

COUNCIL DIRECTIVE
of 17 April 1972
on the modernization of farms
(72/159/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas the objectives of the common agricultural policy set out in Article 39 (1) (a) and (b) of the Treaty can only be achieved through a reform of agricultural structures;

Whereas such structural reform is a basic factor in the development of the common agricultural policy; whereas it should therefore be based on a Community concept and on Community criteria;

Whereas, because of the diversity of their causes, nature and gravity, structural problems in agriculture may require solutions which vary according to region and are capable of adjustment over a period of time; whereas such solutions must contribute to the overall economic and social development of each region concerned; whereas the best results can be achieved if, acting on the basis of Community concepts and criteria, Member States implement the common measures individually through their own legislative and administrative procedures, and if, in addition, they themselves determine, on the basis of conditions laid down by the Community, the extent to which such measures should be intensified in or concentrated on certain regions;

Whereas agricultural structure within the Community is typified by the existence of a large number of farms which lack the structural conditions necessary to provide a fair income and living conditions comparable with those of other occupations; whereas, moreover, the gap between incomes on

farms with a structure enabling them to adjust to economic developments and incomes on other farms is constantly widening;

Whereas, in the future, the only farms capable of adjusting to economic developments will be those on which the farmer has adequate occupational skill and competence, on which profitability is verified by accounts and which are capable, through the adoption of rational methods of production, of assuring a fair income and satisfactory working conditions for persons working thereon; whereas, therefore, reform of the structure of agricultural production should be directed towards the formation and development of such farms;

Whereas in most cases the development of such farms cannot be achieved by short term measures; whereas, moreover, it can be achieved at a more reasonable and balanced pace under a development plan covering several years and setting out the measures to be taken from the start of operations until completion of the plan;

Whereas, with a view to providing a guideline for the development of such farms, the objective which a development plan must attain both as regards the farm's profitability and as regards the working hours of those employed thereon should be specified;

Whereas, where the development of the farm includes a proposal for extending the utilized agricultural area, it is not necessary that the farm should be in occupation of the land earmarked for its extension from the time the development plan is first put into operation; whereas it must, however, be certain that the land in question will become available to the farm within the proposed development period;

Whereas, in order to ensure that public money allocated for the development of farms is indeed used for the benefits of farms which satisfy the required conditions, development plans should be subject to approval by the competent authorities;

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Whereas the efforts of farmers towards achieving the objective of the development plan may be encouraged by allocating to them by way of priority land released under the Council Directive of 17 April 1972¹ and by granting aids for investment;

Whereas aids for investment should be granted mainly in the form of interest rate subsidies, in order to leave economic and financial responsibility for the farm in the hands of the farmer; whereas for the same reasons he should pay part of the interest; whereas provision should be made for aids to be granted also in the form of capital grants or deferred repayments;

Whereas, in view of the size of the investment required to ensure the profitability of farm businesses concentrating on cattle and sheep enterprises, the granting of aids for the purchase of such stock should be made subject to certain conditions;

Whereas, bearing in mind Community production objectives, incentives in respect of pig farming should be granted only under certain special conditions, and incentives in respect of poultry and eggs should be subject to a further decision, while farms should be encouraged to concentrate on the production of beef, veal, mutton and lamb;

Whereas the keeping of accounts is essential to a correct assessment of the financial and economic situation of farms, and in particular of those undergoing modernization; whereas a financial incentive may encourage the keeping of accounts;

Whereas, in the interests of rational production and of improvement in living conditions, encouragement should be given to the formation of groups having as their purpose mutual aid between farms a more rational common use of agricultural investments, or group farming operations;

Whereas the possibilities of developing farms by means of land reparation or irrigation schemes must be used as fully as possible in order to help achieve the objectives of this Directive; whereas it is therefore desirable that special systems of additional aids be introduced in connection with such schemes or that existing systems be adapted;

Whereas the modernization of farms will only be realized successfully if the financial assistance given by Member States is concentrated on achieving the aforesaid objectives; whereas farms whose long-term profitability is doubtful should not be encouraged to embark upon a growth process which is often long and costly; whereas, however, Member States should be allowed to alleviate, by means of temporary

investment aids, the situation of heads of farm businesses which, for various reasons, are not eligible to benefit from the measures for agricultural reform.

