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GENERAL PROGRAMME

for the abolition of restrictions on freedom to provide services

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the provisions of the Treaty, and in particular Articles 63, 106 and 227(2) thereof;

Having regard to the proposal from the Commission;

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

Having regard to the Opinion of the European Parliament,

Has adopted this General Programme for the Abolition of Restrictions on Freedom to Provide Services within the European Economic Community.

Title I: Beneficiaries

The persons entitled to benefit from the abolition of restrictions on freedom to provide services as set out in this General Programme are:

- nationals of Member States who are established within the Community;
- companies or firms formed under the law of a Member State and having the seat prescribed by their statutes, or their centre of administration, or their main establishment situated within the Community, provided that where only that seat is situated within the Community their activity shows a real and continuous link with the economy of a Member State; such link shall not be one of nationality, whether of the members of the company or firm, or of the persons holding managerial or supervisory posts therein, or of the holders of the capital;

subject to the condition that the service is carried out either personally by the person contracting to provide it or by one of his agencies or branches established in the Community.

Title II: Entry, exit and residence

Before the end of the second year of the second stage of the transitional period provisions laid down by law, Regulation or administrative action which in any Member State govern the entry, exit and residence of nationals of other Member States are to be amended, in particular by the abrogation of provisions having an economic purpose, where such provisions are not justified on grounds of public policy, public security or public health and are liable to hinder the provision of services by such nationals, or by staff possessing special skills or holding positions of responsibility accompanying the person providing the services or carrying out the services on his behalf.

Title III: Restrictions

Subject to the exceptions or special provisions laid down in the Treaty, and in particular to:

- Article 55 concerning activities which are connected with the exercise of official authority in a Member State;
- Article 56 concerning provisions on special treatment for foreign nationals on grounds of public policy, public security or public health;
- Article 61, which provides that freedom to provide services in the field of transport is to be governed by the provisions of the Title relating to transport; and to
- the provisions concerning the free movement of goods, capital and persons, and those concerning taxation systems;

the following restrictions are to be eliminated in accordance with the timetable laid down under Title V, whether they affect the person providing the services directly, or indirectly through the recipient of the service or through the service itself:

A. Any measures which, pursuant to any provision laid down by law, Regulation or administrative action in a Member State, or as a result of the application of such a provision, or of administrative practices, prohibits or

hinders the person providing services in his pursuit of an activity as a self-employed person by treating him differently from nationals of the State concerned.

Such restrictive provisions and practices are in particular those which, in respect of foreign nationals only:

(a) prohibit the provision of services;

(b) make the provision of services subject to an authorization or to the issue of a document such as a foreign trader's permit;

(c) impose additional conditions in respect of the granting of any authorization required for the provision of services;

(d) make the provision of services subject to a period of prior residence or training in the host country;

(e) make the provision of services more costly through taxation or other financial burdens, such as a requirement that the person concerned must lodge a deposit or provide security in the host country;

(f) limit or hinder, by making it more costly or more difficult, access to sources of supply or to distribution outlets;

(g) deny or restrict the right to participate in social security schemes, in particular, in sickness, accident, invalidity or old age insurance schemes, or the right to receive family allowances;

(h) grant less favourable treatment in the event of nationalization, expropriation or requisition.

The like shall apply to provisions and practices which, in respect of foreign nationals only, exclude, limit or impose conditions on the power to exercise rights normally attaching to the provision of services and in particular the power:

(a) to enter into contracts, in particular contracts for work, contracts of hire and contracts of employment, and to enjoy all rights arising under such contracts;

(b) to submit tenders for or to act directly as a party or a subcontractor in contracts with the State or with any other legal person governed by public law;

(c) to obtain licences or authorizations issued by the State or by any other legal person governed by public law;

(d) to acquire, use or dispose of movable or immovable property or rights therein;

(e) to acquire, use or dispose of intellectual property and all rights deriving therefrom;

(f) to borrow, and in particular to have access to the various forms of credit;

(g) to receive aids granted by the State, whether direct or indirect;

(h) to be a party to legal or administrative proceedings;

where the professional or trade activities of the person concerned necessarily involve the exercise of such [illegible]

Furthermore, any requirements imposed, pursuant to any provision laid down by law, Regulation or administrative action or in consequence of any administrative practice, in respect of the provision of services are also to be regarded as restrictions where, although applicable irrespective of nationality, their effect is exclusively or principally to hinder the provision of services by foreign nationals.

B. Any prohibition of, or hindrance to, the movement of the item to the supplied in the course of the service or of the materials comprising such item or of the tools, machinery equipment and other means to be employed in the provision of the service.

C. Any prohibition of, or impediment to, the transfer of the funds needed to perform the service.

D. Any prohibition of, or hindrance to, payments for services, where the provision of such services between the Member States is limited only by restrictions in respect of the payments therefor.

However, in respect of the provisions referred to in paragraphs C and D, Member States shall retain the right to verify the nature and genuineness of transfer of funds and of payments and to take all necessary measures in order to prevent contravention of their laws and regulations, in particular as regards the issue of foreign currency to tourists.

Title IV: Equality of treatment between nationals of Member States

Until restrictions have been abolished, each Member State shall apply them in such a way as to accord to all beneficiaries falling within Title I, without distinction on grounds of nationality or residence, the most favourable treatment accorded under existing practices and bilateral or multilateral agreements, other than those establishing regional unions between Belgium, Luxembourg and the Netherlands.

