Basic information

2008/2045(INI) INI - Own-initiative procedure	Procedure completed
Better lawmaking 2006 pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality **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	MEDINA ORTEGA Manuel (PSE)	26/02/2008

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	ROSATI Dariusz (PSE)	11/03/2008
AFCO Constitutional Affairs	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Secretariat-General	BARROSO José Manuel

Key events

Date	Event	Reference	Summary
06/06/2007	Non-legislative basic document published	COM(2007)0286	Summary
13/03/2008	Committee referral announced in Parliament		
09/09/2008	Vote in committee		Summary
17/09/2008	Committee report tabled for plenary	A6-0355/2008	
20/10/2008	Debate in Parliament		
21/10/2008	Decision by Parliament	T6-0493/2008	Summary
21/10/2008	Results of vote in Parliament		

21/10/2008	End of procedure in Parliament		

Technical information	
Procedure reference	2008/2045(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55-p4 Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/60336

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE407.839	12/06/2008	
Amendments tabled in committee		PE409.600	09/07/2008	
Committee opinion	ECON	PE409.422	17/07/2008	
Committee report tabled for plenary, single reading		A6-0355/2008	17/09/2008	
Text adopted by Parliament, single reading		T6-0493/2008	21/10/2008	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2007)0286	06/06/2007	Summary
Document attached to the procedure	COM(2008)0032	30/01/2008	
Document attached to the procedure	COM(2008)0033	30/01/2008	
Document attached to the procedure	COM(2008)0035	30/01/2008	
Commission response to text adopted in plenary	SP(2008)7292	12/02/2009	

Better lawmaking 2006 pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality

2008/2045(INI) - 21/10/2008 - Text adopted by Parliament, single reading

The European Parliament adopted, by 611 votes to 32 with 43 abstentions, a resolution in response to the report by the European Commission on ‘Better lawmaking 2006’ (the application of the principles of subsidiarity and proportionality).

The own-initiative report had been tabled for consideration in plenary by Manuel **MEDINA ORTEGA** (PES, ES) on behalf of the Committee on Legal Affairs.

Quality of legislation: the resolution supports the Commission's objective of improving the quality of Community legislation and reducing the legislative burden, including abolishing legislation that is unnecessary, hampers growth and inhibits innovation. Parliament promotes principles-based legislation and the focus on **quality instead of quantity**. It emphasises the importance of the principles of subsidiarity and proportionality in the context of the efforts to bring about better lawmaking as well as to secure broader acceptance among EU citizens for those measures which, in keeping with both principles, can only be taken at Community level.

Simplification: MEPs support the Commission's efforts to bring about the simplification of the Community acquis but call on it to draw up a **single annual document** in order to provide an overview of its strategy. They consider that consultations and **impact assessments** are essential to better drafted Community legislation and that they should help to establish a sound legal framework that is conducive to growth in the European Union. They also stress the need for **cost-benefit analyses** that reflect the regulatory cost structures, provided that such analyses are not used as a substitute for the political debate about the pros and cons of particular legislation. MEPs are of the opinion that, when proposing their amendments, Parliament and the Council should take into account both the Commission's and their own impact assessments in order to improve the quality of the drafting of legislation.

Self-regulation: MEPs express their **doubts** as to the appropriateness of encouraging self-regulation and co-regulation, which could ultimately turn into a form of 'legislative abstinence' that would encourage only pressure groups and powerful players on the economic stage. MEPs therefore support the Commission's conclusion that **regulations** continue to be the simplest way of achieving the EU's objectives and providing both businesses and citizens with legal security. The Commission is called upon to develop a more consistent approach in this respect.

Recast: Parliament confirms its wish that the Commission adopt recasting as an **ordinary legislative technique**, even when the 'revision' of the current text is being proposed, so as to make it possible to have – for each initiative – a complete overview of the text where the recast will not be possible. The ordinary legislative technique should make provision for codification, within not more than six months, of the successive amendments to the legislative act in question.

Transposition: MEPs are also of the opinion that **transposition** should be seriously and proactively monitored to **avoid diverging interpretations and gold-plating**. They want the Commission to play an active role in transposition, together with supervisors and expert groups, at both Community and national level and call for 'follow-up impact assessments' analysing how decisions are in fact implemented at national and local level. MEPs believe that, with a view to more efficient relations with the national parliaments, there is a need for a common approach to the conditions established by the subsidiarity and proportionality principles. Lastly, the resolution emphasises that the Commission's target of reducing administrative burdens by 25% by 2012 should be a **net target**, meaning that reductions in certain areas must not be nullified by new administrative burdens imposed elsewhere.