Whereas Member States must be able to adopt special measures of aid for certain regions where the maintenance of a minimum level of population is not assured and where a certain amount of farming is essential in view of the need to conserve the countryside;

Whereas the proposed measures are in the Community's interest and are intended to achieve the objectives set out in Article 39 (1) (a) of the Treaty, including the structural changes necessary for the proper functioning of the common market; whereas they therefore constitute common measures within the meaning of Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy²;

Whereas, inasmuch as the Community contributes to the financing of the common measures, it must be in a position to ascertain that the provisions adopted by Member States for the implementation of those measures will contribute towards achievement of the objectives thereof; whereas, to this end, provision should be made for a procedure establishing close cooperation between Member States and the Commission within the Standing Committee on Agricultural Structure set up by Article 1 of the Council Decision of 4 December 1962 on the coordination of policies on agricultural structure,³ and involving, as regards financial aspects, consultation with the EAGGF Committee referred to in Articles 11 to 15 of Regulation (EEC No 729/70);

Whereas it is desirable that the European Parliament and the Council be able, on the basis of a report submitted by the Commission, to examine annually the effects of the national and Community measures taken, so that they may assess the need to supplement or adapt the system introduced hereunder;

HAS ADOPTED THIS DIRECTIVE:

TITLE I

Incentives to farms suitable for development

Article 1

1. With a view to bringing about structural conditions conducive to a significant improvement in

¹ OJ No L 96, 17.4.1972, p. 9.

² OJ No L 94, 28.4.1970, p. 13.

³ OJ No 136, 17.12.1962, p. 2892/62.

agricultural incomes and working and production conditions, Member States shall introduce a system of selective incentives to farms suitable for development, designed to encourage their operation and development under rational conditions.

2. Member States may, acting in accordance with the general provisions to be adopted hereafter by the Council under the procedure laid down in Article 43 of the Treaty:

- vary according to region the amount of the financial incentives provided for in the first subparagraph of Article 8 (2), and, within the limits set out therein, those provided for in Articles 10, 11 and 12 and also those provided for in Article 13;
- refrain from applying in certain regions all or some of the measures provided for in Articles 8, 10, 11, 12 and 13.

Article 2

For the purposes of this Directive a farm shall be considered suitable for development where:

1. the farmer:
 - (a) practises farming as his main occupation;
 - (b) possesses adequate occupational skill and competence;
 - (c) undertakes that from the start of the development plan he will keep accounts as defined in Article 11;
 - (d) draws up a plan for the development of the farm business which satisfies the conditions laid down in Article 4;
2. its level of earned income is below that fixed in Article 4 (1) as the modernization objective, or where its present structure is such as to jeopardize the maintenance of that income at a comparable level; in the latter case, the interest rate subsidy provided for in Article 8 (1) (b) shall apply only to 80% of the loan referred to in paragraph 2 of that Article.

Article 3

1. Member States shall for the purposes of this Directive define what is meant by the expression 'a farmer practising farming as his main occupation'. Definitions shall, in the case of a natural person, at least include the condition that the proportion of income from farming be not less than 50% of the farmer's total income and that the working time devoted to non-farming activities be less than half of the farmer's total working time.

Having regard, in particular, to the criteria indicated in the preceding subparagraph, Member States shall define the aforesaid expression:

- in relation to a person other than a natural person;
- in respect of a farm owned by a person other than the farmer;
- in respect of a farm worked under a share-cropping agreement.

2. In addition, Member States shall lay down the criteria for assessing the occupational skill and competence of the farmer. Such criteria shall refer to the standard of agricultural training received or to a minimum period of farming experience or to both.

