

Brussels, - 4 MAI 2011
C/2011/2899

Dear Marshal,

The Commission welcomes the opinion issued by the Sejm of the Republic of Poland concerning 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 support schemes for farmers {COM(2010)539 final}.

It takes note that this opinion states that the above – mentioned proposal does not comply with the principle of subsidiarity and expresses concern that the proposal would empower the Commission to adopt acts in areas which are not, or only partially, regulated at EU level.

With regard to delegated acts, the Sejm considers that the delegations granted to the Commission are excessively wide and that such delegations should be defined in a clear, precise and detailed manner, with specified limits which the acts adopted must not exceed.

With regards to implementing acts, the Resolution regrets that the Commission is empowered to adopt implementing acts under the amended Regulation in a situation where the procedure for their control by the Member States remains unknown.

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, and which are already implemented in Commission Regulations (EC) No 1120/2009, No 1121/2009 and No 1122/2009, 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 and there is a need for a uniform application.

The Commission underlines that the alignment exercise does not imply any new or additional power for the Commission. In addition, the Commission powers included in

Mr Grzegorz Schetyna
Marshal of the Sejm
of the Republic of Poland
4/6 Wiejska str.
00-902 Warsaw

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. Consequently, the Commission believes that the proposal respects the subsidiarity principle in relation to Member State competences in the agricultural sector.

As regards in particular Article 45a(3)(a) of amended Regulation (EC) 73/2009, the Commission wishes to make clear that it has no intention of defining "inheritance" and "anticipated inheritance", but only to provide a legal basis for the current Article 3(4) of Commission Regulation (EC) No 1120/2009, which states that the definition in the national legislation for "inheritance" and "anticipated inheritance" shall be used.

Finally, I would like to inform you that in the Commission Communication on Article 290 of the Treaty on the Functioning of the European Treaty (COM(2009)673 final) the Commission committed to consult, in the preparatory phase, experts from the Member States who will be responsible for implementing the delegated acts once they have been adopted. As for the legal framework for implementing acts, the new Regulation has entered into force on 1 March 2011.

The Commission hopes that these explanations address the concerns of the Sejm of the Republic of Poland as expressed in its opinion.

Yours faithfully,