

Opinion of the European Economic and Social Committee on the ‘Proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the Common Agricultural Policy’

COM(2010) 772 final — 2010/0372 (COD)

(2011/C 132/16)

Rapporteur working alone: **Mr MIRA**

On 18 January the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the Common Agricultural Policy

COM(2010) 772 final — 2010/0372 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 176 votes to two with 14 abstentions.

1. Conclusions and recommendations

1.1 The alignment of Regulation No 378/2007 (voluntary modulation of direct payments under the CAP) to the Lisbon Treaty makes a distinction between the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of legislative acts (delegated acts), and the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts (implementing acts). The EESC is a firm believer in consultation of stakeholders and Member States during the preparation of Community legislation, and underscores the need for it to continue.

1.2 The EESC agrees that the Commission should fix the net amounts resulting from voluntary modulation by means of implementing acts without the assistance of a committee, so as to ensure that procedures are swift and effective.

1.3 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Rural Development Committee in order to ensure the integration of voluntary modulation in rural development programming.

1.4 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Committee on Agricultural Funds in order to ensure the financial management of voluntary modulation.

2. Comments

2.1 Voluntary modulation is an optional instrument involving the transfer of up to 20 % of total direct aid under the first pillar to be assigned directly to rural development, without any redistribution. In other words, the modulated sum (taken from the first pillar) is exactly the same as the sum which ‘enters’ the second pillar in each Member State: there is no obligation for co-funding.

The only Member States to request use of this provision have been Portugal and the United Kingdom, although Portugal has never actually applied it as it already has a balance between the two pillars of the CAP.

2.2 The UK is the only Member State which uses voluntary modulation to transfer a percentage of direct payments under the first pillar for rural development purposes. This transfer boosts the amount which the UK has available for funding rural development.

2.3 The Commission proposals to amend Regulation No 378/2007 (voluntary modulation of direct payments under the CAP) involve the following types of amendment:

— Amendments relating to alignment with the Lisbon Treaty

- Granting the Commission powers to adopt implementing acts to ensure that voluntary modulation is applied uniformly in all Member States
- Granting the Commission powers to fix the net amounts resulting from the application of voluntary modulation by means of implementing acts, without the assistance of a committee.

2.4 The Lisbon Treaty establishes two new categories of judicial acts: delegated acts and implementing acts

2.5 In the case of delegated acts, the legislator delegates to the Commission the power to adopt acts which amend non-essential elements of a legislative act. Delegated acts may specify certain technical details or consist of a subsequent amendment to certain elements of a legislative act. The legislator can thus concentrate on policy direction and objectives without entering into overly technical debates. However, this delegation has strict limits as only the Commission can be authorised to adopt delegated acts. Furthermore, the legislator sets the conditions under which the delegation may occur. Article 290 of the Treaty on the Functioning of the European Union (TFEU) thus stipulates that the Council or the European Parliament may revoke a delegation or limit its duration.

2.6 In the case of implementing acts, the Lisbon Treaty also strengthens the Commission's implementing powers. The application of EU law in the Member States is in principle a matter for the Member States. However, certain EU measures need to be applied uniformly across the EU and in these cases the Commission may adopt implementing acts on their application.

Until the Lisbon Treaty came into force, implementing power lay with the Council, which delegated the adoption of implementing acts to the Commission. Article 291 TFEU now recognises the conferred power of the Commission. Thus,

when EU measures need to be applied uniformly in the Member States the Commission is directly authorised to adopt implementing acts.

3. Final comments

3.1 Although this does not concern alignment with the Lisbon Treaty, the EESC draws attention to the importance of the forums represented by advisory bodies in the consultation of civil-society stakeholders. The role of these dialogue forums must not be called into question: they play an essential role in relaying specialist knowledge and positions to the Commission, and in familiarising stakeholders with legislation under preparation at an early stage.

3.2 The EESC notes that the Council and Commission have differing interpretations of the borderline between delegated acts and implementing acts. It therefore considers that the choice of procedure for each act must be based on clear criteria.

3.3 Other decisions may require prior consultation of the Member States in order to ensure good mutual understanding. This also enables the Commission to benefit from the specialist knowledge of the Member States.

3.4 The EESC agrees that the Commission should fix the net amounts resulting from voluntary modulation by means of implementing acts without the assistance of a committee, so as to ensure that procedures are swift and effective.

3.5 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Rural Development Committee in order to ensure the integration of voluntary modulation in rural development programming.

3.6 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Committee on Agricultural Funds in order to ensure the financial management of voluntary modulation.

Brussels, 15 March 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON
