharmaceutical products and wholesale trade in coal are not covered by the provisions of this Directive; whereas, in accordance with the General Programmes, those activities will be liberalised at a later date;

Whereas this Directive does not apply to wholesale trade in toxic products or pathogens either; whereas it has become evident that in respect of these activities, having regard to the provisions laid down by law, regulation or administrative action in force in the Member States, special problems arise concerning the protection of public health;

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 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;

Whereas separate Directives, applicable to all activities of self-employed persons, concerning provisions relating to the entry 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, will be adopted;

Whereas, for the purposes of applying measures concerning right of establishment and freedom to provide services, companies and firms are to be treated in the same way as natural persons who are nationals of Member States, subject only to the conditions laid down in Article 58 and, where necessary, to the condition that there should exist a real and continuous link with the economy of a Member State; whereas therefore no company or firm may be required, in order to obtain the benefit of such measures, to fulfil any additional condition, and in particular no company or firm may be required to obtain any special authorisation not required of a domestic company or firm wishing to pursue a particular economic activity; whereas, however, such uniformity of treatment should not prevent Member States from requiring that a company having a share capital should operate in their countries under the description by which it is

[1] OJ No 2, 15.1.1962, p. 36/62.
[2] OJ No 2, 15.1.1962, p. 32/62.
[3] OJ No 33, 4.3.1963, p. 466/63.
[4] OJ No 56, 4.4.1964, p. 868/64.