18th report on better legislation - Application of the principles of subsidiarity and proportionality (2010)

2011/2276(INI) - 23/07/2012 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted an own-initiative report drafted by Sajjad KARIM (ECR, UK) on the 18th report on Better legislation - Application of the principles of subsidiarity and proportionality (2010).

The committee expresses its deep concern regarding the Impact Assessment Board's view that the **Commission's consideration of the principles of subsidiarity and proportionality in its impact assessments are is often unsatisfactory in nature**. It considers it of the utmost importance that the Commission address any deficiencies in this area in order to ensure that these principles are respected.

Members reiterate their repeated calls for the **2003 Interinstitutional Agreement on Better Lawmaking** to be renegotiated in order to take account of the new legislative environment created by the Treaty of Lisbon. They suggest that arrangements concerning the demarcation between delegated and implementing acts be agreed in that context.

Subsidiarity control by national parliaments: the report notes that in 2010, **211 opinions were received from national parliaments** but that only a small number of them – 34 in all – raised subsidiarity concerns. Members recall, however, that on 22 May 2012, for the first time since the entry into force of the Lisbon Treaty, national parliaments triggered the **'yellow card' procedure** by adopting reasoned opinions opposing 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.

The report 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.

The Commission is called upon, in the scrutiny of subsidiarity, to pay attention to the role of the **regional parliaments** with legislative powers.

Evidence-based policymaking: Members recall the commitment made by Parliament and Council in the 2005 Interinstitutional Common Approach to Impact Assessment to **carry out impact assessments prior to the adoption of substantive amendments**. They call on the committees to make use of the new Impact Assessment Directorate in implementing this commitment.

Moreover, they suggest that as part of a **more systematic approach to the consideration of impact assessments** within Parliament, the Impact Assessment Directorate should be asked by committees to prepare a short summary of each impact assessment for consideration when an initial exchange of views is held.

Minimising regulatory burdens: Members consider it essential that the Commission respects the '**think small first'** principle when preparing legislation. They recall Parliament's position on the issue of regulatory exemptions, and urge the Commission to extend exemption to SMEs where regulatory provisions would disproportionately affect them.

Members welcome the Commission's adoption of Parliament's recommendation on publication of information concerning implementation, thus addressing the problem of 'gold-plating'. They believe, however, that a **more constructive engagement** in the pre-legislative process with relevant stakeholders and the institutions, together with adherence to the general commitments to simplification and the smart regulation agenda, would render such publicity unnecessary. They suggest, nonetheless, that those Member States which engage the most in the 'gold-plating' of directives should be named, alongside those which are the biggest offenders when it comes to late, impreciseor incomplete transposition of EU law.

Lastly, Member States are urged to **reduce their administrative burden by a further 25% by 2015**.