

Brussels, 21 DEC. 2010
C/2010/9010

Dear President,

The European Commission thanks the Italian Senate for its opinion relating to the 2009 annual report on relations between the Commission and national Parliaments {COM(2010) 291} and welcomes your overall positive assessment of these relations, in particular as regards the implementation of Protocols 1 and 2 attached to the Lisbon Treaty.

In our view, the subsidiarity control mechanism, as outlined in Protocol 2 on the application of the principles of subsidiarity and proportionality, is to be seen as part of a wider political relationship between the Commission and national Parliaments, and we welcome the fact that this interpretation is broadly shared within the Italian Senate.

The Commission is extremely grateful for the active participation of the Italian Senate in the political dialogue, including the subsidiarity control mechanism. Your Chamber is indeed among the most active ones and as such a model for many other national Parliaments who are engaging only now into a dialogue with us.

In this context, we appreciate in particular the timeliness of your opinions. Indeed, the compliance with the eight-weeks deadline envisaged by the Treaty of Lisbon is crucial to make the position of the Italian Senate known from the very start of the legislative process and for your views to have an impact on the interinstitutional negotiations.

In this context, I would like to draw your attention to the fact that the Commission Work Programme provides a helpful overview of the Commission's strategic planning not only for the following year but also for the years to come, with the current work programme providing a clearer indication of what the Commission sees as likely initiatives until 2014. This multiannual perspective could therefore be used by national Parliaments as a strategic tool, allowing them to be more aware of what the Commission plans to do and when, and thus to identify in advance those priorities on which they intend to express their views. This should also facilitate their internal planning and preparations.

As regards your comments as to which documents are being sent to national Parliaments for subsidiarity control, and which not, and taking also into account the remarks made by the delegation of the Italian Senate at the recent COSAC meeting on this matter, I would like to seize the occasion to provide the following clarification.

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First of all, a distinction should be made between Protocol 1 and Protocol 2. In conformity with Protocol 1 on the role of national Parliaments in the European Union, the Commission forwards directly to national Parliaments, and at the same time as to the European Parliament and the Council, its consultation documents (green and white papers and communications), the annual legislative programme and any other instrument of legislative planning or policy, as well as draft legislative acts, independent of whether they belong to the area of exclusive or shared competences. I would like to emphasise that the Commission fully complies with these obligations.

Let me add that all documents sent to national Parliaments under Protocol 1 are covered by the so-called "political dialogue", launched in 2006 by President Barroso, which means that national Parliaments can send opinions on these documents to the Commission, who will examine them carefully and reply to any question or comment raised therein.

As regards the specific subsidiarity control mechanism introduced with the Lisbon Treaty and outlined in Protocol 2, I should stress that this covers indeed only draft legislative acts that do not fall within the Union's exclusive competences. According to article 289 TFEU, legislative acts are only those acts adopted by legislative procedure (either the ordinary legislative procedure, or a special legislative procedure). Thus, where the Treaty legal base does not explicitly refer to one of the legislative procedures, be it ordinary or special, the relevant act is not a legislative one and therefore does not fall under the scope of the Protocol 2 mechanism. In addition, only draft legislative proposals that do not fall within the Union's exclusive competence are accompanied by a formal transmission letter opening the 8 weeks deadline for subsidiarity control.

I would like to reiterate that the Commission encourages national Parliaments to express their views on all documents it receives from the Commission, independent of whether they fall within the scope of the subsidiarity control mechanism or not, and that it will of course continue its practice to examine carefully and to take into account any comments it receives from national Parliaments in the more general context of the political dialogue.

As regards the figures the Italian Senate cites in its opinion, I would like to confirm that from 1 February to 31 May 2010, the Commission has transmitted a total of 239 documents to national Parliaments (including legislative and non-legislative documents), and that of these 239 documents 17 fell within the scope of the subsidiarity control mechanism. On 15 November 2010, 66 draft legislative acts had been sent to the national Parliaments for subsidiarity control under Protocol 2.

As regards the detailed procedures we have put in place to implement the new Treaty provisions related to national Parliaments, the Commission is open to have an exchange of views with national Parliaments on the first practical experience gained with the subsidiarity control mechanism in the course of the last 10 months and to discuss whether, in the light of this experience, parts of the procedure might need to be adapted. In this respect, we welcome any comments we receive from national Parliaments in this regard.

I would like to once again thank the Italian Senate for its active and constructive participation in the political dialogue. This is an important step towards further improving the process of policy formulation and spreading the ownership of our projects at national level. I am therefore looking forward to further developing our contacts and exchanges.

Yours sincerely,