



3.2.2012

NOTICE TO MEMBERS

(12/2012)

Subject: Reasoned opinion of the French Senate on the proposal for a regulation of the European Parliament and of the Council on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area
(COM(2011)0821 – C7-0448/2011 – 2011/0386(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, any national parliament may, within eight weeks from the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

Under Parliament's Rules of Procedure, the Committee on Legal Affairs is responsible for matters relating to compliance with the subsidiarity principle.

Please find attached, for information, a reasoned opinion of the French Senate on the above proposal.

No 53

SENATE

24 January 2012

ORDINARY SESSION, 2011-2012

EUROPEAN RESOLUTION

CONTAINING A REASONED OPINION

on the compliance with the subsidiarity principle of the proposal for a regulation on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area (E 6903).

Pursuant to Article 73g(4) and (5) of the Senate's Standing Orders, the Committee on Finance's motion for a resolution set out below has become a Senate resolution.

Articles 3 and 4 of the proposal for a regulation (E 6903) stipulate that:

- draft budget laws and medium-term fiscal plans must be 'based on independent macroeconomic forecast[s]';
- Member States must set up 'independent fiscal councils';
- Member States must have 'numerical fiscal rules on the budget balance that implement in the national budgetary processes their medium-term budgetary objective', and that these rules must 'cover the general government as a whole and be of binding, preferably constitutional, nature'.

Having regard to Article 88-6 of the Constitution,

The Senate,

General remarks

- Regrets there is no explicit justification for the proposal for a regulation with regard to the principle of subsidiarity;
- Notes that the French Constitution would need to be changed in order to incorporate the principle of structural balance into the national budget process in a fully binding manner; points out that Article 4 of the Treaty on European Union stipulates that the Union 'shall respect the (...) fundamental structures, political and constitutional' of the Member States; takes the view that although an act of secondary legislation might mean that Constitution changes become necessary, such an act cannot require a State to change its Constitution;
- Given that proposal E 6903 concerns a directly applicable regulation and yet also

requires transposition measures, wonders whether it complies with Article 288 of the Treaty on the Functioning of the European Union, which establishes the difference between directives and regulations;

Remarks on the subsidiarity principle

- Recalling that Article 5 of the Treaty on European Union stipulates that, under the principle of subsidiarity, ‘the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level’; as the Court of Justice of the European Union has pointed out, this involves establishing not only whether the objective of the proposed action can be better achieved at Community level, but also whether the intensity of the action undertaken does not go beyond what is necessary to achieve the objective pursued;
- Whereas the proposal for a regulation should not therefore seek to impose the means by which Member States must meet the objectives set out in the Stability and Growth Pact;
- Takes the view that, as they stand, Articles 3 and 4 of the proposal for a regulation (E 6903) cannot comply with the principle of subsidiarity as defined in Article 5 of the Treaty on European Union and in Protocol No 2 annexed thereto unless the following interpretation applies:
 - (a) the Member States must have a very wide scope for exercising their judgement when it comes to the composition and operation of the ‘independent fiscal council’ provided for in Article 4;
 - (b) this should also apply to the ‘independent macroeconomic forecasts’ mentioned in Article 3, which ought in particular to be able to be an average of the forecasts issued by financial organisations.

This text became a Senate resolution on 24 January 2012.

The President

Signed:
Jean-Pierre BEL