

WRITTEN QUESTION P-2908/01
by Thierry de La Perriere (NI)
to the Commission

Subject: Freedom to provide services in agriculture - artificial insemination

A number of my French compatriots have informed me about the problems they encounter when trying to exercise freely their profession in the field of artificial insemination.

France has actually established a virtual state monopoly by restricting that activity solely to agricultural cooperatives. It seems to me that that situation puts at producers of semen – particularly bovine semen – at a disadvantage and breaches Community law.

Pursuant to Law No 66-1005 of 28 December 1966 on cattle-breeding (published in the French Official Gazette – ORJF - on 29 December 1966, p.11619) and a series of implementing decrees, the collection, market preparation and placement of semen – especially bovine semen – are the sole province of artificial insemination centres, constituted as agricultural cooperatives, which have to cover a specific geographical area in France allocated to them. That constitutes a monopoly in the provision of services which precludes the placement of semen by third parties. Anyone violating those provisions is liable to penalties laid down in the aforementioned laws. Furthermore, the parentage of calves born from such insemination operations cannot be validated, with the result that the owners thereof are sure to suffer a financial loss.

Articles 43 and 49 et seq. of the Treaty establishing the European Community guarantee freedom of establishment and freedom to provide services. Since the end of the transitional period, those articles prohibit the abolition of any restriction, save in the case of activities connected with the exercise of official authority (Article 45 with respect to freedom of establishment) or where imperative requirements in the general interest justify a prohibition on freedom to provide services (see the relevant case-law of the Court of Justice of the European Communities in Case C-55/94, Gebhard, ECR 1995, I-4165).

Is the Commission aware that French legislation which allocates sole rights to practise artificial insemination – especially of bovines – to service monopolies constituted by artificial insemination centres prevents that activity from being carried out in France by specialist undertakings established in other Member States who wish to invoke their rights of establishment and of freedom to provide services granted to them by the Treaty of Rome?

Does not the Commission feel that imperative requirements in the general interest should not in any way prevent that activity from being covered by freedom of establishment and freedom to provide services, as is, moreover, the case in the other Member States?

What will the Commission do to require France to comply with relevant Community law without delay?