Title V: Timetable

The effective abolition of restrictions in respect of freedom to provide services shall take place according to the following timetable:

A. ITEM TO BE SUPPLIED, MATERIALS COMPRISING THAT ITEM AND MEANS TO BE EMPLOYED IN THE PROVISION OF THE SERVICE

The restrictions specified in Title III (B) shall be abolished before the end of the first stage.

B. TRANSFER OF FUNDS, PAYMENT

The restrictions specified in Title III (C) and (D) shall be abolished before the end of the first stage.

However, limits on foreign currency allowances for tourists may be maintained in force during the transitional period, but they are to be progressively raised from the end of the first stage.

C. OTHER RESTRICTIONS

The remaining restrictions specified in Title III on freedom to provide services are to be abolished at the latest during the operation of the timetable for freedom of establishment. However, as regards the activities therein specified, the following timetable shall apply:

(a) *Direct insurance*

1. As regards insurance undertakings, restrictions shall be abolished, subject to the condition that freedom of establishment shall have been attained in the branch of insurance concerned, that the legal or administrative provisions governing insurance contracts shall have been coordinated – in so far as the disparity between such provisions is detrimental to the insured or to third persons – and that formalities for the recognition and reciprocal enforcement of judgements shall have been simplified, by the following dates:
   - for direct insurance other than life assurance, the end of the second year of the third stage;
   - for life assurance, the end of the third stage;

2. As regards self-employed intermediaries in the abovementioned branches of insurance, restrictions shall be abolished:
   - at the same time as freedom to provide services is granted to insurance undertakings;

(b) *Banking*

1. As regards services other than those connected with movements of capital, restrictions shall be abolished before the end of the second year of the second stage;

2. As regards services connected with capital movements, restrictions shall be abolished concurrently with the liberalization of such movements;

(c) *The film industry*

Restrictions shall be abolished before the end of the third stage.

However, in States where existing rules restrict the importation of exposed and developed films, the bilateral quotas existing between Member States at the time of the entry into force of the Treaty shall, before the end of the first stage, be increased by one third;

(d) *Agricultural and horticultural services*

1. Restrictions shall be abolished before the end of the second year of the second stage in respect of:
   - technical assistance;
   - spraying, weed killing and pest control; pruning; picking, packing and presentation; the operation of irrigation systems and the letting out for hire of agricultural machinery;

2. As regards soil cultivation and tillage, reaping and harvesting, threshing, baling and collecting, whether by mechanical or non-mechanical means, restrictions shall be abolished before the end of the second stage;

3. As regards service other than those specified above, abolition of restrictions shall take place before the end of the third stage;

(e) *Public works contracts*

1. In the case of services provided by a national or company or firm of a Member State under a public works contract awarded by another State, or by its regional or local authorities such as Länder, regions, provinces, departments, communes or other legal persons governed by public law still to be determined, the date for the abolition of restrictions shall be 31 December 1963, subject, however, to the provisions set out below, which take into account the particular nature and requirements of this sector and are intended to ensure that restrictions are lifted in a progressive and balanced manner and that the removal of restrictions is accompanied by appropriate measures for the coordination of procedures:

   (a) When the value of the public works contracts awarded in one Member State to nationals or companies or firms of other Member States by that State, by its regional or local authorities or by other legal persons governed by public law, determined as above, exceeds a specified quota, that State shall be entitled to order that no further contracts may be awarded to such nationals or companies or firms until the end of the year in question.

   This quota shall correspond to a specified percentage of the average total annual value of the public works contracts awarded during the preceding two years, the percentage to be in principle the same for all Member States and to rise every two years from 31 December 1963 to 31 December 1969

   Furthermore, the value of public works contracts which nationals and companies or firms of one Member State, established in that State, obtain in other Member States shall, save where there is good reason to the contrary, also be taken into account.

   (b) 'Public works contracts awarded in one Member State to nationals or companies or firms of other Member States' means:

- contracts awarded directly to such nationals and companies or firms established in other Member States; and
- contracts awarded to such nationals and companies or firms through their agencies or branches established in the Member State concerned.

Each Member State shall take all measures necessary to enable it to determine and periodically to make known the value of public works eontracts awarded to nationals and companies or firms of other Member States.

2. Restrictions on the provision of services under public works contracts awarded by legal persons governed by public law which as at 31 December 1963 have not been included among those referred to in the first subparagraph of paragraph 1 are to be abolished before the end of the transitional period.

Title VI: Mutual recognition of diplomas and other evidence of formal qualifications – coordination

Subject to Article 57 (3) of the Treaty and to Title V of this General Programme, when Directives implementing the General Programme for each kind of provision of services are being drawn up, it shall at the same time be examined whether the lifting of restrictions on freedom to provide services should be preceded, accompanied or followed by the mutual recognition of diplomas, certificates and other evidence of formal qualifications, or by the coordination of provisions laid down by law, Regulation or administrative action in respect of the provision of such services.

Pending such mutual recognition of diplomas, or such coordination, and in order to facilitate the provision of services and to avoid distortions, a transitional system may be applied; such system may where appropriate include provision for the production of a certificate establishing that the activity in question was actually and lawfully carried on in the country of origin.

The duration and details of this transitional system shall be settled when the Directives are drawn up.

Done at Brussels, 18 December 1961.

For the Council

The President

Ludwig ERHARD