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**REPORT FROM THE COMMISSION**

**ANNUAL REPORT 2012**

**ON SUBSIDIARITY AND PROPORTIONALITY**

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**1. INTRODUCTION**

This is the twentieth annual report on the application of the principles of subsidiarity and proportionality in EU law making. The report is submitted in accordance with Article 9 of Protocol No 2 on the application of these principles (hereinafter ‘the Protocol’) attached to the Treaty on the Functioning of the European Union (TFEU).

The report looks at how the different EU institutions and bodies have implemented these two principles and whether practice has changed in comparison to previous years. It analyses in more detail certain Commission proposals that were the subject of reasoned opinions in 2012. As 2012 saw the first ‘yellow card’ by national Parliaments, as introduced by the Lisbon Treaty, the report focuses on that particular case. Given the close links between the subsidiarity control mechanism and the political dialogue between national Parliaments and the Commission, this report should be seen as complementary to the Commission’s Annual Report 2012 on relations with national Parliaments.<sup>1</sup>

**2. APPLICATION OF THE PRINCIPLES BY THE INSTITUTIONS**

**2.1. The Commission**

Given its right of initiative, the Commission has a responsibility to ensure that the correct choices about whether and how to propose action at EU level are made at an early stage of policy development.

Accordingly, and in line with its commitment to smart regulation, before proposing new initiatives, the Commission verifies whether the EU has the right to take action and whether the objectives of the proposed action cannot be sufficiently achieved by the Member States.

First, the Commission prepares publically available roadmaps<sup>2</sup> for all major initiatives. Roadmaps provide a preliminary description of possible initiatives and outline the Commission’s plans for policy and consultation work. They always include an initial justification for action in terms of subsidiarity and proportionality.

Later in the policy development phase, a fuller analysis of subsidiarity issues is carried out as part of the impact assessment (IA) process, taking into account the views expressed during stakeholder consultations. To this end, a set of structured questions for the subsidiarity and proportionality analysis is provided in the IA guidelines,<sup>3</sup> and serves as a basis for assessing the EU’s right to act and the justification for EU action.

Therefore, the subsidiarity and proportionality of possible EU action is assessed on the basis of all available evidence. It is then thoroughly scrutinised by the Impact Assessment Board.<sup>4</sup>

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<sup>1</sup> COM(2013) 565.

<sup>2</sup> [http://ec.europa.eu/governance/impact/planned\\_ia/planned\\_ia\\_en.htm](http://ec.europa.eu/governance/impact/planned_ia/planned_ia_en.htm).

<sup>3</sup> SEC(2009) 92.

<sup>4</sup> [http://ec.europa.eu/governance/impact/iab/iab\\_en.htm](http://ec.europa.eu/governance/impact/iab/iab_en.htm).

Conscious of the key role played by impact assessments in setting out the evidence for political decision-makers, the Board flagged in its 2012 annual report<sup>5</sup> the need to provide robust and detailed subsidiarity justification in all IAs.

In 2012, the IAB examined 97 impact assessments and issued 144 opinions. Comments on issues of subsidiarity were included in 33 % of its opinions.

One of the cases the IAB commented on with regard to subsidiarity was the IA for the proposal for a Directive on the collective management of copyright and related rights (COM(2012) 372) . In this case, the IAB asked the lead service *‘to strengthen the assessment of the need for, the timing and added value of EU action under the proposed (single market and cultural diversity) legal basis’*. As a result, the revised IA presented more clearly the reason for the proposed EU initiative, for instance a better explanation of the trans-national nature of the identified problems showing that the existing legal framework at both national and EU levels has proved to be insufficient to address the problems.

For the IA for the proposal for a regulation on a European Voluntary Humanitarian Aid Corps,<sup>6</sup> the IAB suggested to *‘present more clearly the necessity and value added of EU action so that political expectations can be framed in their proper context’*. It also asked the lead service to *‘address more explicitly the complementarity and coordination of [the European Voluntary Humanitarian Aid Corps] with the work of other organisations, given stakeholders’ concerns about duplication and competition’*. The revised IA report followed these recommendations and provided a more thorough justification for EU action.

