

I would like to inform that the Senate, at the 66th session held on 25 November 2010, examined the 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 and decided that the proposal did not comply with the subsidiarity principle, referred to in Article 5 para. 3 of the Treaty on European Union.

Pursuant to the procedure provided for in Protocol No. 2 of the Treaty on European Union and the Treaty on the Functioning of the European Union as regards the application of the principles of subsidiarity and proportionality, I hereby submit the Senate's justified opinion stating that the above proposal does not comply with the principle of subsidiarity.

Bogdan Borusewicz

Courtesy translation

**OPINION**  
**OF THE SENATE OF THE REPUBLIC OF POLAND**

**of 25 November 2010**

**concerning the incompatibility with the principle of subsidiarity  
of the 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**

Having examined the 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, the Senate has concluded that the said proposal is not compatible with the principle of subsidiarity referred to in Article 5(3) of the Treaty on European Union. The principle of subsidiarity has been breached in the following provisions of the proposal for a regulation:

- 1) Article 12(5) and Article 12(6), as added, where the European Commission is granted the power to adopt, by means of delegated acts, provisions aiming at rendering the farm advisory system fully operational and providing the opportunity to adopt rules for the uniform implementation of the farm advisory system – since the term ‘fully operational’ lacks precision and may mean excluding the Member States’ influence on the functioning of the farm advisory system, which thus far has not been regulated by EU law to such a great extent; the system should remain a competence of the Member States, which can manage that area of support for the agricultural sector more efficiently and effectively as they have a better knowledge of the local conditions and needs as regards advisory

services;

- 2) Article 45a(1), as added, where the European Commission is granted the power to lay down, by means of delegated acts, rules on the eligibility and the access to the single payment scheme of farmers, including cases of inheritance and anticipated inheritance, inheritance under a lease, change of legal status or denomination and in case of merger or scission of the holding – since that might mean interfering in the rules of inheritance as well as regulations concerning mergers and scissions of economic operators in the Member States, an area regulated at the level of the Member States as it belongs to their competence;
- 3) Article 45a(3) in the text of the proposal for a regulation, where the European Commission is granted the power to adopt, by means of delegated acts, rules on the definition in the national legislation for ‘inheritance’ and ‘anticipated inheritance’ – since that would mean interfering in regulations concerning the inheritance system, an area not covered by European Union competence.

**MARSHAL OF THE SENATE**

**Bogdan BORUSEWICZ**