

Brussels, 20/04/2011
C/2011/2810

Dear President,

Thank you very much for having transmitted the opinion of the Lithuanian Seimas on the Commission proposal for a Regulation of the European Parliament and of the Council, amending Council Regulation (EC) No 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers {COM(2010) 539 final}.

The Commission takes in particular note of the fact that the Seimas has concluded that the proposal is in contradiction with the principles of subsidiarity and proportionality which, according to the Seimas, are not sufficiently explained.

This conclusion includes arguments which refer inter alia to the definition of delegated acts with regard to the farm advisory system (art. 12 of Reg. 73/2009), the definition of delegated acts with regard to the rules on the eligibility and the access to the single payment scheme of farmers (art. 45).

Let me first assure you that the Commission takes its Treaty obligation to adequately justify each legislative proposal with regard to the principles of subsidiarity and proportionality very seriously. In this respect, the Commission is endeavouring to ensure that the justifications are reflected in more detail in the respective explanatory memoranda of its proposals.

With regard to the specific issues raised in the Opinion, the Commission would like to clarify that the aim of the alignment exercise is to adapt the Commission powers included in Council Regulation (EC) No 73/2009 to the differentiation introduced by the Lisbon Treaty between delegated and implementing powers. In addition, the Commission powers included in Council Regulation (EC) No 73/2009, which are subject to the proposed alignment require a uniform application throughout the EU and can thus be better achieved at Union level than at Member State, regional or local level.

The division of existing Commission powers has been done on the basis of a thorough screening of the basic act and the relevant Commission implementing acts. Their delegated or implementing character has been decided on the basis of objective legal criteria on the basis of the definitions in Articles 290 and 291 of the TFEU.

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Delegated acts have been provided in all cases of "quasi legislative acts" in the sense that they regulate non essential elements of the legislative act, are of general application and amend or complete the legislative act. Implementing acts have been provided for all acts of an "executive" nature in the sense that Member States are responsible for the implementation and there is a need for a uniform application.

With regard to the farm advisory system, empowerments to the Commission are already given by Article 142(a) of Council Regulation (EC) 73/2009 and until now no implementing rules have been defined with regard to the farm advisory system. It is not the intention of the Commission to take over the organisation of the functioning of the farm advisory system in the Member States. As is currently the case, Member States shall ensure the setting up of properly functioning farm advisory systems.

In the specific case of Article 45a(3)(a) of Regulation (EC) No 73/2009, empowerments were already given to the Commission by the current Council Regulation (Article 142). Moreover, it is not the intention of the Commission states that it does not intend to influence the "inheritance" rules of Member States.

The Commission would like to inform the Seimas that discussions with the Member States on the drafting of the Articles have taken place in the framework of a Council Working Group on Horizontal Questions.

Finally, the Commission would like to inform the Seimas that in its Communication on Article 290 of the Treaty on the Functioning of the European Union (COM(2009) 673 final) the Commission committed itself to, in the preparatory phase, consult experts from the Member States which will be responsible for implementing the delegated acts once they have been adopted. As for the control of implementing acts, an agreement on a new Comitology Regulation has been reached between the European Parliament and the Council. The new comitology rules have entered into force on 1 March 2011.

I hope that these clarifications address the remarks raised in the Opinion of the Seimas and I am looking forward to further deepen our political dialogue in the future.

Yours faithfully,

/-/ Maroš Šefčovič