Article 4

1. The development plan provided for in Article 2 (1) (d) must show that, upon its completion, the farm undergoing modernization will be capable of attaining as a minimum, in principle for either one or two man-work units, a level of earned income comparable to that received for non-agricultural work in the region in question.

2. A comparable earned income as referred to in paragraph 1 means the average gross wage for a non-agricultural worker. Member States may, where necessary, take account of disparities between the social security arrangements for farmers and those for non-agricultural workers.

3. For the purpose of showing that the farm undergoing modernization will be capable of attaining the objective referred to in paragraph 1, the earned income to be attained upon completion of the development plan shall be compared either:

- with the comparable earned income as defined in paragraph 2, or
- with that of reference farms which at the time when application is made have an earned income equivalent to the comparable income as defined in paragraph 2.

4. Member States

- (a) shall:
- specify the minimum number of man-work units, having regard to the various types of production and to the working conditions associated therewith;
 - determine what constitutes an adequate return on the capital invested in the farm business;

— fix, having regard to the duration of the development plan, the modernization objective referred to in paragraph 1;

- (b) may provide that up to a specified percentage of the earned income to be attained upon completion of the development plan may consist of income arising from non-agricultural activities, so long as the earned income derived from the farm business is at least equal to the comparable earned income for one man-work unit. The percentage specified may not exceed 20%.

5. Upon completion of the plan, the level of income referred to in paragraphs 2 and 3 must be attainable by means of an annual working period not exceeding 2300 hours.

6. The achievement of the objectives of the development plan may be spread over a maximum of six years. However, Member States may be authorized, under the procedure laid down in Article 18, to specify a longer period for certain regions.

Article 5

1. Persons coming within Articles 2 and 3 who wish to benefit from the incentives herein provided for shall submit applications to the authorities appointed under Article 7.

2. An application may be made by a single farmer or by several farmers who are in association or who have agreed to form an association. Member States shall not discriminate between single and associated farmers.

Article 6

1. The application shall be accompanied by the development plan provided for in Article 2 (1) (d). This shall contain all the necessary particulars for assessing whether the farm satisfies the conditions laid down in Articles 2 and 4, and in particular:

- a description of the situation at the start of the plan;
- a description, in the form of a forward estimate, of the situation on completion of the plan;
- an indication of the measures to be taken, and in particular of the investments to be made, in order to achieve the desired results.

2. If the development plan contains a proposal for extending the area of the farm, the enlarged area shall consist of:

- the land already in the possession of the farmer;

— land in respect of which he has been given a legally enforceable promise entitling him to possession.

Article 7

Member States shall:

- appoint the authorities responsible for examining applications and approving development plans;
- lay down an examination and approval procedure.

Article 8

1. Incentives to farmers whose applications have been accepted and whose development plans have been approved shall include the following measures:

- (a) the allocation, by way of priority, of land released under the Council Directive of 17 April 1972;
- (b) the granting of aids in the form of interest rate subsidies in respect of the investments necessary for carrying out the development plan, but excluding expenditure incurred in buying:

- land;
- pigs, poultry, or calves intended for slaughter.

With regard to the purchase of livestock, only the initial purchase provided for by the development plan may be taken into account;

- (c) the provision of guarantees for loans contracted and the interest thereon, where the security or personal guarantee provided is insufficient.

2. The interest rate subsidy provided for in paragraph 1 (b) shall apply to the whole of the loan, except for any part of the loan exceeding 40 000 units of account per man-work unit. It shall not exceed 5% and, in principle, shall cover a period of fifteen years, which Member States may, however, extend to twenty years for investments in immovable property and reduce to ten years for other investments. The rate of interest remaining payable by the beneficiary may not be lower than 3%. Member States may grant this aid, in whole or in part, in the form of a capital subsidy or of deferred repayments; or they may combine the two forms.