The IAB opinions help improve the analysis of compliance with the principles of subsidiarity and proportionality, and they constitute, along with the IA reports themselves, important elements underpinning the Commission’s political decision-making process.

## **2.2. National Parliaments**

In 2012, the Commission received from national Parliaments 70 reasoned opinions, similar to the number received the previous year (64 in 2011), with a slight increase of around 9%. However, the proportion of reasoned opinions received in 2012 was the same as the overall number of opinions the Commission received in the context of its broader political dialogue with national Parliaments in 2012 (663). As in 2010 and 2011, they totalled slightly over 10%. 2012 saw the first use of the yellow card by national Parliaments in the context of the subsidiarity control mechanism, in response to the Commission’s proposal for a 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. This case is described in more detail in chapter 3.

Reasoned opinions continue to vary greatly in terms of their form and the type of arguments put forward by national Parliaments underpinning their conclusion that the principle of subsidiarity was breached. Similarly to the previous year, the focus of reasoned opinions issued by national Parliaments varied greatly. The 70 reasoned opinions covered no fewer than 23 Commission proposals. After the Monti II proposal (12 reasoned opinions), the proposal for a regulation on the Fund for European Aid to the Most Deprived elicited the second highest number of reasoned opinions (5). Eight other proposals elicited three reasoned opinions each (for details see the annex). This trend seems to confirm the varying political interests of national Parliaments, which follow different priorities when choosing Commission proposals to be scrutinised in the context of the subsidiarity control mechanism and apply

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<sup>5</sup> [http://ec.europa.eu/governance/impact/key\\_docs/docs/iab\\_report\\_2012\\_en\\_final.pdf](http://ec.europa.eu/governance/impact/key_docs/docs/iab_report_2012_en_final.pdf).

<sup>6</sup> COM(2012) 514.

different criteria when assessing compliance with the principle of subsidiarity. This means that coordination among them remains a challenge.

As in 2011, the Swedish *Riksdag* was the national Parliament which adopted by far the highest number of reasoned opinions (20), almost double the number in 2011 (11). The *Riksdag* scrutinises all Commission proposals in terms of subsidiarity, and it decentralises scrutiny to all parliamentary committees, which seem to apply different criteria. This may have an impact on the number of reasoned opinions issued by the *Riksdag*.<sup>7</sup> The French *Sénat* issued the second highest number of reasoned opinions (7), followed by the German *Bundesrat* (5). These three chambers alone issued almost 50% of all reasoned opinions issued by national Parliaments in 2012.

The eighteenth bi-annual report of COSAC<sup>8</sup> gives an overview of the procedures and practices regarding parliamentary scrutiny.<sup>9</sup> This document, based on the replies sent by national Parliaments/chambers to a questionnaire, concludes that procedures differ in particular in terms of national Parliaments' views on the relationship between the subsidiarity and proportionality principles. While some believe that they are equally important, others believe that the proportionality principle is merely a component of subsidiarity. But most national Parliaments are of the opinion that subsidiarity checks are not effective unless a proportionality check is included.

The report states that a large majority of national Parliaments report that their reasoned opinions are often based on a broader interpretation of the principle of subsidiarity than the wording in Protocol No 2. For example, the Dutch *Eerste Kamer* believes that 'it is not possible to exclude the principles of legality and proportionality when applying the subsidiarity check ...'. The Czech *Senát* is of the opinion that subsidiarity has a 'general and abstract nature ... is not a strict and clear legal concept' and therefore a broad interpretation should be used. The UK House of Lords gave a similar view, arguing in favour of a wider interpretation of this principle because 'although the principle is a legal concept, in practice its application depends on political judgement'.

The differing views of national Parliaments on the understanding and application of the principle of subsidiarity led to differing views on the need for guidelines to clarify the scope of subsidiarity control and related criteria. Only half of the national Parliaments responding to the COSAC questionnaire were in favour of this. All who supported it insisted that any guidelines must be non-binding.

