

Basic information	
2014/2252(INI)	Procedure completed Commission response to text adopted in plenary
INI - Own-initiative procedure	
Annual reports 2012-2013 on subsidiarity and proportionality	
Subject	
8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology	

Key players			
European Parliament	Committee responsible		Rapporteur
	Appointed		
	JURI Legal Affairs	KARIM Sajjad (ECR)	13/10/2014
	Shadow rapporteur		
	ZWIEFKA Tadeusz (PPE)		
	KAUFMANN Sylvia-Yvonne (S&D)		
	DELVAUX Mady (S&D)		
	MARINHO E PINTO António (ALDE)		
	ANDERSSON Max (Verts /ALE)		
	Committee for opinion		Rapporteur for opinion
	Appointed		
	AFET Foreign Affairs	The committee decided not to give an opinion.	
	DEVE Development	The committee decided not to give an opinion.	
	INTA International Trade	BORRELLI David (EFDD)	21/01/2015
	BUDG Budgets	The committee decided not to give an opinion.	
	CONT Budgetary Control	ŠULIN Patricija (PPE)	12/02/2015
	ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	

	EMPL Employment and Social Affairs		STEVENS Helga (ECR)	11/02/2015
	ENVI Environment, Public Health and Food Safety		The committee decided not to give an opinion.	
	ITRE Industry, Research and Energy		The committee decided not to give an opinion.	
	IMCO Internal Market and Consumer Protection		The committee decided not to give an opinion.	
	TRAN Transport and Tourism		The committee decided not to give an opinion.	
	REGI Regional Development		The committee decided not to give an opinion.	
	AGRI Agriculture and Rural Development		The committee decided not to give an opinion.	
	PECH Fisheries		The committee decided not to give an opinion.	
	CULT Culture and Education		The committee decided not to give an opinion.	
	LIBE Civil Liberties, Justice and Home Affairs		The committee decided not to give an opinion.	
	AFCO Constitutional Affairs		UJAZDOWSKI Kazimierz Michał (ECR)	20/01/2015
	FEMM Women's Rights and Gender Equality		The committee decided not to give an opinion.	
	PETI Petitions		The committee decided not to give an opinion.	
European Commission	Commission DG		Commissioner	
	Justice and Consumers		JOUROVÁ Věra	

Key events			
Date	Event	Reference	Summary
05/08/2014	Non-legislative basic document published	COM(2014)0506 	Summary
15/01/2015	Committee referral announced in Parliament		
13/10/2015	Vote in committee		
16/10/2015	Committee report tabled for plenary	A8-0301/2015	Summary
11/04/2016	Debate in Parliament		
12/04/2016	Decision by Parliament	T8-0103/2016	Summary
12/04/2016	Results of vote in Parliament		
12/04/2016	End of procedure in Parliament		

Technical information	
Procedure reference	2014/2252(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Annual report
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/02323

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE557.127	05/05/2015	
Committee opinion	AFCO	PE549.117	07/05/2015	
Committee opinion	CONT	PE549.234	07/05/2015	
Committee opinion	EMPL	PE549.221	29/05/2015	
Amendments tabled in committee		PE557.420	03/06/2015	
Committee opinion	INTA	PE554.679	17/06/2015	
Committee report tabled for plenary, single reading		A8-0301/2015	16/10/2015	Summary
Text adopted by Parliament, single reading		T8-0103/2016	12/04/2016	Summary
European Commission				
Document type	Reference		Date	Summary

Commission document (COM)	COM(2013)0566 	30/07/2013	Summary	
Commission document (COM)	COM(2014)0506 	05/08/2014	Summary	
Commission response to text adopted in plenary	SP(2016)484	20/09/2016		
National parliaments				
Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_SENATE	COM(2013)0566	28/11/2013	
Contribution	DE_BUNDESRAT	COM(2013)0566	04/03/2014	
Contribution	CZ_SENATE	COM(2013)0566	05/03/2014	
Contribution	IT_CHAMBER	COM(2013)0566	06/03/2014	
Contribution	SE_PARLIAMENT	COM(2013)0566	16/06/2014	
Contribution	IT_SENATE	COM(2014)0506	04/12/2014	
Contribution	IT_CHAMBER	COM(2014)0506	06/01/2015	
Contribution	CZ_SENATE	COM(2014)0506	04/02/2015	

Annual reports 2012-2013 on subsidiarity and proportionality

2014/2252(INI) - 12/04/2016 - Text adopted by Parliament, single reading

The European Parliament adopted by 400 votes to 257, with 57 abstentions, a resolution on the annual reports 2012-2013 on subsidiarity and proportionality.

