

# ITALY'S CHAMBER OF DEPUTIES

COMMITTEE ON  
EUROPEAN UNION POLICIES

**FINAL DOCUMENT, PURSUANT TO ARTICLE 127 OF THE RULES OF  
PROCEDURE, ON:**

**BETTER LAWMAKING – 19<sup>th</sup> REPORT COVERING THE YEAR 2011  
(COM(2012) 373 FINAL)**

*Approved on 18 September 2012*

The European Union Policies Committee of Italy's Chamber of Deputies,

having examined the Annual Report on Subsidiarity and Proportionality of the European Commission - "19th report on Better Lawmaking covering the year 2011" (COM(2012) 373 final);

taking due account of the information and assessments presented in the Annual Report on Relations between the European Commission and National Parliaments (COM(2012) 375 final) and in the Report from the Commission on "Minimizing the regulatory burden for SMEs - Adapting EU regulation to the needs of micro-enterprises" (COM(2011) 803);

taking note of the resolution of the European Parliament of 13 September 2012 on the report "Better Lawmaking 2010 – Application of the principles of subsidiarity and proportionality" (2011/2276(INI));

whereas:

the principles of subsidiarity and proportionality are crucial to the process of European integration, as they may help to overcome the paradox of which the European Union, as demonstrated by the slow and inadequate response to the crisis, seems to be prisoner: the Union is unable to take appropriate action in response to complex issues of a global scale that make action on the part of the individual Member States insufficient, while at the same time intervening in excessive detail in other areas. It follows that European citizens see little European action where much is needed, and too much intervention where national, regional or local action would be more appropriate;

to resolve this paradox, an approach that can be summed up in the phrase "more Europe, more subsidiarity" is required. Such an approach is based on a dynamic conception of the principle of subsidiarity, which could involve an expansion of EU action within the framework of its competences, where the circumstances so require, or, conversely, a limitation or termination of action when it is no longer justified;

the principles of subsidiarity and proportionality should therefore not be viewed as instruments for merely defending national competences or interests, but rather as criteria for modulating European legislation in relations with other levels of government and with intermediate social entities;

institutional practices and the initial application of the early warning mechanism by the national parliaments demonstrate how, regardless of the different and more or less sophisticated methods employed by each institution, the procedures for interpreting and applying the principles of subsidiarity and proportionality during the legislative phase depend upon the political context

and the national and sectoral interests at stake;

from this standpoint, the fact that only 64 of the 622 opinions received by the Commission in 2011 from the national parliaments were reasoned opinions under the subsidiarity control mechanism confirms that most parliaments do not intend to use the mechanism as a means for blocking the European decision-making process and that they consider involvement in European policy and regulatory decisions to be a priority;

on only one occasion since the entry into force of the Lisbon Treaty have reasoned opinions adopted by the national parliaments reached the threshold triggering a "yellow card". This occurred in relation to the 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 (COM(2012) 130), which was then withdrawn by the European Commission;

we reiterate our firm opposition to any attempt to establish, within COSAC or in any other inter-parliamentary cooperation forum, mechanisms for coordination between the national parliaments that would be tantamount to exercising a collective subsidiarity control, in violation of the provisions of the Treaties and Protocol no. 2;

it is appropriate that the linkage between the national parliaments and the respective regional legislative assemblies focus on evaluating the substantive aspects of European legislative and pre-legislative initiatives rather than on subsidiarity issues;

the Committee of the Regions has placed a strong emphasis on subsidiarity control through opinions expressed within the framework of legislative procedures, through the subsidiarity monitoring network (SMN) and in contributions offered by regional parliaments with legislative powers to their respective national parliaments;

it is necessary to improve the methodologies and criteria for assessing compliance with the principles of subsidiarity and proportionality, in part to enable the national parliaments to adequately conduct the review of draft legislative acts submitted through the early warning mechanism within the very short eight-week deadline;

to this end, the Commission should provide a detailed and comprehensive explanation of its proposals with respect to subsidiarity and proportionality issues, in accordance with Article 5 of Protocol no. 2 to the Treaty on the Functioning of the European Union, and that the Parliament and the Council provide similar explanations for any amendments approved;

in this context, the European Parliament's commitment to conduct impact assessments before the adoption of any substantive amendments to draft legislation, with the establishment of a new impact assessment directorate within its General Secretariat, is a welcome development. The methodologies applied by such EP directorate should be compatible and comparable with the approach to impact assessments adopted by the European Commission and should guarantee appropriate cooperation with the relevant structures of the national parliaments;

the Council, too, should complete work on the creation of its own impact assessment mechanism;

we also welcome the European Parliament's request to review the "Inter-institutional Agreement on Better Law-Making" of 2003, which is no longer appropriate to the legal and political framework established following the entry into force of the Lisbon Treaty and developments in ordinary legislative procedures, with particular regard to the role of the national parliaments;

to ensure compliance with the principle of subsidiarity, priority should be given to implementing initiatives proposed by the Commission for minimizing the regulatory burden on SMEs;

it is necessary for this final document to be transmitted to the European Parliament and the Council and to the European Commission within the scope of the informal political dialogue;

expresses its approval,

*with the following comments:*

a) the institutions of the European Union must be more rigorous in shaping their actions to fit a dynamic concept of the principle of subsidiarity, understood as safeguarding personal freedom, which can lead to an expansion in EU action within the framework of its competences, where the circumstances so require, or, conversely, to a limitation or termination of action when it is no longer justified;

b) the European Commission and other competent institutions should give a more detailed explanation of their draft legislation with respect to subsidiarity and proportionality issues, providing qualitative and quantitative indicators in accordance with Protocol no. 2;

c) it would be advisable for the "Inter-institutional Agreement on Better Law-Making" of 2003 to be renegotiated, as requested by the European Parliament, in order to take account of the new institutional and legal framework created with the Lisbon Treaty, establishing stringent criteria and methodologies for assessing compliance with the principles of subsidiarity and proportionality, including making use of delegated and executive acts;

d) to this end, it is necessary that the Government take steps to achieve a revision of the agreement, keeping the Houses of Parliament constantly informed of developments in negotiations;

e) the methodologies for conducting impact assessments carried out by the Commission, the European Parliament and the Council should be comparable and compatible, in part to facilitate verification of compliance with the principles of subsidiarity and proportionality by the national parliaments;

*f)* in accordance with the principle of proportionality, the Commission, when preparing draft legislative acts, and the Parliament and the Council, when examining such acts, should adhere strictly to the principle of "think small first" and reduce the regulatory burden on SMEs to an absolute minimum;

*g)* to this end, rigorous application of the strengthened "SME test" would be advisable, particularly for micro-enterprises, and lighter regulatory regimes and exemptions should be introduced for small enterprises;

*h)* there should be more effective use and further development of instruments for exchanging information and assessments, such as IPEX, including their use in assessing subsidiarity issues.