However, the Council, acting on a proposal from the Commission and voting as provided in Article 43 (2) of the Treaty, may authorize a Member State, for a specified period:

- to grant interest rate subsidies exceeding 5%, if such action is warranted by the situation of the capital market in that Member State;
- to lower the minimum rate payable by the beneficiary to 2% in certain regions.

Article 9

1. Where the development plan provides for the purchase of cattle or sheep, the granting for the purchase of such livestock of the aids provided for in Article 8 (1) (b) and (c) shall be subject to the condition that the proportion of sales from the cattle and sheep enterprises on completion of the development plan will be greater than 60% of the total sales of the business.

2. Where the development plan provides for an investment in pig farming, the granting under Article 8 (1) (b) or (c) of the incentives to that investment shall be subject to the condition that the investment is of at least 10 000 units of account but does not exceed 40 000 units of account and that the farm will be capable on completion of the plan of producing at least 35% of the feedingstuffs consumed by the pigs.

In the case of joint production by more than one farm, this condition shall be satisfied if any one or more of the farms involved is capable of producing 35% of the feedingstuffs.

3. In respect of poultry and eggs the granting of the incentives provided for in Article 8 (1) (b) and (c) shall be subject to a subsequent decision by the Council, acting on a proposal from the Commission and voting as provided in Article 43 (2) of the Treaty.

Article 10

Where it is provided in the development plan that the farm will concentrate on the production of beef, veal, mutton or lamb, the incentives provided for in Article 8 shall be supplemented by the granting of a guidance premium. The amount of this premium shall be fixed before 15 September 1972 by the Council, acting upon a proposal from the Commission and voting as provided in Article 43 (2) of the Treaty.

TITLE II

Other measures to assist farms

Article 11

1. Member States shall introduce a system of incentives to encourage the keeping of accounts on farms.

Where in a Member State more than 70% of farms operated by way of main occupation already keep accounts satisfying the provisions of paragraph 2, that Member State shall not be obliged to introduce such a system.

The system shall involve granting to farmers whose main occupation is farming and who apply therefor and aid of 450 units of account, spread over at least the first four years during which management accounts are kept on their farms.

2. The keeping of accounts shall:

(a) comprise:

- the preparation of annual opening and closing valuations;
- the systematic and regular recording over the accounting year of the various transactions in cash or in kind concerning the farm business;

(b) conclude with the presentation each year of:

- a description of the general characteristics of the farm business, and in particular of the factors of production employed;
- a detailed balance sheet (assets and liabilities) and trading account (expenditure and income);
- the necessary data, including in particular the earned income per man-work unit and the farmer's income, for assessing the efficiency of the management of the farm business as a whole and the profitability of the main enterprises of the business.

3. Where a farm is chosen by the authorities appointed by Member States for the collection of accountancy data for purposes of information and scientific study, in particular within the framework of the EEC accountancy data network, and the farmer is in receipt of aid as provided for in paragraph 1, he must undertake to make available to those authorities, under conditions of anonymity, the accountancy data relating to his farm.

Article 12

Member States shall on request grant to any recognized group having as its object mutual aid between farms, a more rational common use of agricultural investments, or group farming operations, a launching aid as a contribution to management costs.

The amount of such aid shall be not less than 2500 units of account and not more than 7500 units of account and shall be fixed according to the number of participants and to the work carried out jointly.

The legal form which such groups shall take and the provisions governing cooperation between members shall be determined by Member States.

Article 13

1. With a view to promoting the modernization of farms coming within Article 2, through schemes for irrigation or for land reparation and works related thereto, Member States shall:

- introduce special systems of national aids, comprising additional incentives to promote modernization of farms coming within Articles 2 and 4 and to encourage the cessation of farming; or
- adapt their existing systems of aids for general structural improvement in such a way as to encourage land reparation and irrigation schemes fulfilling the condition laid down in paragraph 2.