The Commission received reasoned opinions addressing **83 legislative proposals in 2012, and 99 legislative proposals in 2013**. When taken as a whole, the proportion of reasoned opinions as a percentage of total submissions from national parliaments under the Protocol 2 of the Treaty has increased significantly when compared to 2010 and 2011: this percentage was 25 % in 2012 and 30 % in 2013.

As a consequence, Members emphasised that the use of the EU's competences should be guided by the principles of subsidiarity and proportionality and welcomed the fact that in 2012 and 2013, compliance with these two principles was **carefully scrutinised by the EU institutions and by national parliaments**. They noted, however, that the annual reports prepared by the Commission were somewhat perfunctory, and called on the latter to consider preparing **more detailed reports** regarding the way subsidiarity and proportionality are observed in EU policy-making.

National parliaments: noting the importance of parliaments and of their territorial impact and closeness to the citizens, Members welcomed the stronger involvement of national parliaments in the European legislative process in recent years, and called for their **greater involvement in the early warning system and in the European debate**.

2012 saw the first use of the **yellow card** procedure by national parliaments regarding the principle of subsidiarity in response to the Commission's [proposal for a regulation](#) on the exercise of the right to take collective action within the context of freedom of establishment and the freedom to provide services (Monti II). A second yellow card was triggered in 2013 on the Commission's [proposal for a Council Regulation](#) on the establishment of the European Public Prosecutor's Office.

Members noted that reasoned opinions issued by national parliaments pointed out the existence of **various interpretations** of the principles of subsidiarity and proportionality. They encouraged national parliaments to be faithful to the letter of the TEU when assessing compliance with the principles of subsidiarity and proportionality, and strongly recommended that national parliaments and European institutions **engage in exchanges of views and practices** of scrutinising their application. They regretted the absence of **common patterns**, which makes it more difficult to evaluate on what basis national parliaments intervene.

Impact assessments: Parliament stressed that **enhanced subsidiarity checks** could be considered an important tool for reducing the so-called 'democratic deficit'. The Impact Assessment Board considered more than 30 % of IAs reviewed by them in 2012 and 2013 to have included an unsatisfactory analysis of the principle of subsidiarity. Members expressed concern that **this number rose to 50 % in 2014**, and urged the Commission in its revision of the **guidelines** for impact assessments to address this issue and reverse this trend.

Parliament reiterated the call made in Parliament's [resolution of 14 September 2011](#) for the use of **national impact assessments** as a complement to those carried out by the Commission in support of proposed legislation.

Furthermore, given that legislative proposals may change dramatically in the lead-up to adoption by the institutions, Members called for a further subsidiarity check and **full impact assessment to be undertaken at the conclusion of the legislative negotiations** and in advance of the adoption of a final text.

Commission's response: expressing disappointment at the response of the Commission to national parliaments in instances where yellow cards had been issued, Members believed that the Commission should respond **comprehensively and on an individual basis** to any concerns raised as part of a dialogue in addition to any published opinion. They felt also that it was necessary for the Commission to appear before the relevant committee or committees of the Parliament to explain its position in detail.

Political dialogue: Members considered that political dialogue should be improved not only in instances of a yellow or orange card, but as a general rule. They welcomed in this regard the Commission's undertaking to appear before more national parliaments, and called for the Parliament to consider undertaking similar initiatives.

In order to promote a '**subsidiarity culture**' across the EU, Members recommended two particular initiatives:

- facilitating **greater inclusion** of positions made by national parliaments in the political dialogue, in particular in the course of preparatory work such as Green Papers or White Papers produced by the Commission;
- considering an **extension of the time period for consultation** of national parliaments under the subsidiarity check if national parliaments request this on grounds of time constraints on the basis of justified objective reasons, such as natural disasters and recess periods, to be agreed between national parliaments and the Commission.

'Green card': the resolution noted that several national parliaments in COSAC had expressed their interest in proposing the introduction of a green card as an instrument for improving political dialogue, having first secured the support of Parliament, the opportunity to make constructive proposals for the Commission's consideration and with due regard for the Commission's right of initiative.

