



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Austrian Bundesrat for its reasoned Opinion regarding the Commission's proposal for a Regulation of the European Parliament and of the Council amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission {COM(2012) 150 final}.

The Commission would like to underline that this proposal consists of amending the existing provisions of the above-mentioned Directives which pertain to the powers conferred upon the Commission in order to align them with the new classification of Commission powers into delegated and implementing acts pursuant to Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU). It furthermore also confers additional delegated powers on the Commission in order to harmonise the exercise of the Commission's powers among these directives. This alignment and harmonisation concerns only delegated powers. Therefore, the objective of the proposal is exclusively the alignment and the consistency, among the above mentioned directives, of delegated powers conferred on the Commission.

The Commission has taken note of the comments made by the Bundesrat in its reasoned Opinion, and in particular of the conclusion that the proposal would not respect the principle of subsidiarity, and would like to provide the following clarifications:

The Commission proposal respected the current distribution of competences between the EU and the national level. As stated in the explanatory memorandum of the proposal, agricultural policy is of shared competence between the EU and the Member States and the proposal is limited to adapting the current Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC to the new requirements introduced by the Lisbon Treaty. There is no change in substance in the proposal compared with the distribution of competences between the EU and the national level in the current Directives.

The division of the existing Commission powers and the introduction of additional powers have been done on the basis of a thorough screening of the Directives and the relevant Commission powers. The delegated character of the Commission's powers stipulated there has been decided on the basis of objective legal criteria in accordance with Articles 290 and 291 TFEU, and only concerns non-essential elements of the Directives.

*Herrn Georg KEUSCHNIGG
Präsident des Bundesrates
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Regarding the issue of the duration of the delegated powers, it is a common understanding of the European Parliament, of the Council and of the Commission itself that the basic act may empower the Commission to adopt delegated acts for either an undetermined or a determined period of time.

Furthermore, the Commission would like to stress that the delegation of powers to the Commission in the proposal is delimited by many guarantees for the European Parliament and the Council. Moreover, the co-legislators retain control of the delegated power through the possibility to oppose a delegated act adopted by the Commission or even to revoke the delegation of powers to the Commission.

Further to that, in the Commission Communication on Article 290 TFEU {COM(2009) 673 final} the Commission committed itself, in the preparatory phase, to the systematic consultation of the experts of the Member States. Such a consultation will take place in a format and timing which will offer the experts the possibility to provide a valuable contribution to the discussion concerning the content of delegated acts.

As regards your question on the fruit juices Directive, the Commission would like to point out that nothing has changed following the adoption of Directive 2012/12/EU of the European Parliament and of the Council of 19 April 2012 amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption. Therefore, at present, under Council Directive 2001/112/EC of 20 December 2001, as amended by Directive 2012/12/EU, product names and definitions of products, as well as their characteristics, are set out in Annex I of the Directive while particular designations for certain products of Annex I, which are specific to certain Member States, are included in Annex III.

I hope that these clarifications address the issues raised in the reasoned Opinion of Bundesrat and I am looking forward to further continuing our political dialogue.

Yours faithfully,

*Maroš Šefčovič
Vice-President*