2. The Community shall contribute to the expenditure incurred by Member States for land reparation and works related thereto, and for irrigation, including any additional incentives introduced under the first indent of paragraph 1, provided that after completion of the land reallocation or irrigation scheme at least 40% of the utilized agricultural area is to be worked by farms whose development plans have been approved, or that 70% thereof is to be worked by farms which have reached the level of development laid down in Article 4 (1).

Article 14

1. Aids for investments on farms satisfying the conditions laid down in Articles 2 and 4 which exceed the amount laid down in Article 8 (2) shall be prohibited, with the exception of aids:

- for the construction of farm buildings;
- for the transfer of farm buildings to new sites, where this is done in the public interest;
- for land improvement operations;

these exceptions being subject to paragraph 3 of this Article and to Articles 92 to 94 of the Treaty.

2. As regards investments on other farms and without prejudice to Article 92 (2) of the Treaty, Member States may grant aids only in so far as the interest remaining payable by the beneficiary, or the equivalent of that interest if the aid is given in another form, amounts to not less than 5% per year.

However:

- (a) Member States may, during a period of five years from the time when this Directive takes effect, grant temporary aids to farmers who are

not capable of attaining the level of earned income laid down under Article 4 and who are not yet eligible for the annuities provided for in Article 2 (1) of the Council Directive of 17 April 1972 concerning measures to encourage the cessation of farming and the reallocation of utilized agricultural area for the purposes of structural improvement, but such aids may not be granted on more favourable terms than those laid down in Article 8 hereof;

- (b) Member States may introduce systems of special aids in certain regions where the maintenance of a minimum level of population is not assured and where a minimum amount of farming is essential in view of the need to conserve the countryside;

The Council, acting in accordance with the procedure laid down in Article 43 of the Treaty, shall lay down the criteria to be used in defining such regions and in applying such systems.

3. The following shall also be prohibited:

- (a) aids for the purchase of pigs, poultry, or calves for slaughter;
- (b) aids which do not satisfy the conditions laid down in Article 9.

TITLE III

Financial and general provisions

Article 15

The measures provided for by this Directive constitute common measures within the meaning of Article 6 (1) of Regulation (EEC) No 729/70.

Article 16

1. The estimated time required for carrying out the common measures is ten years.

2. Five years after this Directive takes effect, the common measures shall be re-examined by the Council upon a proposal from the Commission.

3. The total contribution by the EAGGF to the cost of the common measures is estimated at 432 million units of account for the first five years.

4. The provisions of Article 6 (5) of Regulation (EEC) No 729/70 shall apply to this Directive.

Article 17

1. Member States shall forward to the Commission:

- drafts of all laws, regulations or administrative provisions which they propose to adopt in pursuance of this Directive, including those relating to Article 14;
- the texts of any provisions effectively implementing this Directive existing prior to the date on which it takes effect.

2. When submitting pursuant to paragraph 1 drafts of laws, regulations or administrative provisions or the texts of existing provisions, Member States shall also submit an explanatory memorandum showing the relationship at regional level between the measure in question and economic and structural conditions.

3. The Commission shall examine drafts forwarded in accordance with the first indent of paragraph 1 for the purpose of determining whether, having regard to the objectives of this Directive and to the need for a proper connection between the various measures, such drafts comply with the Directive, and thus satisfy the conditions for financial contribution by the Community to common measures within the meaning of Article 15. Within two months following receipt of any draft the Commission shall, after consulting the Standing Committee on Agricultural Structure, issue an opinion thereon.

4. Member States shall, on the adoption of any law, regulation or administrative provision as referred to in paragraph 3, forward the text thereof to the Commission.

Article 18

1. With regard to provisions the texts of which are forwarded pursuant to the second indent of Article 17 (1) or to Article 17 (4), the Commission shall examine whether, having regard to the objectives of this Directive and to the need for a proper connection between the various measures, such provisions satisfy the conditions for financial contribution by the Community to common measures within the meaning of Article 15. Within two months following receipt of any text, the Commission representative shall, after consulting the EAGGF Committee on the financial aspects of the provision, submit a draft decision thereon to the Standing Committee on Agricultural Structure.

