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COUNCIL DIRECTIVE

of 17 April 1972

concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purposes of structural improvement

(72/160/EEC)

(OJ L 96, 23.4.1972, p. 9)

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►**M2**	Council Directive 73/358/EEC of 19 November 1973	L 326	17	27.11.1973

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concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purposes of structural improvement

(72/160/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas the objectives of the common agricultural policy set out in Article 39 (1) (a) and (b) of the Treaty can only be achieved through a reform of agricultural structures;

Whereas such structural reform is a basic factor in the development of the common agricultural policy; whereas it should therefore be based on a Community concept and on Community criteria;

Whereas, because of the diversity of their causes, nature and gravity, structural problems in agriculture may require solutions which vary according to region and are capable of adjustment over a period of time; whereas such solutions must contribute to the overall economic and social development of each region concerned; whereas the best results can be achieved if, acting on the basis of Community concepts and criteria, Member States implement the common measures individually through their own legislative and administrative procedures, and if, in addition, they themselves determine, on the basis of conditions laid down by the Community, the extent to which such measures should be intensified in or concentrated on certain regions;

Whereas, in the first place, in order to improve agricultural incomes the formation of farms of appropriate size and structure should be encouraged; whereas the formation of such farms requires that vacant land be available;

Whereas, in order to achieve this objective, it is necessary to grant aids to persons ceasing farming and making available for the purposes of structural improvement the land which they previously farmed;

Whereas the granting to farmers of a sufficiently attractive premium, calculated by reference to the area of land released, constitutes a suitable incentive to land mobility;

Whereas, however, farmers who are over fifty-five years of age generally encounter serious difficulties in attempting to take up a new occupation and whereas for this reason they should until the age of sixty-five receive an annuity which will enable them to leave agriculture;

Whereas Member States should be allowed to debar farmers practising farming as their main occupation from all or part of the premium, in particular where such persons are receiving an annuity;

Whereas the closing down of farm businesses employing elderly family and hired workers engaged in agriculture on a permanent basis may cause such persons to lose their jobs and their incomes;

Whereas the objectives pursued would not be achieved if the persons benefiting from the measures continued to produce marketable quantities of agricultural produce; whereas it is desirable, however, that such persons should if they so wish still be able to make free use of a limited area of land;

Whereas it is not possible to insist that in all cases the whole area of land released should be reallocated in such a way as to contribute to

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structural improvement, but whereas, nevertheless, the proportion of land to be so reallocated should be fixed at an adequate level;

Whereas where farming is discontinued the opportunity should be taken not only to increase the size of farms suitable for modernization but also to withdraw certain areas of land from agricultural use, in particular by reallocating them for the purposes of afforestation, recreation or public health;

Whereas the pursuit of these objectives may be facilitated through the intervention of land agencies appointed by Member States, to which farmers may offer their land for subsequent reallocation for the purposes of structural reform;

Whereas the proposed measures are in the Community's interest and are intended to achieve the objectives set out in Article 39 (1) (a) of the Treaty, including the structural changes necessary for the proper functioning of the common market; whereas they therefore constitute common measures within the meaning of Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ([1]);

Whereas, however, while the premium calculated by reference to the area of agricultural land released does not require Community financing, the payment of annuities to persons aged between fifty-five and sixty-five is of particular interest to the Community when applied in agricultural regions where unfavourable conditions exist and where measures to encourage the cessation of farming are not yet in operation;

Whereas, inasmuch as the Community contributes to the financing of the common measures, it must be in a position to ascertain that the provisions adopted by Member States for the implementation of those measures will contribute towards achievement of the objectives thereof; whereas, to this end, provision should be made for a procedure establishing close cooperation between Member States and the Commission within the Standing Committee on Agricultural Structure set up by Article 1 of the Council Decision of 4 December 1962 on the coordination of policies on agricultural structure, ([2]) and involving, as regards financial aspects, consultation with the EAGGF Committee referred to in Articles 11 to 15 of Regulation (EEC) No 729/70;

Whereas it is desirable that the European Parliament and the Council be able, on the basis of a report submitted by the Commission, to examine annually the effects of the national and Community measures taken, so that they may assess the need to supplement or adapt the system introduced hereunder;

Whereas after the measures to encourage the cessation of farming have been in operation for a certain period it should be possible for them to be re-examined by the Council, without prejudice, however, to commitments entered into during that period;

HAS ADOPTED THIS DIRECTIVE:

TITLE I

Measures to encourage the cessation of farming and the reallocation for the purposes of structural improvement of the agricultural area thus released

Article 1

1. Member States shall introduce a series of measures to encourage the cessation of farming and the reallocation for the purposes of structural improvement of the utilized agricultural area thus released.