### **2.3. The European Parliament and the Council**

In the Council, the Committee of the Permanent Representatives of each Member State (Coreper) ensures that the subsidiarity and proportionality principles are respected. The European Parliament created in 2012 a new horizontal directorate to provide a broader range of services to EP committees on impact and European added-value assessments.

The work on impact assessments covers the screening of Commission roadmaps that show the planned policy and consultation work and making an initial appraisal of Commission impact assessments. At the request of individual committees, it can also provide detailed assessments of Commission impact assessments, complementary analyses on aspects of the proposals that

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<sup>7</sup> Report of the Constitutional committee of the Riksdag — 2012/13:KU8.

<sup>8</sup> COSAC is a Conference of the committees of the national Parliaments of the European Union Member States dealing with the European Union affairs as well as representatives of the European Parliament.

<sup>9</sup> Eighteenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, 27 September 2012.

are not originally covered by the Commission and impact assessments of amendments considered by the Parliament.

The European Parliament now also looks at the European added value of proposals, analysing the potential benefit of future EU action. At the request of a European Parliament committee, European added-value assessments can be provided to assess the potential impacts and identify the advantages and disadvantages of proposals made in legislative reports of the Parliament. The European Parliament can now also produce reports on the cost of not taking EU-level action, on policy areas with significant potential for greater efficiency and/or on achieving 'public good' by taking action at EU level, where such action is currently absent.

In 2012, the European Parliament issued 10 initial appraisals of Commission impact assessments, one detailed appraisal of a Commission impact assessment and three reports on European added value.

On 13 September 2012, the European Parliament adopted a resolution on better law making, which to a certain extent responds to the Commission's Annual Report 2010 on Subsidiarity and Proportionality.<sup>10</sup> In this respect, the European Parliament, similar to the COSAC, suggests that the case should be examined for setting criteria at EU level for evaluating compliance with the principles of subsidiarity and proportionality.

In addition, the European Parliament report emphasises the regional and local dimension of subsidiarity scrutiny and calls for an independent Commission analysis of the role of regional and local parliaments in the area of subsidiarity control. In its reply to the European Parliament report,<sup>11</sup> the Commission confirmed that the Committee of the Regions has already prepared this analysis.<sup>12</sup>

#### **2.4. The Committee of the Regions**

In 2012, the Committee of the Regions (CoR) adopted a new strategy on monitoring the principle of subsidiarity. The aim is to reinforce the governance structure of the CoR's subsidiarity monitoring work, establish a comprehensive approach to monitoring subsidiarity throughout the EU decision-making process, involving EU and national institutions in this work and consolidating the CoR's readiness to take action before the Court of Justice.

In this context, a Subsidiarity Steering Group was set up to provide political governance of the CoR's subsidiarity monitoring work. It coordinates and gives political follow-up to subsidiarity monitoring activities throughout the year. It is responsible for highlighting annual subsidiarity priorities and for making proposals on the use of the most appropriate tools and procedures of the Subsidiarity Monitoring Network in order to support the work of CoR rapporteurs in the legislative process.

The revised strategy highlights that CoR subsidiarity monitoring activities should commence during the pre-legislative phase. This approach relies on the role of a Subsidiarity Expert Group, comprising 16 officials from the Subsidiarity Monitoring Network selected according to their expertise in terms of subsidiarity and for their strong background in EU law. The Group met for the first time on 25 October 2012 and selected initiatives for priority monitoring. On this basis, the CoR Bureau adopted on 30 January 2013 the Subsidiarity Work Programme.<sup>13</sup> It includes four initiatives scheduled in the Commission Work Programme 2013 (E-invoicing in the field of public procurement, a Blue Belt for a single market for

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<sup>10</sup> COM(2011) 344.

<sup>11</sup> SP (2012) 766/2.

<sup>12</sup> <http://extranet.cor.europa.eu/subsidiarity/regpex/Pages/Study-on-Regional-Parliaments.aspx>.