Better lawmaking 2006 pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality

2008/2045(INI) - 06/06/2007 - Non-legislative basic document

PURPOSE : to present a report on "Better Lawmaking 2006".

CONTENT : this report is the 14th annual review of the application of the principles of subsidiarity and proportionality. It also covers progress in improving the regulatory environment in the EU.

Actions taken by the Commission: the Commission has taken a lead on the Better Regulation agenda and in 2006 it:

-carried out 67 impact assessments, launched an external evaluation of its impact assessment system and established an Impact Assessment Board as an independent quality support and control function for impact assessments prepared by Commission departments;

-continued implementation of its simplification programme, reported on the progress made and added more than 40 new items to it, and integrated simplification items into its Legislative and Work Programme for 2007;

-integrated the EU Standard Cost Model for the measurement of administrative costs into its impact assessment guidelines and proposed the launch of an ambitious action programme to reduce administrative burden in the EU;

-completed its screening of pending proposals dating from previous Commissions and re-launched its programme for codification and repeal of obsolete legislation.

Many of these activities are carried out in a mutually reinforcing manner, ensuring that the Better Regulation agenda is coherent, for example: measurement of administrative costs is included in the methodology for impact assessments; and simplification proposals in the Commission Legislative and Work Programme are subject to impact assessment, which in turn makes use of stakeholder consultation.

The Commission discusses all of these points in detail.

Impact assessments: in a growing number of cases impact assessment has significantly changed the approach, the nature of the legal instrument, or even led to the abandonment of a proposal. The Commission also integrated into its guidelines for impact assessments a methodology for the measurement of administrative costs. The President of the Commission has set up an Impact Assessment Board, which operates under his direct authority and independently of Commission departments. It scrutinises draft impact assessments and provides opinions on their quality, offering advice and quality support where needed. Further measures to enhance the overall approach of impact assessments are likely in the follow-up to the external evaluation of the system, which was concluded in 2007.

Actions by EU institutions, the EESC and the Committee of the Regions: the European Parliament adopted a package of five resolutions on Better Regulation, which include a wide range of proposals for improvements of existing tools and procedures. In response to the European Parliament's call for reinforced quality control of Commission impact assessments, the Commission set up the Impact Assessment Board in November 2006. 2006 also saw the political endorsement by the European Parliament of the Inter- Institutional "Common Approach to Impact Assessment". It sets out "traffic rules" on how Commission impact assessments should be used in the legislative process and on European Parliament and Council impact assessments of their substantive amendments.

Both Parliament and Council have increased their use of Commission impact assessments when examining Commission proposals, thus consolidating impact assessment as a tool to ensure that political decisions are taken in the light of the best available evidence of potential impacts. During the Austrian Presidency the Council drew up an indicative guide for working parties on handling impact assessments in the Council. Parliament is increasingly requesting that studies and impact analyses on certain subjects to Commission proposals are carried out. The CoR and the EESC also took an active part in the Better Regulation debate in 2006, especially on subsidiarity issues.

Application of the principles of subsidiarity and proportionality: the Commission continued efforts to explain how the measures it proposes comply with both principles, through impact assessments and explanatory memoranda. In May 2006, it transmitted its new proposals directly to the national parliaments, inviting them to react so as to improve the process of policy formulation. As in previous years, the European Parliament and the Council introduced relatively few amendments to Commission proposals referring explicitly to subsidiarity and proportionality. The vast majority of opinions from the CoR and the EESC had no criticism regarding the application of the subsidiarity principle. Proportionality problems were raised slightly more often. This was also the conclusion of the two test cases of the CoR's Subsidiarity Monitoring Network. Several opinions sent by national parliaments asked for Commission arguments to be clarified. A minority of them concluded that the proposals transmitted by the Commission were considered in some respects to go against the principles. The Commission is responding to these submissions individually.

These divergences of views underline the need for a common understanding of the conditions set by these two principles. The Commission hopes that the presentation of the standard set of questions used for drafting the explanatory memoranda accompanying Commission proposals will contribute to such understanding. Convergent interpretation would avoid confusion with for instance the principle of "conferral of competences" and counter misapprehension that occasionally feed the perception of subsidiarity infringements.

As regards ex-post judicial control in 2006, the principle of subsidiarity was referred to in two judgments delivered by the Court of First Instance, which confirmed previous case law. In neither case did the Court find that the principle of subsidiarity had been infringed. Possible infringements of the principle of proportionality were analysed in several judgments and, in some cases, the Community measures were annulled in full or in part on that ground.

The commission gives the example of case C-310/04 Spain v Council concerning a Council Regulation amending the support scheme for cotton.