

Annual reports 2012-2013 on subsidiarity and proportionality

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The Commission presented its 20th annual report on the application of the principles of subsidiarity and proportionality in EU law making in 2012. 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 also analyses in more detail certain Commission proposals that were the subject of reasoned opinions in 2012.

National Parliaments: 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 (Monti II).

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.

The Commission took its **decision to withdraw the Monti II proposal** on 26 September 2012.

In 2012, the Commission received from national Parliaments **70 reasoned opinions**, with a slight increase of around 9% compared to 2011. 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. Eight other proposals elicited three reasoned opinions each.

As in 2011, the **Swedish Riksdag** was the national Parliament which adopted by far the highest number of reasoned opinions (20). The French *Sénat* issued the second highest number of reasoned opinions (7), followed by the German Bundesrat (5).

Scope of subsidiarity control: 2012 saw an intensification of discussions concerning the definition of the principles of subsidiarity and proportionality. 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**. 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. In this context, it should be recalled that the **Commission's Impact Assessment Guidelines** 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.

Application of the principles by the institutions: the **impact assessment board (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. In 2012, the IAB examined **97 impact assessments** and issued 144 opinions. Comments on issues of subsidiarity were included in 33% of its opinions.

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.

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 impact** of a planned proposal into the Commission's impact assessments.

The European Parliament also created a new **horizontal directorate** to provide a broader range of services to EP committees on **impact and European added-value assessments**. 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.