<sup>13</sup> CDR2336-2012.

maritime transport, the Review of Waste Policy and Legislation, the Environmental climate and energy assessment framework to enable safe and secure unconventional hydrocarbon extraction) and Urban Mobility (which is not covered by the CWP 2013, but the Commission has announced its intention to issue a Communication on the urban dimension of EU transport policy in 2013).

Set up in 2007, the Subsidiarity Monitoring Network (SMN) is the CoR's main monitoring tool, and included 141 partners at the end of 2012. Its membership and representation base increased again in 2012, particularly as regional parliaments and governments have joined. Consultations of SMN partners are the main operating tool used during the preparation of a draft opinion by a CoR rapporteur. Three consultations were carried out in 2012 — on the Connecting Europe Facility,<sup>14</sup> on the 7th Environment Action Programme (EAP)<sup>15</sup> and on the Exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services ('Monti II').<sup>16</sup> Under the SMN Action Plan, a group worked throughout the year on the Revision of the TEN-T Guidelines and Connecting Europe Facility.

In February 2012, REGPEX, the Regional Parliamentary Exchange, was launched as a sub-network of the Subsidiarity Monitoring Network, open to parliaments and governments of regions endowed with legislative powers. It supports these regions in playing their part in subsidiarity monitoring of EU legislation, particularly in the context of the post-Lisbon early warning system and their possible consultation by national Parliaments. The CoR sees REGPEX not just as a technical database, providing access to information sources and publishing regional positions, but also as a network to foster contacts among the EU's 'legislative regions'.

The following opinions adopted by the CoR in 2012 raised concerns with regard to compliance with the subsidiarity and proportionality principles, some citing potential infringements: the proposal for a Regulation on the ERDF; the 7th Environment Action Programme; the Public Procurement package, the Data Protection package and the posting of workers in the framework of the provision of services.

## **2.5. The Court of Justice**

In 2012 the Court of Justice did not give any judgments that significantly developed the subsidiarity principle. However, in case C-288/11 P, *Mitteldeutsche Flughafen*, judgment of 19 December 2012, the Court of Justice confirmed that the subsidiarity principle does not apply in the field of State aid, in which the Commission has exclusive competence.

Moreover, in case C-221/10 P, *Artegodan*, judgment of 19 April 2012, the Court re-stated that subsidiarity, and more generally the competence rules of the Treaty, do not give rise to individual rights, and therefore an infringement of these rules does not in itself cause non-contractual liability of the Union and its institutions.

## **3. KEY CASES WHERE SUBSIDIARITY AND PROPORTIONALITY CONCERNS WERE RAISED**

*Proposal for a 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 (Monti II).*

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<sup>14</sup> COM(2011) 659.

<sup>15</sup> COM(2012) 95.

<sup>16</sup> COM(2012) 130.

National Parliaments issued 12 reasoned opinions on the Monti II proposal, representing 19 votes (18 being the threshold), and thus for the first time triggered a so-called yellow card.<sup>17</sup>

The aim of the Commission proposal was to clarify the interaction between the exercise of social rights and the exercise of freedom of establishment and to provide services enshrined in the Treaty. It tried to address the concerns raised by stakeholders (especially trade unions) that, in the single market, economic freedoms prevail over the right to strike following the Viking Line and Laval judgments of the Court of Justice, by clarifying in a legislative instrument that no primacy exists between the two. The Commission was aware of the sensitivity of the issue and the difficulty in finding common ground between contrasting interests on how best to deal with industrial conflict in situations involving business and workers in different Member States.

The reasoned opinions were issued by SE *Riksdag* (2 votes), DK *Folketing* (2 votes), FI *Eduskunta* (2 votes), FR *Sénat* (1 vote), PL *Sejm* (1 vote), PT *Assembleia da República* (2 votes), LV *Saeima* (2 votes), LU *Chambre des Députés* (2 votes), BE *Chambre des Représentants* (1 vote), UK House of Commons (1 vote), NL *Tweede Kamer* (1 vote) and MT *Kamra tad-Deputati* (2 votes).

