Basic information

2005/2055(INI) INI - Own-initiative procedure	Procedure completed
Better lawmaking 2004: application of the principle of subsidiarity. 12th annual report **Subject** 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology 8.50.02 Legislative simplification, coordination, codification	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	DOORN Bert (PPE-DE)	24/11/2004

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	VAN DEN BURG Ieke (PSE)	04/07/2005

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2698	2005-12-06
Competitiveness (Internal Market, Industry, Research and Space)	2694	2005-11-28
Transport, Telecommunications and Energy	2695	2005-12-01

European Commission

Commission DG	Commissioner
Legal Service	

Key events

Date	Event	Reference	Summary
21/03/2005	Non-legislative basic document published	COM(2005)0098	Summary
14/04/2005	Committee referral announced in Parliament		
28/11/2005	Resolution/conclusions adopted by Council		Summary
01/12/2005	Debate in Council		Summary
06/12/2005	Debate in Council		Summary

21/03/2006	Vote in committee		Summary
23/03/2006	Committee report tabled for plenary	A6-0082/2006	
04/04/2006	Debate in Parliament		
16/05/2006	Decision by Parliament	T6-0203/2006	Summary
16/05/2006	Results of vote in Parliament		
16/05/2006	End of procedure in Parliament		

Technical information	
Procedure reference	2005/2055(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/27497

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE357.866	12/01/2006	
Committee opinion	ECON	PE362.858	23/02/2006	
Amendments tabled in committee		PE370.313	08/03/2006	
Committee report tabled for plenary, single reading		A6-0082/2006	23/03/2006	
Text adopted by Parliament, single reading		T6-0203/2006	16/05/2006	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2005)0098	21/03/2005	Summary
Commission response to text adopted in plenary	SP(2006)3065	01/08/2006	

Better lawmaking 2004: application of the principle of subsidiarity. 12th annual report

2005/2055(INI) - 06/12/2005

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2005/2055(INI) - 01/12/2005

Better lawmaking 2004: application of the principle of subsidiarity. 12th annual report

2005/2055(INI) - 16/05/2006 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Bert **DOORN (EPP-ED, NL)** in response to the Commission's 12th annual report on better lawmaking (2004). (Please see the summary dated 21/03/2006.)

Better lawmaking 2004: application of the principle of subsidiarity. 12th annual report

2005/2055(INI) - 28/11/2005

The Council held a policy debate on progress made under the “Better Regulation” initiative. In its Conclusion, the Council stressed the importance of an improved regulatory framework for growth, jobs and the need to enhance European competitiveness by reducing unnecessary burdens on business and citizens. The Council also reaffirmed the importance of simplifying the regulatory framework in accordance with the principles of subsidiarity and proportionality, while respecting the *acquis communautaire*. Based on the Conclusions of previous Council, the present Council, *inter alia*:

- Welcomes the Commission’s Communication “Implementing the Community Lisbon Programme: A strategy for the simplification of the regulatory environment” and its sectoral approach to industrial policy.
- Called on the Commission to adopt proposals based on the rolling simplification programme and to prioritise the simplification of its proposals.
- Recognises that in certain cases, and for the sake of legal clarity, Regulations may be more appropriate than Directives. The choice of legal instruments should continue to be made on a case by cases basis, taking full account of the proportionality and subsidiarity principles.
- Welcomes the Commission’s Communication on an EU common methodology for assessing administrative costs imposed by legislation.
- Welcomes the Commission’s screening initiatives and calls on the Commission to continue to monitor pending proposals in terms of their impacts with a view to modification, replacement or, where appropriate, withdrawal. In addition, the Council takes not of the new impact assessment guidelines covering the three pillars of sustainable development, strengthened competitiveness dimension and a methodology to measure administrative costs. In this context, the Council asks the Commission to prepare balanced integrated impact assessments for all major legislative proposals and to take full account of the principle of subsidiarity. In line with this development the Council has stated its intention to carry out impact assessments on substantive Council amendments in line with the Inter-institutional Agreement on better law-making.
- Reaffirms the importance of transparency in policy making and the need for timely stakeholder consultation.
- Reaffirms the importance of action by the Member States to improve the regulatory framework and takes note of the fact that many Member States are continuing with their efforts on better regulation as set out in their Lisbon National Reform Programmes.

At the same time as announcing these Conclusions, the Council agreed, without discussion, on an inter-institutional common approach to impact assessments aimed at improving the quality of EU legislation. This approach seeks to assess the impact of legislation processed by the European Parliament, the Commission and the Council, so that decisions can be made following a careful and detailed evaluation of the available evidence. Further, the common approach stipulates that the Commission will, as a general rule, carry out impact assessments on major items of draft legislation – and notably those included in its annual legislative programme. In return, both the Parliament and the Council will take account of the impact assessment along with the Commission’s initiative, taking them into account when preparing their own substantive amendments. Any substantive amendments proposed must map out their potential impacts in an integrated and balanced way as well as being based on accurate, objective and complete information. Lastly, all three institutions will publish their impact assessments on-line and the common approach will be reviewed after two years in the light of experience gained.

Better lawmaking 2004: application of the principle of subsidiarity. 12th annual report

2005/2055(INI) - 21/03/2005 - Non-legislative basic document

PURPOSE: to present the European Commission's report 'Better lawmaking 2004'.

