

Council Directive of 4 June 1974 on the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons and of intermediaries engaging in the trade and distribution of toxic products (74/557/EEC)

COUNCIL DIRECTIVE

of 4 June 1974

on the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons and of intermediaries engaging in the trade and distribution of toxic products

(74/557/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) and Article 63 (2) and (3) thereof;

Having regard to the General Programme for the abolition of restrictions on freedom of establishment⁽¹⁾ and in particular Titles IV A and C 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 Council Directive No 64/233/EEC⁽³⁾ of 25 February 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities related to wholesale trade;

Having regard to Council Directive No 64/224/EEC⁽⁴⁾ of 25 February 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of intermediaries in commerce, industry and small craft industries;

Having regard to Council Directive No 68/363/EEC⁽⁵⁾ of 15 October 1968 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons engaged in the retail trade;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament⁽⁶⁾;

Having regard to the Opinion of the Economic and Social Committee⁽⁷⁾;

Whereas the General Programmes provide for the abolition of all discriminatory treatment based on nationality with regard to establishment and provisions of services

- in the area of activities of wholesale trade of intermediaries in commerce, industry and small craft industries, before the end of the second year of the second stage,
- in the area of activities of retail trade, after the end of the second year of the second stage of the transitional period and before the end of the second stage;

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Whereas Directives No 64/223/EEC, No 64/224/EEC and No 68/363/EEC do not apply to the field of toxic products, the latter, on account of the particular problems posed by protection of public health, are governed by the provisions laid down by law, regulation or administrative action in the Member States;

Whereas Directives No 64/223/EEC and No 68/363/EEC mentioned above also do not apply to activities in respect of wholesale trade, intermediaries and retail trade of pathogens; whereas, however, besides pathogens classified as medicinal preparations for human or animal use in the sense of Council Directive No 65/65/EEC⁽⁸⁾ of 26 January 1965, on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products, amended by Directive No 66/454/EEC⁽⁹⁾ only pathogens called 'biological pesticides for use in agriculture' form the subject of the activities mentioned; whereas therefore, with regard to pathogens, the abolition of restrictions on freedom to provide services and freedom of establishment can be limited to trade and the distribution of such pesticides;

Whereas it has become evident that it is desirable and timely to take measures to regulate on a Community level the measures referred to in the two preceding recitals, taking into account the dangerous action which toxic products may have on the health of man, animals, and plants, either directly or indirectly through the environment;

Whereas the activities of intermediaries in commerce, industry and small craft industries are the subject of Directives No 64/224/EEC and No 68/363/EEC; whereas the activities of intermediaries in respect of toxic products and pathogens are excluded from the scope of these Directives; whereas this Directive is also designed to liberalize the activities of intermediaries; whereas accordingly the terms 'trade and distribution' in this Directive include also the activities of intermediaries in these fields;

Whereas the General Programme for the abolition of restrictions on freedom of establishment provides that restrictions on the power to exercise the right to join professional or trade organizations must be abolished where the professional activities of the person concerned involve the exercise of this power;

Whereas this 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 the movement and residence of beneficiaries, and where necessary Directives on the coordination of the safeguards required by Member States of companies or firms for the protection of members and of others, have been or will be adopted;

Whereas in some Member States trade, distribution and professional use of toxic products are governed by rules relating to the taking up of that profession, while other States will, where necessary, implement such rules; whereas, therefore, certain special transitional measures, the purpose of which is to make it easier for nationals of other Member States to take up and pursue activities in the trade of toxic products, are the subject of a separate Directive,

HAS ADOPTED THIS DIRECTIVE:

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- (1) OJ No 2, 15. 1. 1962, p. 36/62.
- (2) OJ No 2, 15. 1. 1962, p. 32/62.
- (3) OJ No 56, 4. 4. 1964, p. 863/64.
- (4) OJ No 56, 4. 4. 1964, p. 869/64.
- (5) [OJ No L 260, 22. 10. 1968, p. 1.](#)
- (6) [OJ No C 63, 28. 5. 1969, p. 21.](#)
- (7) [OJ No C 10, 27. 1. 1970, p. 23.](#)
- (8) [OJ No C 22, 9. 2. 1965, p. 369/65.](#)
- (9) [OJ No C 144, 5. 8. 1966, p. 2658/66.](#)