



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Constitutional Affairs

2011/2276(INI)

31.5.2012

AMENDMENTS

1 - 22

Draft opinion
Evelyn Regner
(PE483.487v01-00)

18th report on Better legislation - Application of the principles of subsidiarity
and proportionality (2010)
COM(2011)0344

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United in diversity

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AM_Com_NonLegOpinion

Amendment 1
Andrew Duff

Draft opinion
Paragraph 1

Draft opinion

1. *Suggests* that the *institutions involved in lawmaking* should be *reminded of* the *guidelines contained in Protocol 30 of the Amsterdam Treaty on the Application of the principles of subsidiarity and proportionality in relation to the testing of the aforesaid principles, so as to foster their correct application;*

Amendment

1. *Proposes* that the *Interinstitutional Agreement on better law making of 2003* should be *renegotiated to reflect* the Treaty of *Lisbon* and the *practical changes to legislative procedures that have since taken place;*

Or. en

Amendment 2
Paulo Rangel

Draft opinion
Paragraph 1

Draft opinion

1. Suggests that the institutions involved in lawmaking should be reminded of the *guidelines contained in Protocol 30 of the Amsterdam Treaty on the Application of the principles of subsidiarity and proportionality in relation to the testing of the aforesaid principles, so as to foster their correct application;*

Amendment

1. Suggests that the institutions involved in lawmaking should be reminded of the *need to ensure that* the principles of subsidiarity and proportionality *are correctly applied under the terms of Protocol No 2 annexed to the Treaty on the Functioning of the European Union;*

Or. pt

Amendment 3
Paulo Rangel

Draft opinion
Paragraph 1 a (new)

Draft opinion

Amendment

1a. Suggests assessing whether appropriate criteria should be laid down, at EU level, for evaluating compliance with the principles of subsidiarity and proportionality;

Or. pt

**Amendment 4
Alexandra Thein**

**Draft opinion
Paragraph 2**

Draft opinion

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action only and insofar as the objectives of a planned measure can be better implemented at Union level; ***takes the view that the aforesaid principle, as a dynamic concept, should be able to justify any extension of the activities of the Union within the framework of its powers;***

Amendment

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action only and insofar as the objectives of a planned measure can be better implemented at Union level; ***in this context also emphasises that the principle of subsidiarity not only applies to the relationship between the European Union and the Member States, but also encompasses the regional and local level;***

Or. de

**Amendment 5
Andrew Duff**

**Draft opinion
Paragraph 2**

Draft opinion

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action only and insofar as the objectives of a planned measure can be

Amendment

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action ***outside its areas of exclusive competence*** only and insofar as the

better *implemented* at Union level; *takes the view that the aforesaid principle, as a dynamic concept, should be able to justify any extension of the activities of the Union within the framework of its powers;*

objectives of a planned measure can be better *achieved* at Union level *rather than at national, regional or local level; urges the Commission to improve and regularise the statements which justify its legislative initiatives on the grounds of subsidiarity;*

Or. en

Amendment 6 Paulo Rangel

Draft opinion Paragraph 2

Draft opinion

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action only and insofar as the *objectives of a planned measure can be better implemented at Union level*; takes the view that *the aforesaid principle, as a dynamic concept, should be able to justify any extension of the activities of the Union within the framework of its powers;*

Amendment

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action, *in areas not falling within its exclusive competence*, only and insofar as the *Member States cannot achieve the objectives sufficiently or if, by reason of the scale or effects of the proposed action, the Union can achieve them better*; takes the view that *subsidiarity, as an objective legal principle associated with the concept of optimum level of action, may lead both to an extension of the activities of the Union within the framework of its powers, when circumstances so require, and, conversely, to the action concerned being restricted or curtailed where it is no longer justified;*

Or. pt

Amendment 7 Marietta Giannakou

Draft opinion Paragraph 2

Draft opinion

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action only and insofar as the objectives of a planned measure can be better implemented at Union level; takes the view that the aforesaid principle, as a dynamic concept, should be able to justify any extension of the activities of the Union within the framework of its powers;

