Basic information

2010/0385(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure lapsed or withdrawn
Common organisation of agricultural markets and specific provisions for certain agricultural products (Single CMO Regulation) **Subject** 3.10 Agricultural policy and economies	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	AGRI Agriculture and Rural Development	DE CASTRO Paolo (S&D)	26/01/2011
		Shadow rapporteur JAHR Peter (PPE) LYON George (ALDE)	
Council of the European Union			
European Commission	**Commission DG**	**Commissioner**	
	Agriculture and Rural Development	CIOLOŞ Dacian	

Key events

Date	Event	Reference	Summary
21/12/2010	Legislative proposal published	COM(2010)0799	Summary
18/01/2011	Committee referral announced in Parliament, 1st reading		
26/09/2011	Vote in committee, 1st reading		
07/10/2011	Committee report tabled for plenary, 1st reading	A7-0322/2011	Summary
03/07/2012	Debate in Parliament		
04/07/2012	Decision by Parliament, 1st reading	T7-0280/2012	Summary
04/07/2012	Results of vote in Parliament		
07/03/2015	Proposal withdrawn by Commission		

Technical information

Procedure reference	2010/0385(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 42-p1-a1 Treaty on the Functioning of the European Union TFEU 043-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	AGRI/7/04935

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE464.705	30/05/2011	
Amendments tabled in committee		PE467.307	28/06/2011	
Committee report tabled for plenary, 1st reading/single reading		A7-0322/2011	07/10/2011	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0280/2012	04/07/2012	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0799	21/12/2010	Summary
Commission response to text adopted in plenary	SP(2012)627	19/09/2012	

National parliaments

Document type	Parliament/Chamber	Reference	Date	Summary
Contribution	UK_HOUSE-OF-LORDS	COM(2010)0799	28/02/2011	
Contribution	PT_PARLIAMENT	COM(2010)0799	08/03/2011	
Contribution	DK_PARLIAMENT	COM(2010)0799	09/03/2011	
Contribution	IT_SENATE	COM(2010)0799	15/03/2011	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0537/2011	15/03/2011	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

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

2010/0385(COD) - 21/12/2010 - Legislative proposal

PURPOSE: to align Council Regulation (EC) No 1234/2007 on the Single Common Market Organisation with the differentiation between delegated and implementing powers of the Commission introduced by Articles 290 and 291 TFEU.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

LEGAL BASE: Article 42, first subparagraph and Article 43(2) TFEU.

CONTENT: Articles 290 and 291 TFEU establish a clear distinction between, on the one hand, the powers delegated to the Commission to adopt non-legislative acts and, on the other, the powers conferred on the Commission to adopt implementing acts:

Article 290 TFEU allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. Legal acts adopted by the Commission in this way are referred to in the terminology used by the Treaty as delegated acts;

Article 291 TFEU requires Member States to adopt all measures of national law necessary to implement legally binding Union acts. Those acts can confer implementing powers on the Commission where uniform conditions for implementing them are needed. Legal acts adopted by the Commission in this way are referred to as implementing acts.

IMPACT ASSESSMENT: no need for an impact assessment since the proposal to align Council Regulation (EC) No 1234/2007 to the Lisbon Treaty is an inter-institutional matter that will concern all Council Regulations.

CONTENT: the Commission proposes to align Regulation (EC) No 1234/2007 to the new requirements of Articles 290 and 291 TFEU. The proposal is based on a careful qualification of the existing Commission powers under Regulation (EC) No 1234/2007 as "delegated" and "implementing". This was done against the background of the implementing measures adopted by the Commission on the basis of its current powers.

With regard to Article 290 TFEU, a Commission delegated act may determine the additional elements necessary for the proper functioning of the common market organisation established by the Legislator. For example, the Commission shall adopt delegated acts in order to lay down the conditions for operators for taking part in a scheme, the obligations deriving from the issue of a licence and, if necessary depending on the economic situation, whether it requires a guarantee for issue of licences. Similarly, the Legislator delegates to the Commission the power to adopt measures to establish eligibility criteria for products as regards market intervention. In addition, the Commission may adopt delegated acts regarding definitions.

