Common organisation of agricultural markets and specific provisions for certain agricultural products (Single CMO Regulation)

2010/0385(COD) - 04/07/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 649 votes to 24, with 15 abstentions, a legislative resolution 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).

Parliament's position adopted at first reading, under the ordinary legislative procedure, amends the Commission proposal as follows:

Council powers under Article 43(3) TFEU: Article 43(3) TFEU stipulates that "The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aids and quantitative limitations". This is an exception from Article 43(2) TFEU which requires the ordinary legislative procedure (OLP) to be used "to establish the common organisation of agricultural markets … and the other provisions necessary for the pursuit of the objectives of the common agricultural policy". Indeed, the Lisbon Treaty has turned the OLP into the standard procedure for the adoption of EU legislative acts. As an exception, **Article 43(3) TFEU needs therefore to be interpreted restrictively** so as to ensure that the Legislator can exercise its legislative prerogatives under Article 43(2) TFEU.

Parliament considers that the Commission proposal on the Single CMO has not respected the principle that Article 43(3) TFEU needs to be interpreted restrictively. Defining conditions and criteria for fixing aid amounts, export refunds and minimum export prices should remain with the Legislator, leaving to the Commission only the fixing of amounts through implementing acts. Hence the proposal runs against the Legislator's prerogatives under Article 43(2) TFEU.

Against this background, Parliament notes that Article 43(3) TFEU should not apply. Instead, the content of the recent Commission proposal for a Council Regulation determining measures on fixing certain aids, refunds and prices related to the single common organisation of agricultural markets should replace the corresponding parts of the new Single CMO Regulation. That Commission proposal for a Council Regulation essentially reproduces the corresponding provisions of the existing Single CMO Regulation 1234/2007.

Delegated and implementing acts: several amendments introduced by the Members aim to update the text by in order to reflect:

- the common understanding reached between the institutions on the use of delegated acts (Article 290 TFEU) which the Council and the European Parliament must formally adopt;
- as well as the recent entry into force of the Regulation on implementing acts (Regulation (EU) No. 182/2011of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers).

The power to adopt the **delegated acts is conferred on the Commission subject to certain conditions**. The delegation of power shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. A delegated act shall enter into force only if no objection has been

expressed either by the Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council. That period shall be extended by two months at the initiative of the European Parliament or the Council.

When the Commission prepares the delegated acts, it shall pay particular attention being paid to the principles of territorial cohesion so as to take account of the impact on regional markets, the economies of which largely depend on this type of product.

Amendments seeking to replace implementing acts with delegated acts: the resolution notes that the terms as "conditions", "obligations" and any type of "rules" implying obligations constitute wording normally used for delegated acts - not for implementing acts. The same applies for the modification of non-essential elements laid down in the basic act: they should be modified only by means of delegated acts (e.g. in the Single CMO Commission proposal: dates, non-application of certain paragraphs, measures for emergency situations).

For the sake of legal clarity, the implementing powers granted to the Commission regarding **penalties** should be regrouped in the horizontal articles.

Annex V: Parliament believes that the codification of the CMO must be on the basis of established law. Accordingly, the entire text of the existing annex should be included.