Most of the national Parliaments that adopted reasoned opinions questioned the use of Article 352 TFEU as the legal basis for the proposal. Most found the use of this legal basis to be insufficiently justified. Some considered that excluding the right to strike from the scope of Article 153 TFEU would also exclude the possibility to use Article 352 TFEU as a legal basis. The same number of national Parliaments expressed doubts as to the added value of the proposal and the need for the action proposed. Some chambers pointed out that the proposal would not change the current legal situation, others claimed that it would not contribute to greater legal clarity and certainty. In addition, five national Parliaments argued that Article 153(5) TFEU would exclude the right to strike from EU competence, while others claimed that the general principle and the proportionality test included in the proposal are not in line with the principle of subsidiarity and they could create a negative impact on the right to strike. Among the other issues raised, national Parliaments questioned the need for the alternative dispute settlement mechanism, fearing that it would interfere with national systems. They also raised doubts as to the need for an alert mechanism.

After an in-depth assessment of the arguments put forward by national Parliaments in their reasoned opinions, the Commission found that the principle of subsidiarity had not been breached.

In its replies to the national Parliaments that issued reasoned opinions,<sup>18</sup> the Commission explained that the aim of the Commission proposal was to clarify the general principles and applicable rules at EU level concerning the exercise of the fundamental right to take collective action within the context of the freedom to provide services and the freedom of establishment, including the need to reconcile them in practice in cross-border situations. The Commission maintained that this could not be achieved by the Member States alone and required action at European Union level.

Concerning the issue of the legal basis, the Commission decided to use Article 352 TFEU given the absence of an explicit provision in the Treaty. Although it is true that Article 153(5) TFEU excludes the right to strike from the range of matters that can be regulated across the EU by minimum standards set in a directive, Court rulings have clearly shown that the fact that Article 153 does not apply to the right to strike does not exclude collective action from

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<sup>17</sup> See Article 7(2) of Protocol No 2 on the application of the principles of subsidiarity and proportionality.

<sup>18</sup> Letter of 14 March 2013.

the scope of EU law. Moreover the Commission considered that a regulation would have been the most appropriate legal instrument to use as it is directly applicable and as such would have reduced regulatory complexity and given greater legal certainty to those subject to the legislation across the Union by clarifying the applicable rules.

In addition, the proposed regulation would have recognised the role of national courts in establishing the facts and ascertaining whether actions pursue objectives that constitute a legitimate interest, are suitable for attaining these objectives, and do not go beyond what is necessary to attain them. It would also have recognised the importance of existing national laws and procedures for the exercise of the right to strike, including existing alternative dispute-settlement institutions, which would not have been changed or affected by the proposal. It would have explained the role of alternative informal resolution mechanisms that exist in a number of Member States.

The Commission concluded that the subsidiarity principle had not been breached, but it took note of the views expressed by national Parliaments as well as the state of play of the discussions on the draft regulation among stakeholders. It recognised that its proposal was unlikely to gather the necessary political support within the European Parliament and Council to enable adoption. In view of this, the Commission informed the European Parliament, the Council and national Parliaments by letters of 12 and 13 September 2012 of its intention to withdraw its proposal and explained that, by so doing, it also hoped to facilitate a rapid negotiation of the proposal for a Directive of the European Parliament and the Council on the enforcement of Directive 96/71/EC, and to allow to move forward on the enforcement of posted workers' rights as underlined in point 3 1) of the 'Compact for Growth and Jobs' adopted by the European Council on 28-29 June 2012. The Commission took its decision to withdraw the Monti II proposal on 26 September 2012.<sup>19</sup>

