

ITALIAN SENATE OF THE REPUBLIC

**COMMENTS AND PROPOSALS BY THE
14th (EUROPEAN UNION POLICIES) STANDING COMMITTEE**

Pursuant to Senate Rule 144 (1)

(Rapporteur: FLERES)

Rome, 9 November 2010

Comments on the document:

Proposal for a Regulation of the European Council and of the Council to amend Council Regulation (EC) no. 1698/2005 on support for rural development by the European Fund for Agricultural Development (COM (2010) 537 finan)

The 14th Standing Committee, after examining the document COM(2010)537 final,

whereas the proposal intends to introduce provisions to simplify current legislation regulating support for farmers, aligning it with the new provisions of the Treaty on the Functioning of the European Union on delegated acts and implementing acts, pursuant to articles 290 and 291, respectively;

having regard to the opinions previously expressed by the Senate Standing Committee on European Union Policies with regard to other draft legislative acts making provision for delegating legislative powers to the European Commission, and for implementing acts;

having considered the opinions expressed by other Parliamentary Assemblies,

expresses a favourable opinion, in so far as its remit is concerned, subject to the introduction of a time limit on the exercise by the European Commission of the delegated powers.

The committee accordingly submits the following comments:

- a) article 290 TFEU states that delegated acts are "*non-legislative acts of general application*" used to "*supplement or amend certain non-essential elements of the legislative act*". A number of provisions have been identified requiring clarification in respect of the notion of the "non-essential" elements in the proposal. The provisions in question include:
 - Articles 20a, 36a, 52a and 63a authorising the European Commission to pass delegated acts to lay down "specific

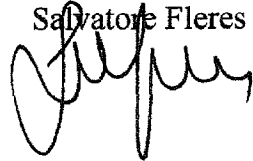
conditions" relating to the measures provided, respectively, by axes 1, 2, 3 and the Leader initiative. This wording seems to be too vague to enable an assessment of the non-essential nature of the provisions;

- Article 5(2), by virtue of which the Commission may issue delegated acts laying down the "specific measures of the Union" to ensure consistency of EAFRD assistance with the economic and social cohesion goals. Here again, the Committee considers the present wording to be too generic.

- b) Leaving aside the assessment on the "non-essential" elements in the measures referred to in a) above, thought should also be given to the duration of the delegated powers. For the proposal empowers the Commission to issue delegated acts for an indeterminate period of time, as was the case with other draft legislative acts previously considered by the European Union Policies Committee. This creates a conflict with the second indent of article 290(1) TFEU, stipulating that "*The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts*". The term "duration" must be construed to mean limited duration, also because of its close linkage with the term "defined", which implies a specific time limit.
- c) Rather than determining the duration of delegated powers, article 290(2)(a) and (b) of the proposal confers on the European Parliament and the Council the power of revocation and of objection within two months of notification of the act, in default of which the principle of consent by silence applies. But this does not appear sufficient to ensure that national Parliaments are fully able to exercise their powers subsidiarity compliance assessment. For according to the Protocol on the Role of the National Parliaments and the Protocol on the Application of the Principles of Subsidiarity and Proportionality, the national parliaments have the authority to directly assess draft legislative acts, rather than to assess delegated acts through their governments in the Council, as would appear to be the case if the emphasis on the Council authority to revoke the delegated act is anything to go by.
- d) In conclusion, the Committee reaffirms the appropriateness of setting a deadline for the exercise of the delegated powers so that the national parliaments are able to perform their

institutional functions of assessing compliance with the principle of subsidiarity when the delegated powers are extended by a legislative act. It would also be appropriate to clarify the exact scope of the amendments relating to the provisions listed under a) above in order to assess their non-essential nature for the purpose of exercising the delegation of power.

Salvatore Fleres

A handwritten signature in black ink, appearing to read 'Salvatore Fleres', positioned below the printed name.