

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

(68/192/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 4 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament²;

Having regard to the Opinion of the Economic and Social Committee³;

Whereas the General Programme for the abolition of restrictions on freedom of establishment includes a special timetable for attaining such freedom in agriculture, which takes into account the particular nature of agricultural activities; whereas the fourth series of measures provided for in that timetable 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 credit on the same terms as its own nationals.

Whereas this Directive refers only to credits, that is repayable loans, and does not apply to aids and subsidies which do not have to be repaid in full, for the liberalisation of which the General Programme lays down a later date;

Whereas in practice, however, where loans carry subsidised rates of interest it is difficult to distinguish between the loan itself and the interest rate subsidy,

and whereas this form of credit must consequently be included in 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 years⁴ 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 years⁵ already enjoy the same treatment as nationals of the Member State concerned with regard to access to credit;

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 or establishing themselves for that purpose (hereinafter called 'beneficiaries') all restrictions on access to the various forms of credit.

Article 2

1. For the purposes of this Directive, 'access to credit' means the right of beneficiaries to obtain repayable loans, including any loans at subsidised rates of interest, on the same terms as those applicable to nationals of the State in which they are established, in particular as regards the amount, the rate of interest and the duration of the loan, and the security required by the lender.

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

¹ OJ No 2, 15.1.1962, p. 36/62.

² OJ No 201, 5.11.1966, p. 3474/66.

³ OJ No 17, 28.1.1967, p. 279/67.

⁴ OJ No 62, 20.4.1963, p. 1323/63.

⁵ OJ No 62, 20.4.1963, p. 1326/63.

- 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 replanting 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

1. 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 credit or make such access subject to special terms;
- those existing by reason of administrative practices which result in treatment being applied to beneficiaries as regards access to the various forms of credit that is discriminatory by comparison with that applied to nationals.

Member States shall, moreover, subject to the limits imposed by their national laws, be responsible for seeing that, irrespective of the nature of the lender, discrimination against beneficiaries is avoided.

2. The restrictions to be abolished shall include in particular those arising out of measures which

prevent or limit by the following means access by beneficiaries to the various forms of credit on the same terms as nationals of the Member State in question:

in France:

- the rule that loans for initial establishment may be granted only to persons of French nationality (Article 11 of *Décret* No 65—576 of 15 July 1965);
- the rule that loans to young farmers may be granted only to persons of French nationality (Article 666 of the *Code rural* and Article 2 (2) (a) of *Décret* No 65—577 of 15 July 1965);
- restrictions which might result from instructions issued by the *Caisse nationale du crédit agricole* with regard to the granting of loans referred to in Article 686 of the *Code rural*.

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, 5 April 1968.

For the Council

The President

M. COUVE de MURVILLE

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