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COUNCIL DIRECTIVE

of 20 December 1968

concerning freedom of access to the various forms of aid for farmers who are nationals of one Member State and established in another Member State

(68/415/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 5 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 includes a special time-table for the attainment of such freedom in agriculture, which takes into account the particular nature of agricultural activities; whereas the fifth series of measures provided for in that time-table entails that, at the beginning of the third stage, each Member State will ensure that farmers who are nationals of other Member States have access to the various forms of aid on the same terms as its own nationals;

Whereas the provisions of the General Programme cover all kinds of aid, in whatever form given, granted to a farmer established in the host country for himself, the assets which he exploits, the means he uses or the goods he produces; whereas, however, benefits under social security and social insurance schemes, which, in accordance with the time-table laid down in the General Programme, will be governed by rules adopted at the end of the transitional period, should be excluded from the scope of this Directive;

Whereas beneficiaries under the Council Directive of 2 April 1963 laying down detailed provisions for the attainment of freedom of establishment in agriculture in the territory of a Member State in respect of nationals of other countries of the Community who have been employed as paid agricultural workers in that Member State for a continuous period of two years[4] and beneficiaries under the Council Directive of 2 April 1963 laying down detailed provisions for the attainment of freedom of establishment on agricultural holdings abandoned or left uncultivated for more than two years[5] already enjoy the same treatment as nationals of the Member State concerned with regard to access to the various forms of aid;

Whereas the right of beneficiaries to obtain repayable loans, including any loans at subsidised rates of interest, is already recognised under the Council Directive of 5 April 1968 concerning freedom of access to the various forms of credit for farmers who are nationals of one Member State and established in another Member State[6];

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States, acting in accordance with the following provisions, shall abolish in respect of nationals and companies or firms of other Member States pursuing activities as self-employed persons in agriculture of establishing themselves for that purpose (hereinafter called 'beneficiaries') all restrictions on access to the various forms of aid.

[1] OJ No 2, 15.1.1962, p. 36/62.
[2] OJ No C 55, 5.6.1968, p. 16.
[3] OJ No 158, 18.7.1967, p. 7.
[4] OJ No 62, 20.4.1963, p. 1323/63.
[5] OJ No 62, 20.4.1963, p. 1326/63.
[6] OJ No L 93, 17.4.1968, p. 13.

Article 2

1. For the purposes of this Directive, 'access to the various forms of aid' means the right of beneficiaries to obtain aids, whether financial or in kind, and in whatever form, on the same terms as those applicable to nationals of the State in which they are established and in particular subsidies, security for loans, subsidised rates of interest and tax exemptions, but excluding benefits under social security and social insurance schemes.

2. For the purposes of this Directive, 'agricultural activities' means:

— activities falling within Annex V to the General Programme for the abolition of restrictions on freedom of establishment (ex Major Group 01, Agriculture, of the International Standard Industrial Classification of all Economic Activities),[1] and in particular:

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

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

— felling of timber, commercial exploitation of woodlands, and planting and re-planting of trees, where such operations are practised as ancillary activities and are compatible with a Member State's internal legislation and in particular with land utilisation plans.

Article 3

Member States shall abolish the following restrictions:

— those which in pursuance of provisions laid down by law, regulation or administrative action deny beneficiaries access to the various forms of aid or make such access subject to special conditions;

— those existing by reason of administrative practices which result in treatment being applied to beneficiaries as regards access to the various forms of aid that is discriminatory by comparison with that applied to nationals.

Member States shall, moreover, be responsible for seeing that discrimination against beneficiaries is avoided irrespective of the nature of the agency issuing the aids referred to in this Directive.

Article 4

No Member State shall grant to its nationals, with a view to or on the occasion of their establishment in another Member State, any direct or indirect aid, including in particular any aid in the form of a loan, which would result in distortion of the conditions of establishment in the host country.

Article 5

Member States shall take the measures necessary to comply with this Directive within six months of its notification and shall forthwith inform the Commission thereof.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1968.

For the Council

The President

V. LATTANZIO

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