



Directorate-General for the Presidency
Directorate for Relations with National Parliaments

Brussels, 30 May 2011

Subject: State of Play on reasoned opinions and contributions submitted by national Parliaments under Protocol No 2 of the Lisbon Treaty

Protocol No 2 of the Lisbon Treaty confers on EU national Parliaments the power to review proposed legislation and issue "reasoned opinions" if they consider that a draft EU legislative act does not comply with the principle of subsidiarity. In such a case, a national Parliament/Chamber should present its views in writing to the Presidents of the Parliament, Council and Commission within eight weeks from the transmission of the last language version of the draft legislative act in question.

In the majority of cases, submissions from national Parliaments go beyond the issue of subsidiarity, discussing the substantive merits of proposals. In light of this, the Committee on Legal Affairs, which is responsible for issues in relation to compliance with the principle of subsidiarity, has provided the following definitions:

"Reasoned opinions" are submissions which indicate the non-compliance of a draft legislative act with the principle of subsidiarity and have been communicated to the European Parliament within the eight week deadline referred to in Article 6 of Protocol No of the Treaty of Lisbon.

"Contributions" indicate any other submissions which do not fulfil the criteria listed above for a reasoned opinion.

Pursuant to Rule 38a(3) of the Rules of Procedure, all reasoned opinions are referred to the Committee(s) responsible for the draft legislative act and forwarded for information to the Committee on Legal Affairs. Contributions are referred solely to the Committee(s) responsible for the draft legislative act (Rule 130(4) of the Rules of Procedure).

This note provides an update of submissions received by the European Parliament in the context of Protocol No 2 during the period 3-29 May 2011.

I. FACTS & FIGURES

Since the entry into force of the Lisbon Treaty a total of **109 draft legislative acts** have been **sent to national Parliaments** for examination under the terms of Protocol No 2 of the Treaty of Lisbon. 105 of those draft legislative acts are Commission proposals, while the remaining 4 are Council initiatives. In response, the European Parliament has received a total of **377 submissions** from national Parliaments. Of these **49 are reasoned opinions** while the remaining **328 are contributions**.

Since the circulation of the previous State of Play note on 3 May 2011, the European Parliament has received 28 submissions, including 9 reasoned opinions on one draft legislative act.

II. DRAFT LEGISLATIVE ACTS ELICITING NUMEROUS REASONED OPINIONS AND/OR CONTRIBUTIONS FROM NATIONAL PARLIAMENTS (3-29 MAY 2011)¹

COM (2011) 121: Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB).

Nine reasoned opinions from the Dutch *Tweede Kamer*, the Romanian Chamber of Deputies, the Swedish, Slovakian, Bulgarian and Maltese Parliaments, the UK House of Commons, the Irish *Dáil Éireann* and the Polish Lower House.

Five contributions from the Portuguese, Danish and Luxembourg Parliaments and the Italian and Belgian Chambers of Deputies.

Responsible EP Committee: ECON

Rapporteur: Mrs Marianne THYSSEN (BE -EPP).

Deadline for reasoned opinions: 18 May 2011

Comment: The nine reasoned opinions received in relation to this proposal is the highest since the entry into force of Protocol No. 2 and represents a total of 13 votes against the proposal on the grounds that it breaches the principle of subsidiarity. Yet this number falls short of the threshold of 18 votes required to trigger the review mechanism (yellow card). The proposal is based on Article 115 TEFU which requires unanimity in the Council and consultation of the European Parliament.

The reasoned opinions argue, *inter alia*, that:

- a) the Commission has not managed to produce a *detailed statement* with adequate qualitative and quantitative criteria to enable a proper assessment of the merits of EU, as opposed to national, action.
- b) the increase in prosperity for the EU as a whole would be very limited and introduction of CCCTB would actually have a negative impact on the EU GDP.
- c) the introduction of CCCTB would lead to budgetary erosion and decrease in taxation revenues.
- d) the Commission proposal encroaches on the sovereignty of Member States in the area of taxation setting.

On the other hand, some of the contributions received take a more favourable view of the proposal and make reference to the need for corporate tax harmonisation at the EU level.

¹ In this section reference is made to draft legislative acts for which at least one reasoned opinion or four submissions (opinions or contributions) have been presented during the period under examination.

III. DRAFT LEGISLATIVE ACTS SUBJECT TO PROTOCOL No 2 ON THE DRAFT AGENDA OF THE PLENARY PART-SESSION (6-9 JUNE 2011)²

COM (2010) 482: Proposal for a Regulation of the European Parliament and of the Council on short selling and certain aspects of credit default swaps.

This proposal has elicited four contributions, from the Italian Senate, the Portuguese Assembly, the Austrian *Nationalrat* and the Czech Senate.

COM (2010) 362: Proposal for a Directive of the European Parliament and of the Council amending Directive 97/68/EC as regards the provisions for engines placed on the market under the flexibility scheme.

This proposal has elicited two contributions from the Italian Senate and the Portuguese Assembly.

COM (2010) 375: Proposal for a Regulation of the European Parliament and of the Council amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory.

This proposal has elicited eight contributions from the Portuguese Assembly, the Luxembourg, Greek and Danish Parliaments, the Italian Chamber of Deputies and Senate and the Austrian *Nationalrat* and *Bundesrat*.

COM (2010) 522: Proposal for a Council Regulation amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure.

This proposal has elicited seven contributions from the Portuguese Assembly, the Italian, Czech and Romania Senates, the Italian Chamber of Deputies and the Bulgarian and Luxembourg Parliaments.

COM (2010) 524: Proposal for a Regulation of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area.

This proposal has elicited seven contributions from the Portuguese Assembly, the Italian, Czech and Romania Senates, the Italian Chamber of Deputies and the Bulgarian and Luxembourg Parliaments.

² Please note that information contained in this section is provisional and subject to change following a decision by the Conference of Committee Chairs prior to the start of the part-session.

COM (2010) 525: Proposal for a Regulation of the European Parliament and of the Council on enforcement measures to correct excessive macroeconomic imbalances in the euro area.

This proposal has elicited six contributions from the Portuguese Assembly, the Italian, Czech and Romania Senates, the Italian Chamber of Deputies and the Bulgarian Parliament.

COM (2010) 527: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies.

This proposal has elicited seven contributions from the Portuguese Assembly, the Italian, Czech and Romania Senates, the Italian Chamber of Deputies and the Bulgarian and Luxembourg Parliaments.

COM (2010) 527: Proposal for a Regulation of the European Parliament and of the Council on the prevention and correction of macroeconomic imbalances.

This proposal has elicited six contributions from the Portuguese Assembly, the Italian, Czech and Romania Senates, the Italian Chamber of Deputies and the Bulgarian Parliament.

COM (2010) 607: Proposal for a Directive of the European Parliament and of the Council amending Directive 2000/25/EC as regards the provisions for tractors placed on the market under the flexibility scheme.

This proposal has elicited two contributions from the Italian and Romanian Senates.