Parliament also:

- asked the Commission, in compliance with the proportionality and subsidiarity principles, to **simplify the procedure** for applying for EU funds, with a view to making the application procedure more efficient and results-oriented;
- underlined its commitment to ensuring compliance with principles of subsidiarity and proportionality through **assessments of its own legislative own-initiative reports**, ex-ante appraisals of Commission impact assessments and the constant assessment of the potential EU added value and the '**cost of non-Europe**';
- noted, with regard to the recent discussions on investor-state dispute settlement (ISDS), that Article 3 of the Treaty on the Functioning of the European Union designates the **common commercial policy** and that therefore, the principle of subsidiarity does not apply to that policy;
- stressed the need to **clarify the scope of the Union's exclusive competence on foreign direct investment**. The different policies implemented by the Member States as regards investment protection have led to the current situation in which the Member States are party to some 1 400 bilateral investment treaties with, at times, different provisions, which could lead to varying treatment of EU investors abroad, depending on the origin of the investment in question;
- called for more in-depth ex-ante and ex-post impact assessments regarding the proportionality of proposed measures with respect to **EU financial assistance to other countries**, namely macro-financial assistance.

Lastly, Parliament stressed the need for a **proper mechanism** for proper consultation, dialogue and involvement of citizens, businesses (namely SMEs) and civil society in the EU decision-making process for trade policy.

Annual reports 2012-2013 on subsidiarity and proportionality

2014/2252(INI) - 16/10/2015 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted the own-initiative report by Sajjad KARIM (ECR, UK) on the annual reports 2012-2013 on subsidiarity and proportionality.

Members emphasised that the use of the EU's competences should be guided by the principles of subsidiarity and proportionality and welcomed the fact that in 2012 and 2013, compliance with these two principles was **carefully scrutinised by the EU institutions and by national parliaments**.

They regretted, however, that the annual reports prepared by the Commission were somewhat perfunctory, and often did not delve into a more detailed consideration of how subsidiarity and, in particular, proportionality were observed in EU policy-making.

National parliaments: noting the importance of parliaments and of their territorial impact and closeness to the citizens, Members called for their **greater involvement in the early warning system and in the European debate**.

2012 saw the first use of the so-called yellow card procedure by national parliaments regarding the principle of subsidiarity. However, Members noted that reasoned opinions issued by national parliaments pointed out the existence of **various interpretations** of the principles of subsidiarity and proportionality.

Members encouraged national parliaments to be faithful to the letter of the TEU when assessing compliance with the principles of subsidiarity and proportionality, and strongly recommended that national parliaments and European institutions **engage in exchanges of views and practices** of scrutinising their application. They regretted the absence of common patterns, which makes it more difficult to evaluate on what basis national parliaments intervene.

Impact assessments: the report stressed that **enhanced subsidiarity checks** could be considered an important tool for reducing the so-called 'democratic deficit'. The Impact Assessment Board considered more than 30 % of IAs reviewed by them in 2012 and 2013 to have included an unsatisfactory analysis of the principle of subsidiarity. Members expressed concern that **this number rose to 50 % in 2014**, and urged the Commission in its revision of the **guidelines** for impact assessments to address this issue and reverse this trend.

The committee reiterated the call made in Parliament's [resolution of 14 September 2011](#) for the use of **national impact assessments** as a complement to those carried out by the Commission in support of proposed legislation.

Furthermore, given that legislative proposals may change dramatically in the lead-up to adoption by the institutions, Members called for a further subsidiarity check and **full impact assessment to be undertaken at the conclusion of the legislative negotiations** and in advance of the adoption of a final text.

Commission's response: expressing disappointment at the response of the Commission to national parliaments in instances where yellow cards had been issued, Members believed that the Commission should respond **comprehensively and on an individual basis** to any concerns raised as part of a dialogue in addition to any published opinion. They felt also that it was necessary for the Commission to appear before the relevant committee or committees of the Parliament to explain its position in detail.

Political dialogue: Members considered that political dialogue should be improved not only in instances of a yellow or orange card, but as a general rule. They welcomed in this regard the Commission's undertaking to appear before more national parliaments, and called for the Parliament to consider undertaking similar initiatives.

In order to promote a '**subsidiarity culture**' across the EU, Members recommended **two particular initiatives**:

- facilitating **greater inclusion of positions** made by national parliaments in the political dialogue, in particular in the course of preparatory work such as Green Papers or White Papers produced by the Commission;
- considering an **extension of the time period for consultation** of national parliaments under the subsidiarity check if national parliaments request this on grounds of time constraints on the basis of justified objective reasons, such as natural disasters and recess periods, to be agreed between national parliaments and the Commission.

'Green card': the report noted that several national parliaments in COSAC had expressed their interest in proposing the introduction of a green card as an instrument for improving political dialogue, having first secured the support of Parliament, the opportunity to make constructive proposals for the Commission's consideration and with due regard for the Commission's right of initiative.