Amendment

2. Recalls that, in accordance with the principle of subsidiarity, the Union will take action only and insofar as the objectives of a planned measure can be better implemented at Union level; takes the view that the aforesaid principle, as a dynamic concept, should be able to justify any extension of the activities of the Union within the framework of its powers; ***recalls that EU administrative law should be adjusted and simplified in order to reduce administrative and regulatory costs; states that, in this context, the principles of subsidiarity and proportionality should be applied accordingly;***

Or. el

Amendment 8
Andrew Duff

Draft opinion
Paragraph 3

Draft opinion

3. Notes that a distinction should be made between an impact assessment and the principle of subsidiarity, because these are different concepts with a different focus, although the impact assessment can bring ‘material’ to light for the subsidiarity test;

Amendment

deleted

Or. en

Amendment 9
Paulo Rangel

Draft opinion
Paragraph 3

Draft opinion

3. Notes that *a distinction should be made between an impact assessment and the principle of subsidiarity, because these are different concepts with a different focus, although the impact assessment can bring ‘material’ to light for the subsidiarity test;*

Amendment

3. Notes *the crucial importance of impact assessments as tools for aiding decision-making in the legislative process and stresses the need, in this context, proper consideration to be given to issues relating to subsidiarity and proportionality;*

Or. pt

Amendment 10
Paulo Rangel

Draft opinion
Paragraph 3 a (new)

Draft opinion

Amendment

3a. Welcomes the closer involvement of national parliaments in the European legislative process, particularly with regard to scrutinising legislative proposals in the light of the principles of subsidiarity and proportionality;

Or. pt

Amendment 11
Alexandra Thein

Draft opinion
Paragraph 4

Draft opinion

4. Considers it appropriate to pursue the question of whether the small number of formal, reasoned opinions from national parliaments on the subsidiarity of

Amendment

4. Considers it appropriate to pursue the question of whether the small number of formal, reasoned opinions from national parliaments on the subsidiarity of

measures, 34 in 2010, is due to the fact that the principle of subsidiarity is observed on all sides, or to the fact that the national parliaments are unable to enforce this principle because of a lack of resources; considers an analysis *by* the *European Commission* to be desirable

measures, 34 in 2010, is due to the fact that the principle of subsidiarity is observed on all sides, or to the fact that the national parliaments are unable to enforce this principle because of a lack of resources; ***points out that the conditions of Article 7(2), first sentence 1, of the Protocol on the application of the principles of subsidiarity and proportionality were fulfilled for the first time in May 2012 in connection with the proposal for a Council regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (COM(2012)130); calls on the Commission in this connection to carry out the necessary review of the draft with utmost regard for the express will of the national parliaments, as the new scrutinising procedure is intended to ensure that decisions are taken as closely to citizens as possible; considers an independent analysis on behalf of the Commission which also examines the role of regional or local parliaments in the area of subsidiarity checks to be desirable; points in this context to the IPEX Internet platform financed by the European Parliament and national parliaments, which is particularly helpful for exchanging information in connection with the scrutinising procedure;***

Or. de

Amendment 12
Andrew Duff

Draft opinion
Paragraph 4

Draft opinion

4. Considers it appropriate to pursue the question of whether the small number of

Amendment

4. Welcomes the fact that there have been few reasoned opinions of national

formal, reasoned opinions from national parliaments on the subsidiarity of measures, 34 in 2010, is due to the fact that the principle of subsidiarity is observed on all sides, or to the fact that the national parliaments are unable to enforce this principle because of a lack of resources; considers an analysis by the European Commission to be desirable;

parliaments *which object to draft legislative proposals on the grounds of a breach of* the principle of subsidiarity;

Or. en

Amendment 13
Paulo Rangel

Draft opinion
Paragraph 4

Draft opinion

4. Considers it appropriate to pursue the question of whether the small number of formal, reasoned opinions from national parliaments on the subsidiarity of measures, 34 in 2010, is due to the fact that the principle of subsidiarity is observed on all sides, or to the fact that the national parliaments are unable to enforce this principle because of a lack of resources; considers an analysis by the European Commission to be desirable;