2. The Committee shall issue its opinion within a time limit to be fixed by the Chairman according to the urgency of the matters for examination. It shall

decide by a majority of twelve votes, the votes of Member States being weighted as laid down in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The Commission shall adopt the decision. However, if the decision is not in accordance with the opinion issued by the Committee, it shall immediately be communicated to the Council. In that event, the Commission may defer application of the decision for a period not exceeding one month from the date of its communication.

The Council, voting as provided in Article 43 (2) of the Treaty, may within that month adopt a different decision.

Article 19

1. The expenditure incurred by Member States for the purposes of any measure taken under Article 8 (1) (b), under the first subparagraph of Article 8 (2), or under Article 10, 11 or 12, shall be eligible for assistance from the Guidance Section of the EAGGF.

The Council, acting on a proposal from the Commission and voting as provided in Article 43 (2) of the Treaty, may declare eligible the expenditure incurred by Member States for the purposes of measures taken under the second subparagraph of Article 8 (2).

2. A proportion of Member States' expenditure referred to in Article 13 (2), calculated by reference to the agricultural area farmed, after completion of the land reallocation or irrigation scheme, by farms whose development plans have been approved, shall be eligible for assistance from the EAGGF, with the exception, however, of expenditure incurred in respect of:

- any land clearance not offset by the reforestation of an equivalent area;
- installation of mains electricity;
- the laying on of a drinking water supply.

3. The Guidance Section of the EAGGF shall refund 25% of the eligible expenditure to Member States.

However, the Community's contribution to the eligible expenditure referred to in paragraph 2 may not exceed 150 units of account per hectare for land reallocation and works related thereto, or 250 units of account per hectare for irrigation works.

4. Detailed rules for applying paragraph 3 shall be adopted according to the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 20

1. Measures taken by Member States shall not be eligible to benefit from financial contribution by the Community unless a favourable decision under Article 18 has been given in respect of the provisions relating thereto.

2. Financial contribution by the Community shall be only in respect of eligible expenditure arising in connection with aids granted in pursuance of decisions taken after the date on which this Directive takes effect.

Article 21

1. Applications for reimbursement shall relate to expenditure incurred by Member States in the course of a calendar year and shall be submitted to the Commission before 1 July of the following year.

2. The granting of aid from the Fund shall be decided upon in accordance with Article 7 (1) of Regulation (EEC) No 729/70.

3. Payments on account may be authorized by the Commission.

4. Detailed rules for applying this Article shall be adopted according to the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 22

1. Before 1 August in each year the national and Community measures in force relating to this Directive shall be examined in the context of an annual report which the Commission shall submit to the European Parliament and to the Council, and for which Member States shall send all necessary documentation to the Commission.

The Council shall evaluate the effects of such measures, taking into consideration the rate of structural development required to achieve the objectives of the common agricultural policy, their effect on the production objectives of the Community and on the harmonious development of the regions

of the Community and the financial implications of the measures in question.

If necessary, it shall, acting under the procedure laid down in Article 43 of the Treaty, adopt appropriate provisions.

2. In order to achieve the Community's objectives in respect of production, the Council, acting on a proposal from the Commission and voting as provided in Article 43 (2) of the Treaty, may, in respect of certain sectors, amend or supplement the provisions of this Directive or suspend their application.

Article 23

This Directive shall not affect the power of the Grand Duchy of Luxembourg, subject to Articles 92 to 94 of the Treaty, to maintain until 31 December 1975 at the latest in respect of the matters covered by this Directive, the national measures now in force.

Article 24

Member States may lay down additional conditions as regards the implementation of the measures of aid provided for in this Directive.

Article 25

Member States shall, within one year from the date of notification of this Directive, bring into force the measures necessary to comply therewith.

Article 26

This Directive is addressed to the Member States.

Done at Brussels, 17 April 1972.

For the Council

The President

J. P. BUCHLER