The report also:

- asked the Commission, in compliance with the proportionality and subsidiarity principles, to **simplify the procedure for applying for EU funds**, with a view to making the application procedure more efficient and results-oriented;
- emphasised the need to **clarify the division of competences** when trade policies impact on investments other than the foreign direct ones, namely portfolio investments, as controversies persisted in current Free Trade Agreements;
- called for clarification of whether **trade instruments**, such as investor-state dispute settlement (ISDS), could jeopardise the subsidiarity principle with respect to the competences of the Member States;
- called for more in-depth ex-ante and ex-post impact assessments regarding the proportionality of proposed measures with respect to **EU financial assistance to other countries**, namely macro-financial assistance.

Lastly, the report stressed the need for a **proper mechanism** for proper consultation, dialogue and involvement of citizens, businesses (namely SMEs) and civil society in the EU decision-making process for trade policy.

Annual reports 2012-2013 on subsidiarity and proportionality

2014/2252(INI) - 30/07/2013 - Supplementary non-legislative basic document

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.

Annual reports 2012-2013 on subsidiarity and proportionality

2014/2252(INI) - 05/08/2014 - Non-legislative basic document

PURPOSE: to present the Commission's 21st annual report on the application of the principles of subsidiarity and proportionality in the legislative process in the EU in 2003.

CONTENT: the report looks at how the EU institutions and bodies have implemented the principles of subsidiarity and proportionality and provides a more detailed analysis of a number of Commission proposals that were the subject of reasoned opinions submitted by national Parliaments in 2013.

National Parliaments: 2013 saw, for the second time ever, the triggering of a '**yellow card**' by national Parliaments in the context of the subsidiarity control mechanism, namely on the [Commission's proposal for a Council Regulation on the European Public Prosecutor's Office](#).

The **88 reasoned opinions** issued by national Parliaments (an increase of 25% in comparison to the previous year) covered **36 Commission proposals**. This seems to confirm a trend which had already been observed in previous years: national Parliaments have **varying political interests and different priorities** in choosing Commission proposals to be scrutinised in the context of the subsidiarity control mechanism.

They also seem to apply **different criteria** when assessing a proposal's compliance with the principle of subsidiarity.

The proposal on the EPPO generated 13 reasoned opinions; the second highest number of reasoned opinions (9) were issued in relation to the [proposal for a Directive](#) establishing a framework for maritime spatial planning and integrated coastal management.

National Parliaments issued 7 reasoned opinions on the [proposal for a Directive](#) on the manufacture, presentation and sale of tobacco and related products as well as on the [proposal for a Regulation](#) establishing a framework on market access to port services and financial transparency.

As in 2012, the **Swedish Riksdag** was the national Parliament which issued by far the highest

number of reasoned opinions (9). The Austrian *Bundesrat* and the Lithuanian *Seimas* issued the second highest number of reasoned opinions (6 each), followed by the two Spanish chambers (the *Congreso de los Diputados* and the *Senado*), the Maltese *Kamra tad-Deputati*, the Dutch *Tweede Kamer* and the UK House of Commons (5 each).

Application of the two principles by institution: the report notes that all institutions involved in the legislative process were active in ensuring control of the principle of subsidiarity.

The Commission continued to carry out in-depth assessments of compliance with the principles of subsidiarity and proportionality at different stages. Before adopting legislative proposals, it provides assessments (e.g. in roadmaps and impact assessments) and after adoption, it examines and replies to reasoned opinions from national Parliaments expressing subsidiarity concerns.

Subsidiarity control and monitoring issues also figured prominently on the agenda of the European Parliament and the Committee of the Regions.

The European Parliament continued to support its legislative own-initiative reports with evidence-based analysis of the potential EU added value. In total, five assessments accompanying legislative own-initiative reports by the European Parliament were finalised in 2013. They covered:

- better governance of the single market;
- combating violence against women;
- a Directive on the cross-border transfer of a company's registered office (the 14th Company Law Directive);
- the application of the principle of equal pay for men and women for equal work of equal value; and
- the statute for European mutual societies.

In 2013, the **European Parliament's ex ante Impact Assessment Unit** produced 50 initial appraisals of Commission impact assessments, two detailed appraisals of Commission impact assessments, three impact assessments on the Parliament's amendments (in total, 20 amendments were assessed).

The Committee of the Regions similarly increased its work on subsidiarity issues, especially by adopting and implementing a subsidiarity work programme for the first time. Since local and regional authorities are responsible, in most Member States, for implementing EU waste legislation, the CoR closely monitored the review of EU waste policy and legislation. A Quick Scan territorial impact assessment workshop was held to look at this initiative on 25 September 2013.