EU regulatory fitness and subsidiarity and proportionality - 19th report on Better lawmaking covering the year 2011

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The Parliament adopted a resolution on EU Regulatory Fitness and Subsidiarity and Proportionality - 19th report on Better Lawmaking covering the year 2011.

General comments: Parliament stressed that legislation proposed and adopted at the European level should be simple, effective and efficient, should provide a clear added value, and should be easy to understand and accessible in all the official languages of the Member States, as well as delivering full benefits at minimum cost. It emphasised the fact that the European institutions are responsible for ensuring that legislation is clear and easily understood and does not place any unnecessary administrative burdens on citizens or enterprises.

Believing that better lawmaking should be pursued in a spirit of multilevel governance, i.e. through coordinated action by the EU, national institutions and local and regional authorities, Parliament considered that the **Interinstitutional Agreement on Better Lawmaking of 2003 had become ill-suited to the current legislative environment** created by the Treaty of Lisbon, and called for the Agreement to be re-negotiated on the basis of Article 295 TFEU and should be of a binding nature.

In addition, Parliament stressed the following:

- the principles of subsidiarity and proportionality were not adequately addressed by the Commission in its impact assessments, as has been pointed out by the Impact Assessment Board and by national parliaments;
- the Commission and Council need to engage with Parliament in negotiations on the criteria for the appropriate application of Article 290 and 291 TFEU, and this can be achieved in the framework of the revision of the Interinstitutional Agreement on Better Lawmaking,
- the Commission should step up its review of the application of the principle of proportionality, especially with regard to the use of Articles 290 and 291 TFEU on delegated and implementing acts;
- close attention should be paid to the early warning system.

Subsidiarity mechanism for national parliaments: Members welcomed the closer participation of national parliaments in the framework of the European legislative process. They recommended that the national parliaments be afforded substantial assistance to enable them to carry out their scrutiny tasks.

On Subsidiarity mechanism, Parliament stressed that in 2011 the Commission received 64 reasoned opinions within the meaning of Protocol No 2 on the application of the principles of subsidiarity and proportionality, which represents a considerable increase in comparison to 2010. It notes, however, that these 64 reasoned opinions represented barely 10 % of the total of 622 opinions forwarded to the Commission by national parliaments in 2011 within the terms of the political dialogue in question.

It also drew attention to the fact that **no Commission proposal received a sufficient number of reasoned opinions to trigger the 'yellow or orange card procedures'** under the Protocol. It noted, however, that on 22 May 2012 a 'yellow card procedure' was for the first time triggered by a Commission proposal (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, i.e. the proposal for the

‘Monti II’ Regulation). It stressed that the Commission withdrew the proposal, not because it considered the principle of subsidiarity to have been infringed upon, but because it realised that the proposal was unlikely to gain enough political support in Parliament and the Council to ensure its adoption

Globally, Parliament took the view that the mechanism for verification of the subsidiarity principle must be designed and put to use as a **major instrument for collaboration between European and national institutions** and emphasised dialogue among the different institutional levels of the multi-level European system.

Better lawmaking: Parliament urged the Commission to come forward with further concrete proposals to **reduce the overall EU regulatory burden without undermining health and safety at work**.

Members further suggested that the Commission should:

- explore the option of **introducing a ‘white paper’ stage** in the legislative process to afford stakeholders the ability to comment on draft proposals and accompanying provisional impact assessments;
- put forward proposals **implementing regulatory offsetting**, which would require equivalent cost offsets to be identified in advance of new legislation that would introduce the imposition of costs, and present an assessment of its impact before the end of the current parliamentary term in 2014.

Impact assessments and European added value: Members proposed that Parliament’s own impact assessments should include a territorial dimension when appropriate.

Lastly, Parliament insisted that the Commission give serious consideration to the **European added value assessments accompanying legislative own-initiative reports**, setting out in detail the reasons why it did not accept or consider relevant any of the arguments put forward by Parliament.