CONTENT: The obligation on the Commission to present an annual report on the application of the principles of subsidiarity and proportionality to the European Council and the European Parliament was enshrined by the Edinburgh European Council in December 1992. Since 1995 this report has also applied to measures taken to improve the quality and accessibility of legislation.

This report is the 12th of its kind. It reviews the situation in 2004 and covers the following points:

1) Better regulation: Improvement of the regulatory environment is an absolute must both with a view to enhancing competitiveness, growth and employment and to promoting sustainable development and a better quality of life for European citizens. Because of the division of responsibilities within the Union, this improvement requires a joint effort on the part of the European Parliament, the Council, the Commission and the Member States. There is a need to consolidate the achievements made so far but also to define supplementary actions on the basis of the experience gained during the past three years. The creation of a new Commission with a new agenda and new priorities offers an ideal window of opportunity in this connection. Although performances were mixed, all the parties concerned have at any rate expressed their growing interest in actions to improve regulatory quality. Hence the Commission considers that the rationalisation of structures and procedures is an issue which must be addressed as soon as possible.

- *Consultation of interested parties:* In 2004, the number of consultations increased significantly. This was achieved while complying with most of the minimum standards for consultation introduced in 2003. The Commission still needs to make additional efforts on feedback to respondents and, to a lesser extent, on transparency. Constant vigilance is also needed to engage all parts of society at the consultation stage.

- *Impact assessment:* Assessing the potential impacts of often highly complex scenarios across 25 Member States and beyond is particularly difficult. 29 Extended Impact Assessments were completed in 2004 (compared with 21 in 2003). While initial experience shows that the methodology used is sound, there needs to be a more systematic application of the current methodology across Commission services and greater focus on competitiveness issues. Additional resources will also be needed to meet growing internal ambitions and external expectations.

- *Collection and use of expertise:* In 2004, the collection of expertise in specific domains has been systematised thanks to the sixth Framework Programme for R&D. Work also started to improve transparency on expert groups established by the Commission. It will result in the publication, early 2005, of a list of these groups and in the launch, later that year, of a register providing Parliament and the public with standard information on all expert groups.

Updating and simplifying the acquis: The Commission actively pursued its rolling programme on simplification. The Commission is considering reinforcing the mechanisms for identifying legislation which is disproportionately burdensome for EU manufacturers in relation to the public interests that it aims to safeguard. This exercise could lead to the launch of a new phase of the Commission's simplification programme. The reduction of the volume of Community legislation remains a relatively weak point (codification and elimination of outdated legislation).

- *Choice of instruments:* The Commission has prepared an inventory of the co-regulation mechanisms put in place by the Union and the forms of self-regulation with a Community dimension. This inventory will be used as a basis for the first report on the possibilities of growing use of these regulatory alternatives, which will be presented in 2005. Moreover, the Commission continued to argue and act in favour of decentralising some highly detailed executive tasks to European regulatory agencies. Lastly, progress was made on target-based tripartite contracts and agreements between the Community, the States and regional or local authorities.

- *Monitoring the application of Community law:* The new Member States have been fully integrated into the system for the control of the application of Community law (on-line notification of national measures transposing directives, etc). A procedure has also been established to ensure monitoring and review of the overall impact of enlargement. Problems citizens and businesses encounter with the application of Community law have been better addressed thanks to measures such as SOLVIT, the Internal Market's problem-solving network. Moreover the Commission has prepared the launch in 2005 of a new internet-based tool to facilitate the filing of complaints by citizens and businesses concerning non-respect of Community law.

2) Actions taken by the Member States

The regulatory burden on European operators still is mainly due to national legislation. Further progress is therefore necessary at Member States level. The Commission calls in particular on Member States to consult and to assess impact before adopting national legislation transposing EC acts. Lastly, it recommends the introduction of comparable, or at least compatible, regulatory quality indicators at EU and Member State level in order to monitor progress and facilitate the identification of best practices.

3) Application of the principles of subsidiarity and proportionality

The Commission took its procedural obligations regarding subsidiarity and proportionality very seriously. Efforts to consult widely before proposing legislation reached record levels. The decrease in the number of regulations and directives compared to the number of decisions and recommendations, both in absolute and relative terms, indicates how careful the Commission has been to choose the lightest instrument. In a number of cases, however, the Commission was criticised for not addressing the principles in more precise terms and for the way it assessed the burden put on certain stakeholders. In order to better explain reasons for concluding that its proposals comply with these principles and to facilitate compliance monitoring, the Commission developed and tested a new software application for drafting explanatory memoranda. This application will ensure that all requested information on the principles is provided in a systematic way. It will be used by all services in 2005.

As for burden assessment, the Commission wishes to underline that this is a fairly complex matter in a Union so large and so diverse. Providing precise forecasting on each and every possible impact is not always possible; when it is feasible, it is often very costly and long. Attempting to be exhaustive could result in legislative paralysis at the very time the Union is confronted with urgent challenges. The Commission therefore thinks that the principle of proportionate analysis should continue to prevail.

On the whole, the European Parliament and the Council introduced relatively few amendments referring explicitly to subsidiarity and proportionality. In most cases, the three institutions eventually managed to come to a common interpretation of subsidiarity and proportionality. As regards political monitoring of the Union's

legislative process, the Committee of the Regions has recognised, in the great majority of its opinions, the legitimacy of Union action. As regards ex-post judicial review, the subsidiarity principle has been referred to on six occasions by the European Court of Justice. No judgment has concluded that the rules of the Treaty have been badly applied in this connection.