With regard to Article 291 TFEU, the proposal specifies that in order to ensure that the CMO is implemented in Member States in a uniform manner and to avoid unfair competition or discrimination between operators, the Commission will be able to adopt implementing acts in accordance with Article 291(2) of the Treaty. The Commission will, therefore, be granted implementing powers under that provision, in particular as regards the uniform conditions under which market intervention measures apply, the uniform conditions for implementing aid schemes and for applying rules concerning marketing and production, and rules related to trade with Third countries. The Commission should also define the minimum characteristics for checks which Member States must apply.

In this proposal, the Commission also deals with **Council powers under Article 43(3) TFEU**. This provision stipulates that the Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aids and quantitative limitations. The provision forms an exception to Article 43(2) TFEU which requires the ordinary legislative procedure 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. This reflects the general trend in the Lisbon Treaty which has turned the ordinary legislative procedure into the standard procedure for the adoption of EU legislative acts.

As an exception **Article 43(3) TFEU needs to be interpreted restrictively** so as to ensure that the Legislator can exercise its legislative prerogatives under Article 43(2) TFEU. This includes the Legislator regulating the fundamental elements of the common agricultural policy and taking the political decisions that shape its structure, instruments and effects. Against this background the specific procedure laid down in Art. 43(3) TFEU should only be applied where an issue referred to in that provision does not form part of the fundamental policy decisions reserved to the Legislator under Article 43(2) TFEU. Therefore, where such an issue is inextricably linked with the political substance of the decisions to be taken by the Legislator, Article 43(3) TFEU should not be applied.

Consequently, the proposal is based on the following principles:

- the structural parameters and fundamental elements of the CAP may only be decided by the Legislator. For example, the public intervention (including the framework for the determination by the Commission of certain intervention prices by means of the tendering procedure) and milk and sugar quota schemes established by Regulation 1234/2007 should be decided by the Legislator, as these elements are inextricably linked to the definition of the content of the scheme established by the Legislator and the boundaries of this regime;
- measures on fixing prices, levies, aids and quantitative limitations as referred to in Article 43(3) which do not fall in the scope of Article 43(2) TFEU shall be taken by the Council. The Commission will submit a proposal for a Regulation based on Article 43(3) TFEU as regards the provisions in Article 21 on the conditions for mandatory aid for private storage of butter, in Article 99 on the production refund in the sugar sector, in Articles 101 and 102 on aids in the milk and milk products sector, in Article 108 on the supply of milk products to pupils, in Article 155 on aids in the silkworm sector, in Article 273 on export refunds and in Article 281 on live plants minimum export prices.

The proposed Regulations will, in respect of these provisions, provide that the conditions for fixing of aid amounts, export refunds and minimum export prices should be determined by the Council under Article 43(3) TFEU and that amounts of such aids, refunds and price levels should be fixed by the Commission by means of implementing acts.

The Commission will submit the proposals that need to be made with regard to Article 43(3) TFEU in due course to the Council.

Lastly, the content of the **following proposals is integrated** into this proposal:

- European Parliament legislative resolution of 23 November on the proposal for a Regulation amending Council Regulation (EC) No 1234/2007 (Single CMO Regulation) as regards the aid granted in the framework of the German Alcohol Monopoly;
- proposal for a Regulation amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union;
- proposal to amend Council Regulation (EC) No 1234/2007 as regards marketing standards;
- proposal to amend Council Regulation (EC) No 1234/2007 as regards contractual relations in the milk and milk products sector.

BUDGETARY IMPLICATION: this measure does not involve any additional Union expenditure.

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

2010/0385(COD) - 07/10/2011 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Agriculture and Rural Development adopted the report drafted by Paolo DE CASTRO (S&D, IT) 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).

It recommends that the European Parliament's position adopted at first reading, under the ordinary legislative procedure, should amend the Commission proposal as follows:

Council powers under Article 43(3) TFEU: in the report, it is recalled that 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.

Members consider 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, the report 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).

Amendments seeking to replace implementing acts with delegated acts: the report 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).

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.

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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.