

I would like to inform that the Senate, at the 70th sitting held on 4 February 2011, examined the proposal for a regulation (EU) No .../ of the European Parliament and of the Council of ... amending Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and repealing Council Regulation (EC) No 165/94 and Council Regulation (EC) No 78/2008 - COM(2010)745 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

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

of 4 February 2011

**on nonconformity with the subsidiarity principle
of proposal for a Regulation (EU) No .../ of the European Parliament
and of the Council of ... amending Council Regulation (EC) No 1290/2005 on the
financing of the common agricultural policy and repealing Council Regulation (EC)
No 165/94 and Council Regulation (EC) No 78/2008, COM(2010) 745**

Having considered the proposal for a Regulation (EU) No .../ of the European Parliament and of the Council of ... amending Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and repealing Council Regulation (EC) No 165/94 and Council Regulation (EC) No 78/2008, COM(2010) 745, the Senate establishes that the proposal does not conform to the principle of subsidiarity as set forth in Art. 5 Section 3 of the Treaty of the European Union.

According to the proposal for the Regulation, powers to adopt delegated acts have been granted to the European Commission (EC) for an unlimited period of time. In the scope of delegated acts, the EC may lay down the rules concerning:

- a) types of expenses eligible for EU financing and conditions for their recovery,
- b) eligibility rules and rules for calculation of payments,
- c) conditions for limitation and suspension of payments to Member States.

The proposal for the Regulation does not conform to the principle of subsidiarity since granting powers to adopt delegated acts in this scope must be deemed illegitimate in the light of Art. 290 of the Treaty on Functioning of the European Union, whereas the above listed issues are essential for the functioning of support under the European Agricultural Guarantee Fund and European Rural Development Fund as they refer directly to the amount of possible support to be given to farmers.