

Complaint CHAP(2012) 1860 — Acknowledgement of receipt and information about planned closure

(2013/C 57/08)

The European Commission has received and registered under reference CHAP(2012) 1860 a large number of complaints against new legislation in Poland on the State-owned agricultural estate management limiting the size of agricultural land leased to farmers and an obligation for leaseholders to purchase farms within a certain time.

Given the number of complaints received on this subject, and in order to ensure a rapid response to and information of those concerned while making the most economical use of its administrative resources, the Commission is publishing this information in the *Official Journal of the European Union* and on the Internet at: http://ec.europa.eu/eu_law/complaints/receipt/index_en.htm

Following examination of the complaints, the Commission services have concluded that it is not possible, at this stage, to identify an infringement of EU law in this case.

The complaints suggest that the Polish legislation is contrary to Articles 15, 17 and 20 of the Charter of Fundamental Rights of the European Union and Article 2(a) and (b) of Regulation (EC) No 73/2009.

As regards the alleged violation of Article 2(a) and (b) of Regulation (EC) No 73/2009, containing the definitions of the terms 'farmer' and 'holding', it does not seem that the measures described in the complaint are contrary to this Article, since these definitions do not refer to the size of agricultural land for holdings in order to receive direct payments. This Regulation does not regulate contractual relations between tenants and landowners related to the size of their holdings.

The only requirement referring to size of agricultural land for holdings in order to receive direct payments is provided in Article 124(2), third sub-paragraph, of the Regulation, which states:

'The minimum size of eligible area per holding for which payments may be requested shall be 0,3 ha. However, any new Member State may decide, on the basis of objective criteria and after approval by the Commission, to set the minimum size at a higher level not exceeding 1 ha.'

In accordance with Article 88 and Annex VII to Regulation (EC) No 1121/2009, Poland has set at one hectare the minimum size of eligible area per holding for which payments may be requested. Consequently, Polish farmers with holdings with a minimum area of 1 ha are entitled to receive payments under the single area payment scheme, and the national measures applicable to farmers with holdings over 300 ha, as described in the complaint, are not contrary to provisions of Regulation (EC) No 73/2009 and Regulation (EC) No 1121/2009.

This interpretation does not prejudice any decision by the Court of Justice of the European Union, which alone is competent to hand down legally binding rulings on the validity and interpretation of acts adopted by the EU institutions.

As regards the alleged breach of Article 15 of the Charter of Fundamental Rights of the EU, it may be noted that the Charter does not apply to every situation of an alleged violation of fundamental rights. According to its Article 51(1), the Charter applies to Member States only when they are implementing European Union law. On the basis of the information provided and in the light of the analysis above, it does not appear that the matter to which the complaints refer is related to the implementation of European Union law.

Moreover, it may be noted that Article 6(1) of the Treaty of the European Union states that, '[t]he provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties' and Article 345 of the Treaty on the Functioning of the European Union provides that this Treaty shall not prejudice the rules in Member States governing the system of property ownership. The latter provision empowers the Member States to define the system of property ownership within their territories, including limiting leaseholders' rights to lease or to purchase agricultural land, and the Commission has no authority to act in this field.

Taking into consideration the preceding elements, the Commission services will propose to the Commission that the case be closed.

Should the complainants consider they have new information that may lead the Commission to reconsider the proposal to close the case, this should be submitted to the Commission within a month of the publication of this notice. In the absence of any such new information, the Commission may close the case.
