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INFORMATION MEMO

Freedom of establishment in the real estate and business  
services sectors

The Commission has submitted to the Council a proposal for a directive concerning the introduction of freedom of establishment and freedom to supply services in connection with non-wage-earning activities relating to:

- (1) dealings in real estate (Group 640 ISIC) and
- (2) business services (Group 839 ISIC).

The provisions of the directive will apply to non-wage-earning activities connected with dealings in real estate, that is, all dealings in real estate on the part of persons or companies who derive (professional) income from the ownership, possession, purchase, sale, lease or administration of real estate whether developed or undeveloped, and in particular from premises used industrially, commercially or for business and professional purposes or as dwellings, or from a right to these types of property, or from intermediary activities in dealings relating to these properties or rights.

The provisions of the present directive apply also to those non-wage-earning activities not elsewhere classified which are supplied to enterprises. These activities may be divided into the following groups: employment agencies, detective agencies and watch services, advertising agencies and services, the organization of commercial events (fairs, exhibitions), services incidental to office work, consultant services for economic, financial and commercial questions, literary and artistic professions, valuers and interpreters.

The provisions do not apply to activities which are the object of other directives, that is, for example, to the activities of architects and financial institutions, to farming, the hotel and catering trade or travel agencies, nor, in the field of "business services", to the activities of banks, insurance companies, legal advisers, tax consultants or the press.

Also excluded from the field of application of the directive are the activities of those who, in each State, share in the exercise of public authority. This applies to labour exchanges, the organization of trade fairs and markets where this is reserved for public authorities, rural guards and forest keepers.

The directive lays down that Member States shall abolish any restrictions:

- (a) Which prevent the beneficiaries of the directive from establishing themselves in the host country or from supplying services there on the same conditions and with the same rights as its nationals,
- (b) Which stem from an administrative practice and lead to discrimination between the beneficiaries of the directive and nationals of the country concerned.

Among the restrictions to be removed are, for example, the requirement of a "professional card" or foreign trader's identity card, or the need to possess the nationality of the country in which one pursues one's activity.

The directive also provides that the Member States shall ensure that the beneficiaries of the directive may join trade or professional organizations on the same conditions and with the same rights and duties as nationals of the country concerned.

This proposal of the Commission is based on Article 54 (2) and Article 63 (2) of the Treaty establishing the European Economic Community, and gives effect to Title IV A of the General Programme for the suppression of restrictions on the freedom of establishment and to Title V C of the corresponding Programme relating to the freedom to supply services.