Annual report 2014 on subsidiarity and proportionality

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PURPOSE: presentation of the 22nd annual report on the application of the principles of subsidiarity and proportionality in EU law-making in 2014.

CONTENT: this report looks at how the EU institutions and bodies have implemented these two principles and how the practice has evolved in comparison with previous years. It also provides an analysis of several Commission proposals which were the subject of reasoned opinions from national parliaments in 2014.

Follow-up to reasoned opinions: 2014 saw a **significant reduction** in the number of reasoned opinions compared to previous years.

In 2014, the Commission received **21 reasoned opinions** from national Parliaments regarding the principle of subsidiarity, which represented a decrease of 76 % compared to the number of reasoned opinions received in the previous year (88 in 2013). The reasoned opinions received in 2014 accounted for a considerably lower proportion (4 %) of the overall number of opinions received by the Commission in the same year in the context of the political dialogue (506).

While no new yellow card procedure was triggered in 2014, the yellow card procedure triggered in 2013 in respect of the proposal on the European Public Prosecutor's Office continued to fuel discussions within the political dialogue.

The report stated that the considerably lower number of reasoned opinions should be seen in the context of a **decrease in the overall number of proposals made by the Commission** towards the end of its term of office and not as an indication of diminishing interest of national Parliaments in subsidiarity matters.

Between January and May 2014, the Danish Folketing, Dutch Tweede Kamer and UK House of Lords submitted reports with detailed proposals on how to strengthen the role of national Parliaments in the decision-making process. **Discussions between national Parliaments** on these subjects are continuing in different fora.

Application by the institutions: in 2014, as in previous years, all institutions involved in the legislative process were active in ensuring control of the principle of subsidiarity.

1) The Commission monitored compliance of its proposals with the principles of subsidiarity and proportionality by providing various assessments (**roadmaps, impact assessments**) before adoption of the legislative acts and by examining and replying extensively to reasoned opinions received from national Parliaments expressing subsidiarity concerns.

In 2014, **25 impact assessments were conducted**. After scrutiny by the independent quality control body, the Impact Assessment Board, eight of these impact assessments were judged to be in need of improvements as regards subsidiarity or proportionality, or both. This was the case, for example, as regards a proposal for a Decision on enhancing EU cooperation in the prevention and deterrence of undeclared work. This rate of **32%** is similar to that of previous years.

On 19 May 2015, the Commission adopted – in line with President Juncker's political priorities – a package of better regulation measures with new integrated Better Regulation Guidelines, including updated guidance for assessing subsidiarity and proportionality in the context of impact assessment of new initiatives.

The Commission is committed to **'evaluate first'**, analysing past performance before considering potential legislative changes. By gathering evidence and identifying lessons which can feed into decision-making, the EU is making evaluation an integral and permanent part of its policy-making along with assessments of subsidiarity and proportionality.

2) The European Parliament continued to deal with subsidiarity and proportionality issues in the context of its work on legislative proposals, taking into account reasoned opinions received from national Parliaments. It also initiated a **new, more general approach to assessing the EU added value** by drawing up a Cost of Non-Europe report and produced numerous appraisals of the Commission's impact assessments.

Despite the break in parliamentary activity in 2014, an election year, the European Parliament produced 32 initial appraisals and two detailed appraisals of Commission impact assessments, three complementary impact assessments, one impact assessment of substantive parliamentary amendments and one ex-post impact assessment in 2014. In addition, five reports on the **cost of non-Europe** were completed.

The Committee on Legal Affairs is the parliamentary committee which has overall responsibility for dealing with the principle of subsidiarity. A report is also regularly drawn up by the Committee on Legal Affairs on the Annual Report by the Commission on subsidiarity and proportionality. A resolution was adopted by the European Parliament on 4 February 2014 on the 19th report from the Commission on subsidiarity and proportionality.

3) The Committee of the Regions continued its work on subsidiarity issues, in particular by adopting and implementing its second Subsidiarity Work Programme and organising a number of workshops and conferences devoted to the principle of subsidiarity and issues related to the implementation of the subsidiarity control mechanism.

The proposals that gave rise to the most reasoned opinions however only generated three reasoned opinions, namely:

the proposal for a Directive on the Union legal framework for customs infringements and sanctions;

the proposed Directive on waste legislation in the framework of a package to create a more circular economy with the objective of making Europe more competitive and reducing demand for costly scarce resource. The proposal suggests recycling 70 % of municipal waste and 80 % of packaging waste by 2030, and also suggests a ban on burying recyclable waste in landfill as of 2025. The proposal sets ambitious targets and adds key provisions on the instruments needed to achieve and to monitor them;

the proposal for a Regulation on organic production and labelling of organic products, amending the Regulation on Official controls and repealing Council Regulation (EC) No 834/2007.