

SENATE OF THE REPUBLIC

----- 17th PARLIAMENTARY TERM -----

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RESOLUTION OF THE 14th STANDING COMMITTEE (European Union Policies)

(Rapporteur GINETTI)

approved at the session of 20 November 2013

ON THE

**ANNUAL REPORT 2012 ON RELATIONS BETWEEN THE EUROPEAN
COMMISSION AND NATIONAL PARLIAMENTS (COM(2013) 565)
(COMMUNITY DOCUMENT 4)**

AND ON THE

**ANNUAL REPORT 2012 ON SUBSIDIARITY AND PROPORTIONALITY
(COM(2013) 566)
(COMMUNITY DOCUMENT 5)**

under Article 144(1) and (6) of the Rules of Procedure

Communicated to the Presidency on 22 November 2013

The Committee, having examined documents 4 (COM(2013) 565) and 5 (COM(2013) 566),

whereas the 2012 Reports on relations between the Commission and the national parliaments and on subsidiarity and proportionality (the eighth and twentieth such reports respectively) complement each other to provide a comprehensive overview of relations between the executive in Brussels and the parliaments of the Member States of the Union;

noting that, in 2012, the total number of opinions transmitted by the national parliaments rose to 663, which was a 7% increase on 2011, while the number of reasoned opinions rose to 70, which was a 9% increase on 2011, and made up just over 10% of all the opinions transmitted, in this respect essentially the same as in 2011.

stressing that, after the Portuguese *Assembleia da República* (which alone supplied more than 30% of all the opinions sent to the Commission), the Italian Senate was again the second most active parliamentary chamber, with an increase from 76 to 96 opinions submitted, followed by the German *Bundesrat*, the French Senate and the Austrian *Bundesrat*;

whereas the Commission proposals and initiatives that gave rise to the most opinions from the national parliaments included in particular 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 (the 'Monti II' regulation, COM(2012) 130), with 17 opinions, the proposal for a regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (COM(2012) 10), with 13 opinions, the proposal for a regulation on data protection (COM(2012) 11), with 12 opinions, the proposal for a directive on the award of concession contracts (COM(2011) 897), with 11 opinions, the proposal for a directive on copyright and multi-territorial licensing (COM(2012) 372), with 10 opinions, and the proposal for a regulation on the Fund for European aid to the most deprived (COM(2012) 617), with 8 opinions;

noting that, as in 2011, the proposals which gave rise to the largest number of comments by the national parliaments were the same ones on which the largest number of reasoned opinions were submitted and that more than half of the opinions received within the framework of the political dialogue (334) focus on four fundamental areas: the internal market and services, justice and home affairs, mobility and transport, employment and health. Also taking account of the number of opinions expressed in previous years, and the level of detail of the comments they contain, the Commission considers that internal market and services, justice, and home affairs constitute 'perennial and key areas of interest for national Parliaments';

noting that 2012 saw confirmation of the trend whereby national Parliaments (with the sole exception of the Swedish *Riksdag*) are focusing their political dialogue with the Commission more and more on legislative, rather than non-legislative, documents, and that of the 23 proposals that received the most opinions (at least five), only one, the Commission communication entitled *Energy Roadmap 2050*, was non-legislative;

stressing that, in the case of reasoned opinions, 2012 was the first year in which the national parliaments reached the required threshold for triggering the 'yellow card' procedure, namely in the context of 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;

whereas, moreover, the reasoned opinions continued to vary greatly in terms of both their form and

the type of arguments put forward by national parliaments to underpin their conclusion that the principle of subsidiarity was being breached, as in the case of the regulation referred to above, in which the parliaments questioned the use of Article 352 of the Treaty on the Functioning of the European Union (TFEU) as a legal basis, the added value of the proposal, the need for the proposed action, and the possibility of including the right to strike amongst the competences of the European Union.

recalling, in this connection, that the eighteenth six-monthly report by COSAC (Conference of bodies concerned with Community affairs in the Parliaments of the European Community) contains useful information on the procedures and practices for parliamentary oversight of the principles of subsidiarity and proportionality, in particular:

- a difference in procedures connected with the way in which national parliaments see the relationship between subsidiarity and proportionality, with some considering both principles equally important while others consider proportionality to be a mere subset of subsidiarity. Most national parliaments are of the opinion that subsidiarity checks are not effective unless they include a proportionality check;
- a tendency to interpret the principle of subsidiarity more broadly than it is formulated in Protocol No 2 of the Lisbon Treaty, by including within it the principles of legality and proportionality;

stressing also that the European Commission has, on every occasion, confirmed the compliance of its proposals with the principle of subsidiarity and therefore considered the objections raised by the national parliaments to be essentially unfounded. This is also the case with the regulation referred to above, of which the Report on Subsidiarity says: '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 also recognised that its proposal was unlikely to gather the necessary political support within the European Parliament and Council to enable adoption.' Hence its decision, formally adopted on 26 September 2012, to withdraw the proposal.

whereas the Report on subsidiarity and proportionality takes full account of the progress made by the EU institutions in improving the proper application of those principles, and in particular:

- as regards the European Commission, the primary focus is on the Roadmap, available to the public, drawn up as a preliminary to every legislative initiative, which always contains an initial justification of the EU action in terms of subsidiarity and proportionality, as well as the impact assessment accompanying the proposal, which is closely examined by the impact assessment committee, which, in 2012, examined 97 assessments and drew up 144 opinions, 33 per cent of which contained comments on subsidiarity;
- in 2012 the European Parliament created a new horizontal directorate responsible for providing its committees with a wider range of services for assessing the impact and added value of legislative proposals. In 2012 it produced ten preliminary analyses of Commission impact assessments, a detailed analysis of one Commission impact assessment and three reports on European added value. On 13 September 2012, the European Parliament also adopted a resolution on better lawmaking, in which it suggested considering the advisability of establishing at EU level criteria for assessing compliance with the principles of subsidiarity and proportionality;
- at the Committee of the Regions, a Subsidiarity Steering Group was set up in 2012 to improve political governance of its subsidiarity monitoring work. The Group adopted a working programme for 2013 that concentrates on four initiatives planned under the Commission programme (E-invoicing in the field of public procurement, a Blue Belt for a

single market for maritime transport, the Review of Waste Policy and Legislation, the Environmental climate and energy assessment framework to enable safe and secure unconventional hydrocarbon extraction). In February 2012 the Committee of the Regions also launched REGPEX (Regional Parliamentary Exchange), a subnetwork of the Subsidiarity Monitoring Network (SMN, active since 2007), open to regional parliaments and governments with legislative powers;

whereas the Report on relations with the national parliaments gives particular prominence to the European Commission's action to bring about greater involvement of the national parliaments in the European Semester. In reply to a call from the Copenhagen COSAC in April 2012 to enhance the political dialogue during the European Semester, the Commission committed itself to intensified dialogue with national Parliaments at two times in particular: firstly, early in the year, following the publication of the Annual Growth Survey and secondly, once the European Council has endorsed the country-specific recommendations. 'This should help to raise awareness in national Parliaments and facilitate their involvement in the early preparation of the national budget plans (Stability/Convergence programmes) and National Reform Programmes. It should also improve understanding of the reasoning behind the country-specific recommendations, which ultimately rely on national policy-making for their implementation';

whereas, moreover, the European Commission, in its Communication on a Blueprint for a deep and genuine EMU — Launching a European Debate (COM (2012) 777), better known as the Blueprint, stressed that a deeper integration of policy-making and a greater pooling of competences at European level should be mirrored by increased involvement of the European Parliament. 'New mechanisms to increase the level of cooperation between national Parliaments and the European Parliament could also be explored, however.' In this connection, the Report gives the results of the meeting of COSAC chairpersons in Dublin on 27 and 28 January 2013, and reports on the first European Parliament week of the European Semester held in Brussels on 28-30 January 2013, as well as preliminary reflections on the nature and structure of the conference provided for in Article 13 of the Fiscal Compact (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union), later ratified by the EU Parliaments' Speakers Conference in Nicosia on 22 and 23 April 2013;

whereas on the same governance themes, the Report on relations with the national parliaments also touches on two other important issues concerning inter-parliamentary cooperation:

- the increasingly important role played by COSAC, which 'continued to be an important forum for discussions with national Parliaments'. Particular emphasis is placed on the work of the Danish COSAC Presidency, which 'boosted parliamentary activity on the 12 key actions in the Single Market Act and helped to raise awareness of the importance of the Digital Agenda for Europe, implementation of the Services Directive and the Roadmap to a Resource-Efficient Europe';
- the increasing presence of the Commission at inter-parliamentary meetings. 'In particular, President Barroso took part in the COSAC plenary meeting in Copenhagen in April 2012, along with Vice-President Kroes and Commissioners Potočnik and Barnier, while the other three COSAC meetings saw the participation of Vice-President Šefčovič, Commissioners Hedegaard and Oettinger, and the Deputy Director-General of DG MARKT. The High Representative for Foreign Affairs and Security Policy/Vice-President of the Commission, Baroness Ashton, attended the meetings of the newly established Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, established at the EU Speakers' Conference on 21-22 April 2012 in Warsaw';

noting, lastly, that the Commission has also increased its presence at other events not connected to inter-parliamentary cooperation, and that in 2012 Vice-President Šefčovič visited six national parliaments and received many parliamentary delegations at the Commission headquarters in Brussels. Commission officials participated in meetings of national parliaments' committees when requested and ten different DGs (including Internal Market, Justice, Research, Ecofin, Enterprise and Home Affairs) and attended 17 meetings with national parliaments' Brussels-based permanent representatives to discuss a variety of upcoming initiatives or ongoing files. Permanent representatives of national Parliaments met once with Vice-President Šefčovič and once with Commissioner Geoghegan-Quinn, as well as with members of President Barroso's cabinet,

agrees with the content of the Reports, as referred to above;

considers that it is necessary for the Italian Parliament, together with the other national institutions, including in particular the Government and the regions, to continue to increase their involvement in the life of the European Union, with particular reference to the upstream phase of the European legislative process, the procedure for monitoring compliance with the principle of subsidiarity, political dialogue with the EU institutions under the 'Barroso procedure', the procedures for participating in the European Semester, the other procedures relating to economic governance, and the prospects for inter-parliamentary cooperation;

in this connection considers it necessary to increase the involvement of the Senate of the Republic in the drafting of European legislation, as already stated in the resolution on this subject approved by the 14th Standing Committee on 23 October 2013 (Doc. XXIV, No 11), and, for not only European legislative procedures, but also non-legislative documents of the European Commission to be subjected to scrutiny where they are of a more programmatic political nature;

also considers it essential to confirm the full and active support of the 14th Senate Committee for the gradual 'Europeanisation' of the activities of national parliaments, as evidenced in the annual Reports;

considers that, in view of the important institutional dates on the horizon, such as the elections to the European Parliament to be held on 22-25 May 2014, the new European Commission due to take up office from 1 November 2014, the appointment of the President of the European Council from 1 November 2014 and the Italian Presidency of the Council of the European Union in the second half of 2014, it is essential to ensure that Italy's position as represented in the various European forums of negotiation is coherent and effective;

considers that, in this context, full implementation of the new instruments introduced by Law No 234 of 24 December 2012 to ensure constant communication between Parliament and Government is of particular importance. Amongst these, particular reference should be made to Article 6, under which the Government is to provide Parliament with high-quality and timely information on EU draft legislation and constantly update that information, and Article 4 which provides for communication between Parliament and the Government - through discussion in Parliament or its Committees - on the negotiating positions the Government will maintain at the European Council and the Council of the European Union;

also considers that the legitimacy of action by the EU institutions and democratic responsibility should be strengthened at the different levels of EU decision-making, in particular as regards measures to apply and implement the Fiscal Compact, the Compact for Growth and Jobs, the Six-Pack and the Two-Pack, through the full involvement and coordination of the national parliaments and the European Parliament, in line with the conclusions of the European Council of December 2012;

considers that democratic legitimacy cannot be strengthened without further involving public opinion and raising public awareness, and that the EU institutions should therefore ensure that the discussions held in the decision-making process, particularly those concerning economic affairs and employment, are rendered more transparent and accessible to EU citizens;

considers, lastly, that, particularly in view of the forthcoming Italian Presidency of the Council of the Union, which will have an important parliamentary dimension, full support should be given to the different forms of EU inter-parliamentary cooperation, starting with COSAC, the Conference on economic governance and the Conference on foreign policy and defence.