

Annual reports 2015-2016 on subsidiarity and proportionality

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PURPOSE: to present the 24th annual report on the application of the principles of subsidiarity and proportionality in EU law making in 2016.

CONTENT: the report looks at how the European Union's institutions and bodies implemented these two principles in 2016 and how the practice has evolved in comparison with previous years. It also provides an analysis of the Commission proposals that were the subject of reasoned opinions from national Parliaments during the year.

Better Regulation: in 2016, the Commission continued putting into practice its reinforced Better Regulation agenda launched in 2015, which includes strengthened **guidance** on how to assess subsidiarity and proportionality in the policy-making process.

Better Regulation principles and instruments, including subsidiarity and proportionality assessments, are applied at various stages of the decision-making process, taking account of relevant analysis and input provided by stakeholders:

- at the early stage of the policy planning process, **roadmaps** or inception impact assessments are published on the Commission's Europa website for all new major initiatives;
- during the policy development process, subsidiarity and proportionality aspects are analysed in **impact assessments**, which are also accompanied by an open public consultation;
- the **explanatory memorandum** accompanying the Commission proposal itself summarises how the principles of subsidiarity and proportionality are met;
- the Commission **website** 'Lighten the load – Have your say', which was launched in 2015, as well as the Regulatory Fitness and Performance (**REFIT**) Platform, which began to operate in 2016, also provide ways for the public and stakeholders to communicate with the Commission on possible excessive burdens or inefficiencies of existing regulatory measures;
- the new [Interinstitutional Agreement on Better Law-Making](#) was signed by the Presidents of the European Parliament, the Council and the Commission in April 2016 demonstrating the three institutions' commitment to Better Regulation to observe and implement the principles of subsidiarity and proportionality.

Impact assessments: in 2016, the Regulatory Scrutiny Board screened **60 impact assessments** and, in a number of cases, requested improvements of the argumentation on the principles of subsidiarity and proportionality.

This was particularly the case for:

- the [proposal](#) amending the Directive on the posting of workers;
- the [proposal](#) for a Council Directive on a general reverse charge mechanism for value added tax;
- the [proposal](#) for a Council Regulation on geo-blocking based on the principle of residence and nationality;
- the [proposal](#) for a Regulation on the modernisation of EU copyright rules in the Digital Single Market;
- the [proposed](#) revision of the Renewable Energies Directive.

Evaluations and fitness checks: the Commission normally produces between 100 and 120 evaluations every year. In 2016, the Commission published **43 evaluations** and fitness checks. The following examples from 2016 highlight evaluations where subsidiarity, European added value and proportionality issues were raised:

- on the Cross-Border Enforcement of Traffic Fines [Directive](#);
- on the action plan against the rising threats from **antimicrobial resistance**;
- on the **seventh Framework Programme** for Research.

Two fitness checks were completed: one on Reporting, Planning and Monitoring Obligations in the EU Energy acquis and one on the Birds and Habitat Directives. T

Follow-up to reasoned opinions from national Parliaments: in 2016, the Commission received **65 reasoned opinions** from national Parliaments on the principle of subsidiarity. This was 713% more than the eight reasoned opinions received in 2015. The proposal giving rise to most reasoned opinions was the proposal for a review of the Directive on the posting of workers, which generated 14 reasoned opinions, thereby triggering the so-called ‘yellow card’ procedure.

After careful analysis of the reasoned opinions, the Commission adopted a [Communication](#) on 20 July 2016 concluding that the **proposal complies with the principle of subsidiarity and that the proposal should be maintained unchanged**. It recognises that a number of national Parliaments remain unconvinced of its merits. The proposal is still under discussion by the European Parliament and the Council. Both co-legislators, like the Commission, are committed to keeping in mind the comments from the national Parliaments throughout the legislative process.

The report also noted the [proposal](#) for a review of the Dublin Regulation received eight reasoned opinions and the two proposals establishing the Common Consolidated Corporate Tax Base received eight reasoned opinions (see [2016/0336\(CNS\)](#) and [2016/0337\(CNS\)](#)).

European Parliament: in 2016, the competent parliamentary committee and the Committee on Legal Affairs, which has a horizontal responsibility for ensuring respect for the principle of subsidiarity, have continued to assess the conformity of the legislative proposals with the principles of subsidiarity and of proportionality.

In 2016, the European Parliament produced **36 Initial Appraisals, one Impact Assessment of substantive parliamentary amendments and 14 ex-post European Impact Assessments**. In addition, seven reports on the cost of **non-Europe** and four European Added Value Assessments were completed. In 2016, the European Parliamentary Research Service produced 28 ‘**Implementation Appraisals**’ of EU legislation.

The Committee of the Regions has also continued its work on monitoring the subsidiarity principle, in particular by adopting and implementing its subsidiarity work programme 2016, which provides for consultation of the Subsidiarity Expert Group. In its opinions, the Committee of the Regions has taken account of the subsidiarity concerns expressed by parliaments and the authorities of regions with legislative powers.

In conclusion, the Commission reiterates that the principles of subsidiarity and proportionality will **continue to underpin and shape EU decision-making** in the years to come.