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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 September 1992

on the adoption of an action plan for the exchange between Member State administrations of national officials who are engaged in the implementation of Community legislation required to achieve the internal market

(92/481/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the establishment and functioning of the internal market requires uniform application of Community legislation in the Member States;

Whereas such uniform application cannot be achieved without closer cooperation and the building of mutual confidence between national administrations;

Whereas an action plan for the exchange of national officials engaged in the implementation of Community legislation in the field of the internal market would contribute to achieving these objectives;

Whereas the action plan will consist of exchanges between Member State administrations, wherein the offi-

cial will take part in the day-to-day running of the host service;

Whereas the action plan will also include the organization of training seminars designed to acquaint officials with the foundations of the Community and current policies and objectives;

Whereas this action plan shall run concurrently with, but independently of, other exchange programmes for national officials;

Whereas exchange officials will continue to be paid by their home administrations and to benefit from all related entitlements;

Whereas the legal status of exchange officials will be the same as that of national officials where, in performing their duties, their civil liability is put at issue by a third party; whereas they will be informed about the civil liability rules applicable to them in the host country;

Whereas exchange officials will be bound by the same rules of professional secrecy as national officials, given that exchange officials will take part in the day-to-day work of the administration to which they are seconded;

Whereas the cost of financing the action plan will be shared by the Community and the Member States; whereas the Community contribution will be included in the Commission's budget;

Whereas a programme lasting five years is called for;

Whereas an amount of ECU 17,3 million is estimated as necessary to implement this five-year programme;

⁽¹⁾ OJ No C 299, 20. 11. 1991, p. 25.

⁽²⁾ OJ No C 94, 13. 4. 1992, p. 164, and OJ No C 241, 21. 9. 1992.

⁽³⁾ OJ No C 98, 21. 4. 1992, p. 1.

Whereas the amounts to be committed for the financing of the programme will have to fall within the Community financial framework in force;

Whereas in 1992 the Community's contribution to the financing of the 1993 action plan will be ensured;

Whereas it is necessary to ensure the uniform application of this Decision and, for that purpose, to provide for a Community procedure for the adoption of implementing rules; whereas it is necessary to set up a Committee to organize close and effective cooperation between the Member States and the Commission in this field,

HAS ADOPTED THIS DECISION:

Article 1

This Decision establishes the Community's action plan for the exchange, between Member State administrations, of Member State officials who are engaged in the implementation of Community legislation to achieve the internal market.

Article 2

This action plan does not affect exchange programmes in the customs and fiscal areas decided on by the Council from time to time, such as the Matthaues programme for the exchange of customs officials.

Article 3

For the purposes of this Decision:

- (a) the term 'exchange official' shall mean an official of a Member State occupying a post in public administration, who is required to implement Community legislation in the field of the internal market at national, regional or local level; this definition shall also extend to agents of private bodies entrusted by the said administrations with such implementation;
- (b) 'host service' shall mean the administration of the Member State in which the exchange official is required to perform his duties.

Article 4

The objectives of the action plan shall be as follows:

- (a) to develop a convergent approach by the various Member States in methods of implementing Community legislation relating to the single market;
- (b) to make national officials aware of the European dimension of their work and to build mutual confidence between Member State administrations responsible for the implementation of Community law;

- (c) to permit cross-fertilization of ideas between Member State administrations and their staff on the way in which Community legislation can best be implemented.

Article 5

The action plan shall function as follows:

- the exchange of officials engaged in the implementation of Community law will be arranged through the service designated in accordance with Article 7 in the home administration and will involve officials at middle management level in order to ensure maximum benefit from the programme,
- a training seminar providing basic information on the functioning of the Community and its current policies and objectives will be provided for those officials accepted for the action plan or wishing to take part in the action plan at a future date,
- exchanges between Member State administrations will last in principle for a minimum of two months,
- the officials will submit reports to the Commission on the exchanges in which they have taken part so that the action plan can be continuously assessed,
- after submitting reports, the exchange officials will be invited to attend a seminar at which they will be given the opportunity to assess the action plan and point out any shortcomings,
- the Commission shall, in consultation with the committee referred to in Article 10, decide annually on the priority areas to be covered by this programme.

Article 6

1. Member States shall take the necessary steps to enable foreign exchange officials to play a genuine part in the host service's activities and to this end such officials shall be authorized to carry out the tasks relating to the duties entrusted to them by the host service in accordance with its legal system.
2. During the period of the exchange, the civil liability of foreign exchange officials during the performance of their duties shall be the same as that of national officials in the host country.
3. Foreign exchange officials shall be bound by the same rules of professional secrecy as national officials in the host country.

Article 7

For the purpose of organizing the exchanges, Member States shall designate a service responsible in their administrations for directing operations. That service shall be responsible, among other things for:

- selecting applications and forwarding them to the Commission,
- approving applicants proposed by another Member State.

Article 8

Member State shall provide the necessary language training for those of their officials who are likely to participate in the programme.

Article 9

The Community contribution shall cover:

- 100 % of the exchange official's travel expenses and 50 % of his subsistence expenses,
- the full management costs of the action plan and the seminars.

The home Member State shall pay the balance of the subsistence expenses, the salaries of the exchange officials and the cost of their language training.

Article 10

In carrying out its tasks, the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be

communicated by the Commission to the Council forthwith. In that event:

- the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication,
- the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

Article 11

1. The programme shall last five years and its execution shall start with the 1993 budget year.
2. The Community financial resources estimated as necessary for its implementation amount to ECU 17,3 million corresponding to an overall figure of 1 900 participants. This amount shall fall within the Community financial framework in force.
3. The budget authority shall determine the appropriations available for each financial year, taking into account the principles of sound management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

Article 12

This Decision shall apply as from 1 January 1993.

Article 13

This Decision is addressed to the Member States.

Done at Brussels, 22 September 1992.

For the Council

The President

R. NEEDHAM