

**Proposal for a Council directive concerning the freedom of farmers
who are nationals of a Member State established in another Member State
to transfer from one farm to another**

(submitted by the Commission to the Council on 20 January 1965)

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EXECUTIVE SECRETARIAT OF THE COMMISSION
OF THE EUROPEAN ECONOMIC COMMUNITY

**Proposal for a Council directive concerning the freedom of farmers
who are nationals of a Member State established
in another Member State to transfer from one farm to another**
(submitted by the Commission to the Council on 20 January 1965)

The Council of the European Economic Community,

Having regard to the Treaty setting up the European Economic Community, and in particular Article 54 (2 and 3) thereof;

Having regard to the General Programme for abolishing restrictions on freedom of establishment⁽¹⁾, with particular reference to Title IV, F, 3 of that Programme;

Having regard to the proposal of the Commission;

Having regard to the opinion of the European Parliament;

Having regard to the opinion of the Economic and Social Committee;

Whereas the General Programme for abolishing restrictions on freedom of establishment includes, as regards attaining

the said freedom in the agricultural sector, a special time-table taking due account of the features peculiar to agriculture; whereas the third series of measures under this time-table includes the provision that each Member State shall recognize, at the beginning of the third year of the second stage, the right to transfer from one farm to another in respect of farmers who are nationals of another Member State and who have been established for more than two years in the territory of the Member State concerned;

*Whereas the right to transfer referred to in the present directive is irrespective of the legal conditions under which the farm is run; whereas it must not have the effect of impairing the rights of the person concerned with respect to his position as a foreigner, nor must it set any *de facto* restriction on his right to transfer from one farm to another;*

Whereas the present directive does not apply to beneficiaries of Council Directive

⁽¹⁾ See official gazette of the European Communities, No. 2, 15 January 1962, p. 36.

No. 63/261 of 2 April 1963⁽¹⁾, who already enjoy equality of treatment with nationals as regards transferring from one farm to another;

Whereas, in so far as it is necessary for the purposes of the present directive to refer to a definition of an agricultural undertaking, such definition shall be a matter for the Member State concerned, in particular as regards minimum area;

Whereas Article 4(2) of Council Directive No. 63/262 of 2 April 1963, concerning freedom of establishment on farms that have been derelict or uncultivated for more than two years, expressly postpones the recognition of the right to transfer until such time as the present directive becomes effective,

Has adopted the present directive :

Article 1

Each Member State shall abolish, in accordance with the provisions laid down hereunder, as regards nationals and companies of other Member States who have been engaged in an agricultural activity in its territory for more than two years, hereinafter referred to as beneficiaries, all restrictions on their right to transfer from one farm to another.

Article 2

1. For the purposes of the present directive, the right to transfer is defined as the right of beneficiaries to move freely to another farm of their choice situated in the country in which they are established under the same conditions as nationals of that country. Such transfer shall be feasible irrespective of the legal conditions under which either the new or the old farm is worked.

2. For the purposes of the present directive, an agricultural activity is defined as one of the activities referred to in Schedule V to the General Programme for abolishing restrictions on freedom of establishment (ex Major Group 01, Agriculture, of the International Standard Industrial Classification of All Economic Activities)⁽¹⁾, viz :

⁽¹⁾ See official gazette of the European Communities, No. 62, 20 April 1963, p. 1323.

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

a) General agriculture : growing of field crops, fruits, nuts, seeds, vegetables, flowers and ornamental plants 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, hides, skins or furs, eggs, honey.

Article 3

1. The member countries shall abolish those restrictions which :

a) By statute, regulation or administrative instruction, prevent the beneficiaries of the present directive from transferring from one farm to another or make such transfers subject to special conditions;

b) Result from administrative practices whereby discriminatory treatment is applied to the said beneficiaries as compared with the treatment accorded to nationals of the country concerned in respect of such transfers.

2. Among the restrictions to be abolished, special attention is drawn to provisions which wholly or partly deny beneficiaries the right to transfer from one farm to another on equal terms with nationals of the country concerned, viz. :

In France :

The requirement that foreigners who are beneficiaries of Council Directive No. 63/262 of 2 April 1963 shall obtain permission before establishment on farms other than derelict or uncultivated farms (Article 3 of Decree No. 63-1019 of 10 October 1963);

The requirement that foreigners shall, in case of transfer, obtain a new foreign farmers' card or a new farming permit (Article 4 of Decree No. 5472 of 20 January 1954 and Article 4 of the Ministerial Order of 31 March 1955);

In Belgium :

The possibility of restricting the validity of a foreign workers' card to only one farm (Article 2 of the Royal Decree on the professional activities of foreigners, 16 November 1939).

3. The transfer to a new farm shall not impair the rights accorded to the person concerned with respect to his position as

a foreigner in pursuance of Council Directive No. 63/262.

Article 4

The member countries shall introduce the necessary measures to conform with the present directive within six months of

notification thereof and shall inform the Commission forthwith of the action taken.

Article 5

The present directive is addressed to all Member States.