



EUROPEAN PARLIAMENT

2014 - 2019

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*Committee on Constitutional Affairs*

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**2014/2252(INI)**

7.5.2015

# OPINION

of the Committee on Constitutional Affairs

for the Committee on Legal Affairs

on the annual reports 2012-2013 on subsidiarity and proportionality  
(2014/2252(INI))

Rapporteur: Kazimierz Michał Ujazdowski

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## SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Welcomes in this respect the fact that the Commission verifies ex ante if its proposals are necessary and if the objectives of the action envisaged cannot be sufficiently achieved by the Member States, and that it justifies its action in relation to the principles of subsidiarity and proportionality, in accordance with Article 5 of the Protocol on the application of the principles of subsidiarity and proportionality; strongly underlines the importance of impact assessments for ensuring compliance with these two principles in the preparation of legislative proposals; underlines equally that ensuring compliance with the principles of subsidiarity and proportionality should also be a priority for the Commission when it assesses existing EU policies;
2. Recalls that subsidiarity is also protected by the fact that no European legislation can be adopted without the approval of a large majority of national ministries (accountable to national parliaments) in the Council;
3. Notes that subsidiarity is, in practice, only an issue for a small minority of legislative proposals, as illustrated by the fact that the ‘orange card’ procedure has never been triggered and the ‘yellow card’ procedure has only been triggered twice in six years; considers that national parliaments are likely to be interested in the substance of proposals rather than only in subsidiarity and notes that many national parliaments are strengthening their procedures to enable them to influence the position adopted by the Minister in the Council;
4. Notes that the principle of subsidiarity, as laid down in the Treaties, allows the Union, in areas which do not fall within its exclusive competence, to act only ‘if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level’; points out that subsidiarity, a neutral legal principle related to the concept of optimum level of action, can serve either, when the circumstances so require, to extend Union activities, albeit without its powers being exceeded, or, conversely, to restrict or halt Union action when it is no longer justified;
5. Emphasises that the use of the European Union’s competences should be guided by the principles of subsidiarity and proportionality, as stated in Article 5 TEU; welcomes the fact that in 2012 and 2013 compliance with these two principles was carefully scrutinised by the EU institutions and by national parliaments;
6. Appreciates the work of the Impact Assessment Board on the issues concerning the subsidiarity and proportionality of legal measures, and appeals for stronger cooperation with the Committee of the Regions and the AFCCO Committee already at this level of the procedure on the two related issues;

7. Calls for local and regional parliaments to be consulted on a regular basis and not just on one-off issues;
8. Underlines the noteworthy growth in information exchanged by national parliaments through the IPEX system, and notes the increase in the number of reasoned opinions issued by national parliaments (+ 9 % in 2012, + 25 % in 2013); welcomes the closer involvement of national parliaments in the European legislative process, particularly as regards scrutinising legislative proposals in the light of the principles of subsidiarity and proportionality;
9. Highlights that in both 2012 and 2013 national parliaments used the yellow card procedure in the context of the subsidiarity control mechanism; considers therefore that national parliaments improved their capacity to use the prerogatives they have in the subsidiarity control mechanism; strongly encourages national parliaments to further develop cooperation among themselves in order to make full use of the role they are given by the existing treaties;
10. Is aware that many national parliaments wish to influence the substance of legislation rather than simply comment on the relatively few cases in which subsidiarity might be an issue; welcomes the contributions submitted to the Commission under the 'Barroso initiative'; considers that the most effective way for national parliaments to exert such influence is by shaping the position taken by their countries' ministers ahead of Council meetings and that the 8-week period can also be used for this purpose;
11. Maintains that the European institutions have to enable the national parliaments to scrutinise legislative proposals and that the Commission should accordingly provide detailed and comprehensive statements of reasons for its decisions concerning subsidiarity and proportionality;
12. Underlines its commitment to ensuring compliance with principles of subsidiarity and proportionality through assessments of its own legislative own-initiative reports, ex-ante appraisals of Commission impact assessments and the constant assessment of the potential EU added value and the 'cost of non-Europe';
13. Notes, however, that a majority of opinions by national parliaments are submitted by only a few national chambers, and encourages the other chambers to become more involved in the European debate;
14. Believes that a discussion on the extension of the period given to national parliaments to issue a reasoned opinion under Article 6 of the Protocol on the application of the principles of subsidiarity and proportionality could be fruitful with a view to identifying possible improvements to the current legislative framework; considers that meanwhile the period given to national parliaments to issue a reasoned opinion should be measured flexibly; recalls that any modification of this deadline would imply Treaty change; recommends therefore engaging in this reflection in due time in order to allow the question of the involvement of national parliaments to be discussed before the next modification of the Treaties; stresses that, in the debate around the extension of the current period given to national parliaments, the question of the role of regional parliaments could be considered, as well as the question of resources at the disposal of national parliaments;