#### *Proposal for a regulation on the Fund for European Aid to the Most Deprived*<sup>20</sup>

The Commission proposal that elicited the second highest number of reasoned opinions in 2012 (5) was the proposal for the establishment of the Fund for European Aid to the Most Deprived. All national Parliaments that sent reasoned opinions<sup>21</sup> raised the same issue, namely the lack of sufficient justification as regards the proposal's compliance with the subsidiarity principle.<sup>22</sup> DE *Bundestag* submitted that Articles 174 and 175 TFEU do not provide for EU competence to fight poverty, that social policy and measures under such policy fall under the competence of Member States and that the proposal breached the principle of proportionality. SE *Riksdag* argued that poverty and social exclusion are best prevented by employment allowing for self-support and by a social security system for the whole population. In its view, social security is the responsibility of Member States and aid is most efficiently managed by Member States. This view was shared by DK *Folketing*, which claimed that the aim of supporting the most deprived can best be fulfilled by Member States, either centrally, regionally or at local level. The UK House of Lords found that no convincing argument had been made by the Commission to justify its proposal in the light of the principle of subsidiarity and that any uncertainty about the ability of all Member States to sustain social expenditure and investment at sufficient levels could be met by action under existing EU cohesion programmes. The UK House of Commons questioned the need for the proposed action.

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<sup>19</sup> PV(2012) 2017; <http://ec.europa.eu/transparency/regdoc/rep/10061/2012/EN/10061-2012-2017-EN-F-0.Pdf>.

<sup>20</sup> COM(2012) 617; its predecessor was the EU programme for Food Distribution to the Most Deprived People which is to be discontinued in 2013 — the Commission proposal COM(2010) 486 had also received three reasoned opinions.

<sup>21</sup> DE *Bundestag*, DK *Folketing*, UK House of Lords, UK House of Commons and SE *Riksdag*.

<sup>22</sup> Article 5 of Protocol No 2.



In its replies to these reasoned opinions, the Commission underlined that it had examined the EU's right to act and its added value during the impact assessment process and that these findings were summarised in the explanatory memorandum accompanying the proposal. The Commission acknowledged that promoting work and self-support is the best way to counteract social exclusion and that the European Social Fund will remain the main EU instrument for fighting poverty and social exclusion by supporting activation measures. However, it pointed out that a growing number of Europeans are too far from the labour market to benefit from the support that can be provided from existing funds. The Commission drew attention to the proposed obligation to couple the distribution of material assistance with accompanying measures, aiming at the social reintegration of the assisted persons, making the proposed Fund an instrument that goes beyond passive interventions. It highlighted that the proposed Fund would be based on national support schemes and would be implemented under shared management, leaving to the Member States the primary responsibility for identifying the most appropriate target groups and types of interventions.

*Proposal for a regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data.*<sup>23</sup>

Among the eight Commission proposals which gave rise to three reasoned opinions, the proposal for a regulation on data protection was the one that was criticised not only on the grounds of subsidiarity, but also of proportionality. Some national Parliaments were of the view that the scope of the proposed act should remain limited to cross-border exchanges. In terms of proportionality they argued that the proposal could influence the treatment of personal data by the public sector (particularly in the area of health and social services). Finally, several national Parliaments questioned the scope and number of delegated powers granted to the Commission by the proposal. The latter argument was largely echoed by the Member States in the Council discussions as well as by some Members of the European Parliament.

In its replies the Commission explained that the choice of a regulation aims at further harmonising the existing European data protection legislation to ensure a high level of protection throughout the Union and guarantee in this way the free flow of personal data in the internal market. Within the limits of the Regulation, Member States would maintain a certain margin of manoeuvre in the public sector, as already specified by the proposal. As to the delegated powers, the Commission clarified that they would ensure the appropriate adaptability of the legislation to the ever progressing world of electronic data without the necessity of renegotiating the act at the level of co-legislators.

#### **4. CONCLUSIONS**

2012 brought increased awareness of the principles of subsidiarity and proportionality in the inter-institutional context, not least due to national Parliaments triggering the first yellow card.