([1]) OJ No L 94, 28.4.1970, p. 13.
([2]) OJ No 136, 17.12.1962, p. 2892/62.

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2. Member States may, acting in accordance with the general provisions to be adopted hereafter by the Council under the procedure laid down in Article 43 of the Treaty:

— vary according to region the amount of the financial incentives provided for in Article 2;

— refrain from applying in certain regions all or some of the measures provided for in Article 2.

Article 2

1. The measures provided for in Article 1 shall comprise:

(a) the grant, subject to the conditions as to eligibility for assistance laid down below, of an annuity to farmers applying therefor aged between fifty-five and sixty-five who practice farming as their main occupation.

Member States may:

— substitute for such annuity an equivalent lump sum payment;

— on the ground of age or means of the prospective beneficiary, vary the amount of or refuse to grant the annuity.

Annuities shall be eligible for assistance from the Guidance Section of the EAGGF, up to the amount of 900 units of account per year in the case of a married farmer or 600 units of account in the case of a single farmer.

However, during the first five years following implementation of this Directive, the only expenditure eligible shall be that in respect of:

— farmers who practise farming as their main occupation and who are aged between sixty and sixty-five, and that in respect of persons of like age coming within subparagraph (c);

— farmers who practise farming as their main occupation and who are at least fifty-five years old, where:

(i) in Member States which, on the date when this Directive enters into force, have a working agricultural population of more than 15% of their total working population, the area of the farm concerned does not exceed 15 hectares; or

(ii) farming has become the main occupation of such farmers through the decease of their spouse; or

(iii) such farmers are more than 50% disabled.

An annuity shall not be eligible for assistance if it is granted to a farmer at a time when there is being implemented in respect of his farm a development plan as referred to in Article 4 of the Council Directive of 17 April 1972 ([1]) on the modernization of farms.

(b) the grant of a premium, which shall not be eligible for assistance and shall be calculated by reference to the utilized agricultural area released, to farmers applying therefor;

Member States may:

— in the light of the objectives set in pursuance of the Directive on the modernization of farms, or on the ground of the age or means of the prospective beneficiary, vary the amount of or refuse to grant the premium;

— pay the premium in instalments;

— refuse to grant all or part of the premium to any person receiving an annuity as provided for in subparagraph (a);

(c) the grant of annuities as provided for in subparagraph (a) to permanent hired or family workers applying therefor aged between fifty-five and sixty-five who undertake to cease working in agriculture and who:

— are employed on farms on which the farmer benefits from any measure provided for under (a) or (b);

([1]) OJ No L 96, 23.4.1972, p. 1.

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— are covered by the social security system; and

— satisfy the conditions laid down in Article 3 (c).

Member States may:

— substitute for such annuity an equivalent lump-sum payment;

— on the ground of the age or means of the prospective beneficiary, vary the amount of or refuse to grant the annuity.

As regards grants under this head, assistance from the Guidance Section of the EAGGF shall for each farm ceasing business be in respect of a single annuity only and in an amount not exceeding 600 units of account per annum.

2. Grants as provided for in paragraph 1 shall be subject to the condition that the recipient cease working in agriculture and that, where the recipient is a farmer, the utilized agricultural area farmed by him be reallocated in accordance with Article 5.

3. Member States shall take all measures necessary to ensure that the social security benefits which recipients of annuities or premiums as provided for in paragraph 1 would have received had they not ceased to farm are not reduced, and that the contributions made by them to social security funds are not unduly increased.

Where the recipient of an annuity as provided for in paragraph 1 (c) is receiving unemployment benefit, Member States may reduce the annuity accordingly.