appeals also to the Commission to pronounce on the question of the national parliament 'green card' initiative;

15. Believes that, given their experience, national parliaments could bring significant contributions to the European debate and decision-making process; encourages national parliaments, therefore, to make full use of the competences they were given by the existing treaties, including by further developing cooperation among themselves;
16. Suggests that one new measure to consider might be a 'green card' procedure, whereby national parliaments would be able to set the European legislative process in motion and in that way play a constructive role in European law-making; is of the opinion that such a procedure could be established through a voluntary undertaking by the Commission and would not require amendment of the Treaties;
17. Points out that 2012 saw the first use of the yellow card procedure by national parliaments regarding the principle of subsidiarity in response to the Commission's proposal for a regulation on the exercise of the right to take collective action within the context of freedom of establishment and the freedom to provide services (Monti II); notes that, although the Commission concluded that the principle of subsidiarity had not been breached, it did withdraw the proposal owing to a lack of political support; remarks that a second yellow card procedure was triggered in 2013 on the Commission's proposal for a Council regulation on the establishment of the European Public Prosecutor's Office (EPPO); notes that the Commission concluded that the proposal complied with the principle of subsidiarity and decided to maintain it;
18. Underlines the huge potential impact of EU-level decisions that the conclusion of international trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP) and the Comprehensive Economic and Trade Agreement (CETA) may have on the capacity of regional and local self-government, including on decisions on services of general economic interest; calls on the Commission and on the Council to take full account of the principles of subsidiarity and proportionality when negotiating international trade agreements and to report to Parliament their potential effects on subsidiarity;
19. Notes that reasoned opinions issued by national parliaments point out the existence of various interpretations of the principles of subsidiarity and proportionality; recalls in this context that the subsidiarity principle as formulated in the Treaties allows the Union to act in areas which do not fall within its exclusive competence only 'if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of scale or effects of the proposed action, be better achieved at Union level'; recalls equally that 'under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objective of the Treaties'; encourages national parliaments to be faithful to the letter of the TEU when assessing compliance with the principles of subsidiarity and proportionality; strongly recommends that national parliaments and European institutions engage in exchanges of views and practices of scrutinising subsidiarity and proportionality.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	5.5.2015
<b>Result of final vote</b>	+ : 22 - : 0 0 : 0
<b>Members present for the final vote</b>	Mercedes Bresso, Fabio Massimo Castaldo, Kostas Chrysogonos, Richard Corbett, Esteban González Pons, Danuta Maria Hübner, Ramón Jáuregui Atondo, Jo Leinen, Morten Messerschmidt, Maite Pagazaurtundúa Ruiz, Paulo Rangel, György Schöpflin, Pedro Silva Pereira, Barbara Spinelli, Claudia Tapardel, Josep-Maria Terricabras, Kazimierz Michał Ujazdowski
<b>Substitutes present for the final vote</b>	Max Andersson, Sylvie Goulard, David McAllister, Cristian Dan Preda, Viviane Reding