Amendment

4. Notes that, in 2010, 211 opinions were received from national parliaments, but that only a small number of them, 34, raised subsidiarity concerns;

Or. pt

Amendment 14
Evelyn Regner

Draft opinion
Paragraph 4

Draft opinion

4. Considers it appropriate to pursue the question of whether the small number of

Amendment

4. Considers it appropriate to pursue the question of whether the small number of

formal, reasoned opinions from national parliaments on the subsidiarity of measures, 34 in 2010, is due to the fact that the principle of subsidiarity is observed on all sides, or to the fact that the national parliaments are unable to enforce this principle because of a lack of resources; ***considers*** an analysis by the Commission ***to be desirable***;

formal, reasoned opinions from national parliaments on the subsidiarity of measures, 34 in 2010, is due to the fact that the principle of subsidiarity is observed on all sides, or to the fact that the national parliaments are unable to enforce this principle because of a lack of resources; ***asks for*** an analysis by the Commission;

Or. en

Amendment 15
Paulo Rangel

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4a. Notes with concern that some opinions from national parliaments highlight the fact that, in a number of Commission proposals, the subsidiarity justification is insufficient or non-existent;

Or. pt

Amendment 16
Andrew Duff

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4 a. Notes, however, that on 22 May 2012, for the first time since the entry into force of the Lisbon Treaty, national parliaments have triggered the "yellow card" procedure by adopting reasoned opinions against the Commission proposal for a Council Regulation on the exercise of the right to take collective action within the

context of the freedom of establishment and the freedom to provide services (COM(2012) 130);

Or. en

Amendment 17
Evelyn Regner

Draft opinion
Paragraph 4 a (new)

Draft opinion

Amendment

4a. Points out that, since the entry into force of the Treaty of Lisbon, only one subsidiarity reprimand ('yellow card') from national parliaments on a Commission proposal (COM(2012)130, Council regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services) has attained the requisite threshold, i.e. the support of one third of national parliaments, within the eight-week period concerned; prompts the Commission to examine whether the eight-week period and the requisite threshold are appropriate;

Or. de

Amendment 18
Paulo Rangel

Draft opinion
Paragraph 4 b (new)

Draft opinion

Amendment

4b. Highlights the need for the European institutions to make it possible for national parliaments to scrutinise

legislative proposals by ensuring that the Commission provides detailed and comprehensive grounds for its decisions on subsidiarity and proportionality in accordance with Article 5 of Protocol No 2 to the Treaty on the Functioning of the European Union;

Or. pt

Amendment 19
Andrew Duff, Alexandra Thein

Draft opinion
Paragraph 4 b (new)

Draft opinion

Amendment

4 b. Regrets that the Commission has not properly reported on the application of the principle of proportionality, especially with regard to the use of Articles 290 and 291 TFEU on delegated and implementing acts; warns the Council not to blur the clear distinction between delegated and implementing acts; urges the Commission to ensure the proper application of these two articles;

Or. en

Amendment 20
Paulo Rangel

Draft opinion
Paragraph 4 c (new)

Draft opinion

Amendment

4c. Notes further in this regard that the current timeframe for national parliaments to carry out subsidiarity and proportionality checks has often been considered insufficient;

Amendment 21
Andrew Duff

Draft opinion
Paragraph 6

Draft opinion

6. Draws the conclusion from the legislative procedures investigated in the report, in which concerns were raised in relation to subsidiarity, that it is not possible to draw a sharp distinction between subsidiarity arguments and general questions of suitability and practicality in the political process.

Amendment

Deleted

Amendment 22
Paulo Rangel

Draft opinion
Paragraph 6

Draft opinion

6. Draws the conclusion from the legislative procedures investigated in the report, in which concerns were raised in relation to subsidiarity, that it is not possible to draw a sharp distinction between subsidiarity arguments and general questions of suitability and practicality in the political process.

Amendment

6. Highlights the need for the European institutions , when submitting their respective assessments and opinions, to make, as far as possible, a sharp distinction between subsidiarity arguments and general questions of suitability and practicality in the political process.