COMMISSION DECISION

of 28 March 1989

authorizing the Federal Republic of Germany to restrict the marketing of seed of certain varieties of agricultural plant species

(Only the German text is authentic)

(89/246/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plant species [1], as last amended by Directive 88/380/EEC [2], and in particular Article 15 (2) and (3) thereof,

Having regard to the application lodged by the Federal Republic of Germany,

Whereas, pursuant to Article 15 (1) of Directive 70/457/EEC, seed or propagating material of varieties of agricultural plant species which have been officially accepted during 1986 in at least one of the Member States and which also meet the conditions laid down in Directive 70/457/EEC is, with effect from 31 December 1988, no longer subject to any marketing restrictions relating to the variety in the Community;

Whereas, however, Article 15 (2) of Directive 70/457/EEC provides that, in the cases set out in Article 15 (3), a Member State may be authorized upon application to prohibit the marketing of seed and propagating material of certain varieties;

Whereas the Federal Republic of Germany has applied for such an authorization for a certain number of varieties of different species;

Whereas the varieties 'Ellire' (Italian ryegrass) and 'Aurora' (prennial ryegrass) have been the subject of official trials in Germany;

Whereas, in respect of the variety 'Ellire', the results of the trials show that in the Federal Republic of Germany, when compared with the national rules governing the acceptance of varieties there, which apply within the framework of current Community provisions, it is not distinct from another variety accepted there (Article 15 (3) (a), first case, of Directive 70/457/EEC);

Whereas the examination of this case has led to some doubts concerning the appraisal of its distinctness in the Member State of acceptance, in the terms of Article 12a (1) of Directive 70/457/EEC; whereas these doubts needed to the clarified;

Whereas, in respect of the variety 'Aurora', it was impossible to complete the examination of the application before the time limit specified in Article 15 (1) of Directive 70/457/EEC to assess whether the variety does not, in Germany, produce results corresponding to those obtained from a comparable variety accepted there (Article 15 (3) (c), first case, of Directive 70/457/EEC);

Whereas, therefore, in respect of the aforementioned two varieties, Commission Decision 89/77/EEC [3] extended the time limit in question for the Federal Republic of Germany until 31 March 1989 in order to allow complete clarification and examination;

Whereas doubts concerning the appraisal of the distinctness of the variety 'Ellire' in the Member State of acceptance have now been clarified and it appears that, in that Member State, the variety was accepted in accordance with the provisions of Directive 70/457/EEC and therefore belongs to those varieties to which the abovementioned provision of Article 15 (1) of Directive 70/457/EEC applies;

Whereas, therefore, the application of the Federal Republic of Germany in respect of this variety is relevant and should be granted in full;

Whereas, in respect of the variety 'Aurora' it has appeared that further information is needed to complete the necessary assessment;

Whereas the time limit in question shall therefore, where the Federal Republic of Germany is concerned, be extended for an appropriate period to allow complete examination of the application in respect of this variety (Article 15 (7) of the above Directive);

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seed and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

The Federal Republic of Germany is hereby authorized to prohibit the marketing in its territory of seed of the

[1] OJ No L 225, 12. 10. 1970, p. 1.
[2] OJ No L 187, 16. 7. 1988, p. 31.
[3] OJ No L 30, 1. 2. 1989, p. 72.

following variety listed in the 1989 Common Catalogue of Varieties of Agricultural Plants Species :

Fodder plants

Lolium multiflorum

'Ellire'.

Article 2

The authorization given in Article 1 shall be withdrawn as soon as it is established that the conditions thereof are no longer satisfied.

Article 3

The Federal Republic of Germany shall notify the Commission and the other Member States of the date from which it makes use of the authorization under Article 1 and the detailed methods to be followed.

Article 4

The time limit specified in Article 15 (1) of Directive 70/457/EEC is, where the Federal Republic of Germany is concerned, extended from 31 March 1989 to 30 June 1989 in respect of the variety 'Aurora' *(Lolium perenne)*.

Article 5

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 28 March 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission