

Brussels, 13 AVR. 2011  
C/2011/2494

Dear Marshal,

*The Commission would like to thank the Senate of the Republic of Poland for its opinion 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}.*

*The Opinion of the Senate of the Republic of Poland expresses its concern that the proposal would not be compatible with the principle of subsidiarity referred to in Article 5(3) of the Treaty on the European Union. The principle of subsidiarity would, in the opinion of the Senate of the Republic of Poland, be breached in Article 12(5) and 12(6) with regard to the farm advisory system and Article 45(a)(1) and Article 45a(3) with regard to rules on the eligibility and the access to the single payment scheme of farmers (art. 45).*

*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.*

*This 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.*

*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 as there is a need for a uniform application.*

*With regard to the farm advisory system, empowerments to the Commission are given by Article 142(a) of Council Regulation (EC) 73/2009. The Commission wishes to underline, however, that 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.*

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*Also in the specific case of Article 45(a) of Council Regulation (EC) No 73/2009, empowerments were already given to the Commission by the current Council Regulation (Article 142). The Commission wishes to make clear that the definitions and detailed rules mentioned in Article 45a concern the access to the single payment scheme for farmers but not the definition of the terms "inheritance" and "anticipated inheritance", which according to Article 3(4) of Regulation 1120/2009 are to be defined by Member States.*

*Finally, I would like to inform you that in the Commission Communication on Article 290 of the Treaty on the Functioning of the European Union {COM(2009)673 final} the Commission committed, in the preparatory phase, to 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.*

*The Commission hopes that these clarifications address the concerns and remarks raised in your opinion, and I am looking forward to further deepen the political dialogue with the Polish Senate.*

*Yours faithfully,*