Article 3

Member States shall define:

(a) what is meant by ‘farmer’. For the purposes of this Directive there may in respect of any utilized area of agricultural land be one farmer only;

(b) what is meant for the purposes of this Directive by ‘practising farming as a main occupation’. Definitions shall at least include the following conditions in respect of the person concerned:

— he must have worked in agriculture for a period of at least five years before submitting an application for an annuity. Persons to whom Article 2 (1) (a) (ii) applies shall not be required to satisfy this condition if their spouse satisfied it;

— he must during that period have devoted at least 50% of his working hours to work in agriculture;

— he must during that period have derived at least 50% of his earned income from work in agriculture;

(c) what is meant for the purposes of this Directive by the terms ‘permanent hired worker’ and ‘permanent family worker’. Definitions shall at least include the following conditions in respect of the person concerned:

— they must have worked in agriculture for a period of at least five years before submitting an application for an annuity and must during this period have devoted at least 50% of their working hours to work in agriculture;

— they must have worked in agriculture on the farm ceasing business for at least the last two years preceding submission of their application;

(d) the conditions under which farming shall be deemed to have ceased, and in particular Member States shall specify the maximum area of land which may be retained by a person benefiting from the financial incentive provided for in Article 2 (a) and (b), given that the arrangements made must, as a minimum, guarantee that all agricultural activity leading to the marketing of produce will cease.

Article 4

Member States shall make provision debarring from the grant of the annuity provided for in Article 2 (1) (a) any farmer whose farm has decreased significantly in area over the last few years preceding his

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application, save where this has been due to expropriation or to acquisition in the public interest.

Article 5

1. At least 85% of the utilized agricultural area released by persons benefiting under the measures provided for in Article 2 (1) (a) and (b) must either:

(a) be leased for a minimum period of twelve years, or convey in absolute ownership or by way of emphyteutic lease, to farmers benefiting from incentives given under Article 8 of the Directive on the modernization of farms; or

(b) be withdrawn from agricultural use permanently, in particular by being reallocated for afforestation, recreational activities, public health or other public purposes.

2. However, if no farmers as referred to in paragraph 1 (a) can be found, the utilized agricultural area released may, on conditions to be laid down by Member States, be reallocated to other farms.

3. The utilized agricultural area released may also be offered, either on lease for at least twelve years or for sale, to land agencies appointed by Member States for the purpose of reallocation in accordance with paragraph 1. These agencies may lay down conditions for the temporary use of such land.

TITLE II

Financial and general provisions

Article 6

The measures provided for in this Directive constitute common measures within the meaning of Article 6 (1) of Council Regulation (EEC) No 729/70.

Article 7

1. The estimated time required for carrying out the common measures is ten years.

Four years after this Directive takes effect, the aforesaid measures shall be re-examined by the Council upon a proposal from the Commission, but without prejudice to commitments as to assistance entered into during that period.

2. The total contribution by the EAGGF to the cost of the common measures is estimated at 288 million units of account for the first five years.

3. The provisions of Article 6 (5) of Regulation (EEC) No 729/70 shall apply to this Directive.

Article 8

1. Member States shall forward to the Commission:

— drafts of all laws, regulations or administrative provisions which they propose to adopt in pursuance of this Directive;

— the texts of any provisions effectively implementing this Directive existing prior to the date on which it takes effect.

2. When submitting, pursuant to paragraph 1, drafts of laws, regulations or administrative provisions or the texts of existing provisions, Member States shall also submit an explanatory memorandum showing the relationship at regional level between the measure in question and economic and structural conditions.

3. The Commission shall examine drafts forwarded in accordance with the first indent of paragraph 1 for the purpose of determining whether, having regard to the objectives of this Directive and to the need for a proper connection between the various measures, such drafts

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comply with the Directive, and thus satisfy the conditions for financial contribution by the Community to common measures within the meaning of Article 6. Within two months following receipt of any draft the Commission shall, after consulting the Standing Committee on Agriculture Structure, issue an opinion thereon.

4. Member States shall, on the adoption of any law, regulation or administrative provision as referred to in paragraph 3, forward the text thereof to the Commission.

Article 9

1. With regard to provisions the texts of which are forwarded pursuant to the second indent of Article 8 (1) or to Article 8 (4), the Commission shall examine whether, having regard to the objectives of this Directive and to the need for a proper connection between the various measures, such provisions satisfy the conditions for financial contribution by the Community to common measures within the meaning of Article 6. Within two months following receipt of any text, the Commission representative shall, after consulting the EAGGF Committee on the financial aspects of the provision, submit a draft decision thereon to the Standing Committee on Agricultural Structure.

2. The Committee shall issue its opinion within a time limit to be fixed by the Chairman according to the urgency of the matters for examination. It shall decide by a majority of ►**M2** forty-one ◄ votes, the votes of Member States being weighted as laid down in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The Commission shall adopt the decision. However, if the decision is not in accordance with the opinion issued by the Committee, it shall immediately be communicated to the Council. In that event, the Commission may defer application of the decision for a period not exceeding one month from the date of its communication.

