



9.12.2010

## **NOTICE TO MEMBERS**

**(35/2010)**

**Subject:** Reasoned opinion from the Chamber of Deputies of the Grand Duchy of Luxembourg on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)  
(COM(2010)0537 – C7-0295/2010 – 2010/0266(COD))

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

According to the European Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for the respect of the principle of subsidiarity.

Please find attached for your information a reasoned opinion from the Chamber of Deputies of the Grand Duchy of Luxembourg on the above proposal.

## RESOLUTION

### The Chamber of Deputies

- having regard to Rule 168 of the Rules of Procedure of the Chamber of Deputies,
- whereas the Committee on Agriculture, Wine-growing and Rural Development has had referred to it a proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (COM(2010) 537 final),
- whereas at its meeting of 25 November 2010 the Committee on Agriculture, Wine-growing and Rural Development adopted a reasoned opinion on the above-mentioned legislative proposal,

### **Decides to endorse that opinion of the Committee on Agriculture, Wine-growing and Rural Development, which reads as follows:**

The Committee on Agriculture, Wine-growing and Rural Development expresses reservations concerning the above proposal for the following reasons:

#### **Preliminary observations:**

- The Committee on Agriculture, Wine-growing and Rural Development notes that no grounds are stated for this proposal in the light of the principle of subsidiarity.
- The Committee on Agriculture, Wine-growing and Rural Development stresses that the alignment of European law with the Lisbon Treaty must be based on ensuring sufficient and adequate legislative stability.

The resort to delegated acts (Article 290 TFEU) implies the possibility of frequent amendments to basic legislation, whereas businesses and national administrations require stability in the implementation of policies. Excessively frequent changes to the rules harm their proper application and hence their effectiveness.

- The Committee on Agriculture, Wine-growing and Rural Development considers that major economic and political changes to basic legislation should be made by means of the normal legislative procedure.

#### **Delegation of powers:**

- Bearing in mind that the use of delegated acts is reserved exclusively for cases in which it is necessary to supplement or modify certain non-essential elements of the underlying legislative act, the Committee on Agriculture, Wine-growing and Rural Development stresses that any decision to make use of delegated acts must be taken with due circumspection and be reserved for precise and limited circumstances.
- Moreover, as there is no clear, general method for a precise demarcation among the various procedures, it will be necessary to decide case by case on the desirability of delegating power to the Commission.
- Finally, in order to ensure that delegated acts are of the requisite quality and can be applied, the experts of the Member States must be consulted in good time and their

opinions taken into account by the Commission.

**Analysis of the compatibility of the provisions in the proposal for a regulation with the subsidiarity and proportionality principles:**

- The Committee on Agriculture, Wine-growing and Rural Development notes (i) the need to amend farm legislation due to the entry into force of the Lisbon Treaty converting the Treaty establishing the European Community into the Treaty on the Functioning of the European Union and (ii) the substance of the proposal for a regulation, which consequently provides for broad powers to be delegated to the Commission to adopt various rules and conditions, particularly with a view to consistent application of the measures in the light of political and legislative requirements.
- The Committee on Agriculture, Wine-growing and Rural Development considers that certain provisions in the proposal for a regulation under consideration are not compatible with the subsidiarity principle.

For example, in particular, the new Article 36a which is inserted stipulates that the Commission may adopt '*specific conditions*' to apply the measures referred to in Article 36 '*in order to ensure an efficient and targeted use of funds and to ensure a coherent approach in the treatment of beneficiaries*'.

The measures provided for in Article 36 bring together all the instruments of Axis 2 of rural development, including in particular agri-environmental measures and support for farmers in disadvantaged areas, measures which are vital to Luxembourg's agriculture.

These measures have always been instituted by Member States in response to national, regional and local needs and circumstances, in the spirit of subsidiarity.

These measures are also included in Member States' national rural development programmes approved by the Commission.

- The Committee on Agriculture, Wine-growing and Rural Development considers that the above provision, by virtue of which the Commission may in a general way which is not specified adopt by means of delegated acts specific rules as provided for by Article 36a of the proposal for a regulation under consideration, may fail to respect either the subsidiarity principle or the principle that delegated acts should be confined to non-essential elements of the instrument.
- In this context, the Committee on Agriculture, Wine-growing and Rural Development has doubts about the exact meaning of the term '*specific conditions*', which it considers to be a concept both too vague and inappropriate.
- In addition, delegated acts may be resorted to only for elements of general application. Yet, as indicated above, second-pillar measures, particularly those of the agri-environmental variety, are adopted taking into account local needs, which by their nature differ greatly from region to region. Resort to generally applicable delegated acts is liable to impede this necessary flexibility.'

Resolution adopted by the Chamber of Deputies at its public sitting of 30 November 2010

The Secretary-General	The President
/signature/	/signature/
Claude Frieseisen	Laurent Mosar