



EUROPEAN COMMISSION

Brussels, 17/12/2012
C(2012) 8957 final

Dear President,

The Commission would like to thank the Swedish Riksdag for its reasoned Opinion on the amended Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards the distribution of food products to the most deprived persons in the Union {COM(2011) 634 final}. Let me apologise for the delay in the Commission's reply.

Since the dispatch of your letter, the Council and the European Parliament have adopted Regulation (EU) No 121/2012, of 15 February 2012, as regards distribution of food products to the most deprived persons in the Union. Whilst this regulation is largely based upon the Commission's proposal, it also contains a number of changes to that proposal. Amongst the major modifications, the adopted regulation includes a phasing-out period for the current scheme, which would terminate with the completion of the 2013 annual plan. Moreover, for the duration of this phasing-out period, the legal base of the Most Deprived Programme (Article 39(1) of the Treaty) would remain unchanged.

Although the judgment of the European Court of Justice (ECJ) (case T-567/08) by no means necessitated the change of the legal base, the reasoned Opinion of the Riksdag includes several different scenarios for such a change. Indeed, the judgment ascertained the non-respect of Article 27 of Council Regulation (EC) No. 1234/2007 in terms of allocations made in monetary value in the 2009 plan, as the unavailability of intervention stocks could not have been considered temporary. However, the ECJ did not exclude the possibility of monetary allocations under a new basic act, which does not include such limitations. And especially, the judgment of the ECJ did not exclude that Article 39(1) of the Treaty could remain the legal basis of the Most Deprived Programme.

It is our view that for the duration of the phasing-out period, the twofold objectives of the Scheme would remain also unchanged: it would continuously aim to ensure that supplies reach consumers at reasonable price and also to contribute to the stability of the markets. Indeed, the second objective would probably play a less significant role in 2012 and 2013 compared to the previous annual plans (for example the 2011 plan, in which 97% of the allocated resources were intervention stocks). Nevertheless, also during the phasing-out period, priority will be given to the use of suitable intervention stocks.

Herr Per WESTERBERG
Talmannen
Riksdagen
Sveriges riksdag
SE – 100 12 STOCKHOLM

Concerning the alleged conflicts with the principle of subsidiarity, I would like to underline that the Commission takes very seriously the Treaty obligation (article 5 of Protocol 2) to motivate its proposals in light of the subsidiarity and proportionality principles. In preparation of the proposal, the Commission carried out an impact assessment in 2008¹, in which it analysed subsidiarity in terms of added value and the necessity for the intervention by the EU in this field. The report on the impact assessment's work noted the scale of the food insecurity problem within the European Union. It emphasised that the food aid programme did not seek to replace or substitute private or national actions, but rather to complement and underpin them. It is our experience in many participating Member States, in particular those where no food distribution previously existed, that the initiation of the EU programme has had what could be described as a snowball effect, enabling the development of various types of locally-based social aid programmes. This view was largely supported by the internet-based public consultation referred to in your Opinion and the NGO community across participating Member States.

Therefore, to follow the phasing out of the current food aid programme, the Commission proposed on 23 October 2012 to set up a new Fund to help the most deprived persons in the EU.

This Fund would support Member State schemes providing food to the most deprived people but also clothing and other essential goods to homeless people and materially-deprived children. The Commission believes that raising levels of poverty and social exclusion in the Union call for this new Fund. Necessary resources at European level should be made available to complement the existing cohesion instruments, in particular the European Social Fund, which do not address adequately the most deprived, too far from the labour market to benefit from purely activation measures.

The proposal has now been submitted to the European Parliament and the European Union's Council of Ministers.

The Commission hopes that these explanations address the concerns expressed by the Riksdag and looks forward to continuing our dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

¹ http://ec.europa.eu/agriculture/markets/freefood/fullimpact_en.pdf