



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Legal Affairs

10.3.2011

NOTICE TO MEMBERS

(28/2011)

Subject: Reasoned opinion by the Chamber of Deputies of the Grand Duchy of Luxembourg on the proposal for a regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (COM(2010)0799 – C7-0008/2011 – 2010/0385(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, any national parliament may, within eight weeks from the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

Under Parliament's Rules of Procedure, the Committee on Legal Affairs is responsible for compliance with the subsidiarity principle.

Please find attached, for information, a reasoned opinion by the Chamber of Deputies of the Grand Duchy of Luxembourg on the above-mentioned proposal.

RESOLUTION

The Chamber of Deputies,

- having regard to Rule 168 of the Rules of Procedure of the Chamber of Deputies;
- whereas the proposal for a regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), a Commission legislative proposal (COM(2010)799) that must be assessed for its compliance with the principle of subsidiarity, was referred to the Committee on Agriculture, Wine-Growing and Rural Development;
- whereas, at its meeting of 7 March 2011, the Committee on Agriculture, Wine-Growing and Rural Development adopted a reasoned opinion on the aforementioned legislative proposal;

has decided to endorse the following reasoned opinion of the Committee on Agriculture, Wine-Growing and Rural Development:

‘The Committee on Agriculture, Wine-Growing and Rural Development, having examined the compatibility of the provisions of the proposal for a regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) with the principle of subsidiarity, hereby expresses reservations concerning the aforementioned proposal, for the following reasons:

Preliminary remarks

The Committee on Agriculture, Wine-Growing and Rural Development notes that Council Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) is to be amended following the entry into force of the Treaty on the Functioning of the European Union (TFEU), in particular Articles 290 and 291 thereof.

The Committee on Agriculture, Wine-Growing and Rural Development points out that the alignment of European legislation with the Lisbon Treaty should be based on the assurance of sufficient and adequate legislative stability.

The Committee underlines that the decision to make use of delegated acts (Article 290 TFEU) must be taken with due care and be reserved for specific and limited circumstances. Overall, the proposal provides for an excessive number of delegated acts, which, furthermore, are not satisfactorily defined as regards their objectives, content and scope.

The wording ‘...the Commission *may* adopt, by means of delegated acts...’ is not sufficiently precise and may cause legal contradictions.

Moreover, many of these acts are technical in nature and concern the uniform implementation of legislation across the European Union.

In principle, therefore, it should be possible to define many of the provisions and measures in question in implementing acts, and not in delegated acts.

It should also be noted that, in order to ensure the requisite quality and applicability of delegated acts, Member State experts should be consulted at the appropriate stage and their opinions duly taken into account by the Commission.

After all, implementation of the Single CMO Regulation is currently based on close cooperation with the Member States, which are represented by national experts, in particular on the 'Single CMO' Management Committee.

The Committee on Agriculture, Wine-Growing and Rural Development considers that the proposed changes, in delegating such broad powers to the Commission, will greatly undermine Member States' capacity to play an active part in the decision-making process, with the result that the diversity of expertise acquired by the Member States at regional level, which is vital to the satisfactory application of all legislation concerning the common organisation of markets, can no longer be taken into account.

Analysis of the compatibility of the provisions of the proposal for a regulation with the principle of subsidiarity

The Commission proposal omits certain elements from Annex V, making the Commission alone competent in this area through its adoption of the measures in question by means of delegated acts.

Thus, at present, Annex V(A)(III) to Regulation (EC) No 1234/2007 (Single CMO Regulation) states generally and unconditionally that Member States may subdivide the classes of bovine carcasses into three subclasses. The Commission proposal deletes this general provision and lays down in its Article 35(3)(a) the possibility of authorisation by means of delegated acts.

Annex V(A)(IV) of the same Regulation states generally and unconditionally that Member States may opt for a different presentation of bovine carcasses for the purpose of establishing market prices. The Commission proposal deletes this general provision and lays down in its Article 35(3)(b) the possibility of authorisation by means of delegated acts.

In the same way, Annex V(B)(III) of Regulation (EC) No 1234/2007 states generally and unconditionally that Member States may opt for a different presentation of porcine carcasses under certain circumstances. The Commission proposal deletes this general provision and lays down in its Article 35(3)(d)(i) the possibility of authorisation by means of delegated acts.

Similarly, Annex V(C)(IV) states generally and unconditionally that Member States may opt for a different presentation of ovine carcasses under certain circumstances. The Commission proposal deletes this general provision and lays down in its Article 35(3)(d)(ii) the possibility of authorisation by means of delegated acts.

These four provisions fail to respect the political status quo, strip the Member States of certain competences and infringe the principle of subsidiarity. The proposal also greatly oversteps its aim of merely bringing the legislation in line with the TFEU.

Articles 35(3)(a), 35(3)(b), 35(3)(d)(i) and 35(3)(d)(ii) should be deleted and Annexes V(A)(III), V(A)(IV), V(B)(III) and V(C)(IV) reworded in accordance with the original text of Regulation (EC) No 1234/2007.

Conclusion

The proposal for a regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) sets out to weaken Member States' role in the decision-making process. It confers on the Commission excessive powers to adopt delegated acts and contains a number of provisions that are incompatible with the principle of subsidiarity.'

Resolution adopted by the Chamber of Deputies
at its public sitting of 8 March 2011

The Secretary-General,
[Signature]
Claude Frieseisen

The President,
[Signature]
Laurent Mosar