The Council, voting as provided in Article 43 (2) of the Treaty, may within that month adopt a different decision.

Article 10

1. (a) The expenditure incurred by Member States for the purposes of any measure taken under Article 2 (1) (a) or (c) shall be eligible for assistance from the Guidance Section of the EAGGF, up to the amounts hereinbefore specified, and in so far as the utilized agricultural areas released have been reallocated in accordance with Article 5 (1) or (3).

However, where Member States act under Article 5 (3), the eligible expenditure will only be reimbursed upon proof that the utilized agricultural area released has been reallocated for one of the purposes provided for in Article 5 (1).

(b) If the annuity provided for in Article 2 (1) (a) is granted by a Member State, in accordance with the requirements for such a grant, to farmers of an age lower than the relevant minimum age prescribed by that Article, the expenditure in respect thereof shall become eligible for assistance, up to the amounts specified, as from the date on which the recipient reaches such relevant minimum age.

2. The Guidance Section of the EAGGF shall refund to Member States 25% of the expenditure eligible for assistance.

However, in agricultural regions where unfavourable conditions exist and where, at the date on which this Directive takes effect, measures to encourage the cessation of farming are not yet in operation, the Guidance Section of the EAGGF shall refund 65% of the eligible expenditure.

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3. For the purposes of the preceding paragraph, 'agricultural regions where unfavourable conditions exist' means regions where the following two conditions prevail at the same time:

— the percentage of the working population engaged in agriculture is higher than the Community average;

— the gross domestic product *per capita* at factor cost is lower than the Community average.

The Council, acting on a proposal from the Commission and voting as provided in Article 43 (2) of the Treaty, shall draw up a list of such regions.

4. Detailed rules for applying paragraph 2 shall be adopted in accordance with the procedure laid down in Article 13 of Council Regulation (EEC) No 729/70.

Article 11

1. Measures taken by Member States shall not be eligible to benefit from financial contribution by the Community unless a favourable decision under Article 9 has been given in respect of the provisions relating thereto.

2. Financial contribution by the Community shall be only in respect of eligible expenditure arising in connection with aids granted in pursuance of decisions taken after the date on which this Directive takes effect.

Article 12

1. Applications for reimbursement shall relate to expenditure incurred by Member States in the course of a calendar year and shall be submitted to the Commission before 1 July of the following year.

2. The granting of aid from the Fund shall be decided upon in accordance with Article 7 (1) of Regulation (EEC) No 729/70.

3. Payments on account may be authorized by the Commission.

4. Detailed rules for applying this Article shall be adopted according to the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 13

1. Without prejudice to Article 8 of Regulation (EEC) No 729/70, Member States shall, acting in accordance with their laws, regulations or administrative provisions, take all necessary steps, in the event of non-compliance with the condition laid down in Article 2 (2), to recover sums paid out. They shall inform the Commission of the steps taken and shall in particular regularly notify it of the state of administrative or judicial proceedings relating thereto.

2. The sums recovered shall be returned to the disbursing authorities or agencies, which shall credit the fund with such proportion of the expenditure as corresponds to the proportion of Community financing.

3. Financial losses resulting from the non-recovery of payments shall be apportioned as between the Community and Member States in proportion to their respective contributions.

4. Detailed rules for applying this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 14

This Directive shall not affect the power of Member States to take, in respect of matters coming within the scope of this Directive, additional measures of aid the terms or conditions of which differ from those laid down herein, or the amounts of which exceed the upper limits set herein, provided that such measures are in accordance with Articles 92 to 94 of the Treaty.

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Article 15

1. Before 1 August in each year the national and Community measures in force relating to this Directive shall be examined in the context of an annual report which the Commission shall submit to the European Parliament and to the Council, and for which Member States shall send all necessary documentation to the Commission.

The Council shall evaluate the effects of such measures, taking into consideration the rate of structural development required to achieve the objectives of the common agricultural policy, their effect on the production objectives of the Community and on the harmonious development of the regions of the Community and the financial implications of the measures in question.

If necessary, it shall, acting under the procedure laid down in Article 43 of the Treaty, adopt appropriate provisions.

Article 16

Member States may lay down additional conditions as regards the implementation of the measures of aid provided for in this Directive.

Article 17

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The Member States shall bring into force the measures necessary to comply herewith not later than 31 December 1973.

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Article 18

This Directive is addressed to the Member States.