Subsidiarity control and monitoring issues also figured prominently on the agenda of the European Parliament and the Committee of the Regions, who both adapted their internal procedures to be able to better examine the impact and added value of their work. EU institutions and bodies are also exploring synergies in terms of assessing compliance with the subsidiarity and proportionality principles. As a result, the Committee of the Regions can now feed information, at the explicit request by the Commission, relating to the regional and local

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<sup>23</sup> COM(2012) 11.

impact of a planned proposal into the Commission's impact assessments. The European Parliament also strengthened its approach to assessing impact and EU added value.

2012 saw an intensification of discussions concerning the definition of the principles of subsidiarity and proportionality, namely the need to better define the scope of subsidiarity control as described in the Treaty. Although national Parliaments see clear benefits in closer coordination of their scrutiny work and more voices call for guidelines, they wish to maintain the right to interpret these principles. In this context, it should be recalled that the Commission's Impact Assessment Guidelines<sup>24</sup> already set out clearly the criteria used to assess the compliance of Commission proposals with subsidiarity and proportionality, and the Commission has always encouraged other institutions to apply the same criteria.

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<sup>24</sup> SEC(2009) 92.

## Annex

### List of Commission initiatives on which national Parliaments issued in 2012 reasoned opinions<sup>25</sup> regarding compliance with the subsidiarity principle<sup>26</sup>

	Commission document	Title	Reasoned opinions (Protocol 2)	National chamber submitting reasoned opinions
1	COM(2012)130	The exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (Monti II)	12	BE <i>Chambre des Représentants</i> DK <i>Folketing</i> FI <i>Eduskunta</i> FR <i>Sénat</i> LV <i>Saeima</i> LU <i>Chambre des Députés</i> MT <i>Kamra tad-Deputati</i> NL <i>Tweede Kamer</i> PL <i>Sejm</i> PT <i>Assembleia da República</i> UK House of Commons SE <i>Riksdag</i>
2	COM(2012)617	Fund for European Aid to the Most Deprived	5	DE <i>Bundestag</i> DK <i>Folketing</i> UK House of Commons UK House of Lords SE <i>Riksdag</i>
3	COM(2012)380	Periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC	5	CY <i>Vouli ton Antiprosopon</i> NL <i>Eerste Kamer</i> NL <i>Tweede Kamer</i> FR <i>Sénat</i> SE <i>Riksdag</i>
4	COM(2012)11	Protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)	4	DE <i>Bundesrat</i> BE <i>Chambre des Représentants</i> FR <i>Sénat</i> SE <i>Riksdag</i>
5	COM(2011)778	Proposal amending Directive 2006/43/EC on statutory audits of annual accounts and	3	BE <i>Chambre des Représentants</i> SK <i>Národná Rada</i>

<sup>25</sup> To qualify as a reasoned opinion according to the definition in Protocol 2, an opinion must clearly state a breach of subsidiarity and be sent to the Commission within eight weeks of the transmission of the proposal to national Parliaments.

<sup>26</sup> Ranked according to number of reasoned opinions received by the Commission between 1 January and 31 December 2012.

		consolidated accounts		SE <i>Riksdag</i>
6	COM(2011)779	Specific requirements regarding statutory audit of public-interest entities	3	BE <i>Chambre des Représentants</i> SK <i>Národná Rada</i> SE <i>Riksdag</i>
7	COM(2011)828	Establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council	3	DE <i>Bundesrat</i> FR <i>Sénat</i> NL <i>Tweede Kamer</i>
8	COM(2011)897	Award of concession contracts	3	DE <i>Bundesrat</i> AU <i>Bundesrat</i> ES <i>Congreso de los Diputados/Senado</i>
9	COM(2012)372	Collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market	3	FR <i>Sénat</i> PL <i>Sejm</i> SE <i>Riksdag</i>
10	COM(2012)381	Proposal amending Council Directive 1999/37/EC on the registration documents for vehicles	3	CY <i>Vouli ton Antiprosopon</i> NL <i>Eerste Kamer</i> NL <i>Tweede Kamer</i>
11	COM(2012)382	Proposal on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC	3	CY <i>Vouli ton Antiprosopon</i> NL <i>Eerste Kamer</i> NL <i>Tweede Kamer</i>
12	COM(2012)576	Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union	3	FR <i>Sénat</i> IT <i>Senato della Repubblica</i> SE <i>Riksdag</i>

13	COM(2012)614	Improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures	3 <sup>27</sup>	DK <i>Folketing</i> NL <i>Eerste Kamer/Tweede Kamer</i> SE <i>Riksdag</i>
14	COM(2011)821	Common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area	2	FR <i>Sénat</i> SE <i>Riksdag</i>
15	COM(2012)10	Protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data	2	DE <i>Bundesrat</i> SE <i>Riksdag</i>
16	COM(2012)167	Proposal amending Regulation (EC) No 223/2009 on European statistics	2	AU <i>Bundesrat</i> ES <i>Congreso de los Diputados/Senado</i>
17	COM(2012)48	Proposal amending Directive 2001/83/EC as regards information to the general public on medicinal products subject to medical prescription amending, as regards information to the general public on medicinal products subject to medical prescription, Directive 2001/83/EC on the Community code relating to medicinal products for human use	2	PL <i>Senat</i> SE <i>Riksdag</i>
18	COM(2012)49	Proposal amending Regulation (EC) No 726/2004 as regards information to the general public on medicinal products for human use subject to medical prescription	2	PL <i>Senat</i> SE <i>Riksdag</i>
19	COM(2012)84	Transparency of measures regulating the prices of medicinal products for human	2	AU <i>Nationalrat</i> LU <i>Chambre des Députés</i>

<sup>27</sup> On this proposal the Commission received six reasoned opinions in total. Three reasoned opinions (PL Sejm; PL Senat; UK House of Lords) were received after the 31 December 2012, but before the deadline of 15 January 2013.

		use and their inclusion in the scope of public health insurance systems		
20	COM(2011)793	Alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)	2	DE <i>Bundesrat</i> NL <i>Eerste Kamer</i>
21	COM(2011)895	Procurement by entities operating in the water, energy, transport and postal services sectors	2	SE <i>Riksdag</i> UK House of Commons
22	COM(2011)896	Public procurement	2	SE <i>Riksdag</i> UK House of Commons
23	COM(2011)747	Proposal amending Regulation (EC) No 1060/2009 on credit rating agencies	1	SE <i>Riksdag</i>
24	COM(2011)794	Online dispute resolution for consumer disputes (Regulation on consumer ODR)	1	NL <i>Eerste Kamer</i>
25	COM(2011)824	Groundhandling services at Union airports and repealing Council Directive 96/67/EC	1	LU <i>Chambre des Députés</i>
26	COM(2011)834	Establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014 - 2020)	1	SE <i>Riksdag</i>
27	COM(2011)873	Establishing the European Border Surveillance System (EUROSUR)	1	SE <i>Riksdag</i>
28	COM(2011)877	Proposal amending Directive 2003/98/EC on re-use of public sector information	1	SE <i>Riksdag</i>
29	COM(2012)150	Proposal amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission	1	AU <i>Bundesrat</i>
30	COM(2012)280	Establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives	1	SE <i>Riksdag</i>

		2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010		
31	COM(2012)35	Statute for a European Foundation (FE)	1	LT <i>Seimas</i>
32	COM(2012)363	Fight against fraud to the Union's financial interests by means of criminal law	1	SE <i>Riksdag</i>
33	COM(2012)369	Clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC	1	PL <i>Sejm</i>
34	COM(2012)511	Conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions	1	SE <i>Riksdag</i>
	Reasoned opinions on proposals counted individually		83	
	Reasoned opinions on packages of proposals <sup>28</sup>		-13	
	<b>TOTAL</b>		<b>70</b>	

<sup>28</sup> As some opinions concern packages of proposals, the table sets out the number of reasoned opinions issued for each proposal. In order also to show the number of reasoned opinions received by the Commission, the number of reasoned opinions covering more proposals than one is deducted.