

Doc. XVIII

No. 18

CHAMBER OF DEPUTIES

THE STANDING COMMITTEE ON EUROPEAN UNION POLICIES

FINAL DOCUMENT, PUBLISHED PURSUANT TO RULE OF PROCEDURE NO. 127,

ON THE:

ANNUAL REPORT OF THE EUROPEAN COMMISSION 2013 ON SUBSIDIARITY AND PROPORTIONALITY (COM(2014)506
FINAL);

Approved 16 December, 2014

**ANNUAL REPORT 2013 OF THE EUROPEAN COMMISSION ON
SUBSIDIARITY AND PROPORTIONALITY
(COM(2014)506 FINAL)**

Final document approved by the EU Policies Committee

The Committee on EU Policies,

having examined the European Commission's Annual Report 2013 on subsidiarity and proportionality (COM(2013)506 final);

taking into account the Commission's annual report 2103 on relations between the European Commission and national parliaments (COM(2014)507);

taking note of the input of the 52nd COSAC, held in Rome from 30 November to 2 December 2014, and the conclusions adopted by the same;

considering the information and evaluations obtained from the Undersecretary of State for European Affairs Sandro Gozi, who appeared before the Committee on 5 November 2014 to speak about the European Commission's Annual Report 2013 on relations with national parliaments;

taking into account the final report on the functioning of the Friends of the Presidency working group, presented on 9 December 2014;

whereas:

- subsidiarity and proportionality can significantly advance the process of European integration and help build a better Europe that is capable of responding to citizens' expectations with appropriate policies and of moving beyond the sterile opposition between arguments for "more Europe" and those for "less Europe";

- the two principles thus need to be understood in a dynamic sense, so that, within the scope of its powers, the EU may broaden its actions, if required by circumstances or, conversely, suffer their restriction or cessation, if no longer justified;

- a more precise and detailed application of the two principles needs to be enforced during the preparation of policy-making and legislative acts by the European Commission and the Council,

so that initiatives with real European added value may be identified in the early stages of development, and their form and content modulated accordingly;

- we must renew the invitation to the Commission to provide more detailed reasons in its proposals with respect to subsidiarity and proportionality, in accordance with Article 5 of Protocol No. 2 to the Treaty on the Functioning of the European Union (TFEU), and do likewise with the European Parliament and the Council, which must similarly justify any amendments they make;

- we welcome that the Commission has shown commitment to analysing results obtained on the basis of existing legislation before considering any amendments now that it is ready to complement its *ex-ante* (preliminary) analysis with an increasing amount of *ex-post* (retrospective) evaluation of compliance with subsidiarity and proportionality principles in order to determine whether EU actions are still necessary, whether they are producing the expected results and, above all, whether they are improving the conditions of businesses and citizens;

- we welcome the growing commitment of the European Parliament to conducting impact assessments prior to the adoption of substantial amendments to legislative proposals, and its readiness to avail itself of the Directorate for Impact Assessment that has been set up within its General Secretariat. It is to be hoped that the methods of the Directorate will be compatible and comparable with those used by the European Commission, and that adequate cooperation will be assured with the relevant structures of national parliaments. The European Parliament's introduction of European added-value analyses to verify, in particular, the costs of European inaction, is based on a dynamic conception of subsidiarity that is to be warmly welcomed;

- no negative interpretation should be made of the fact that in the first five years of the early warning mechanism, the "yellow card" threshold has been reached in just two cases, nor of the fact that although the number of reasoned opinions issued under the early warning procedure has steadily risen, they still make up just over 15 percent of the total contributions submitted by national parliaments to the European Commission. These data imply not the ineffective use of the potential of the early warning mechanism but rather the preference of parliaments to focus on the substance of EU policy and regulatory decisions. The control of subsidiarity by national parliaments is not simply a matter of carrying out legally rigorous tests of compliance, but provides an additional tool with which they may assert their national interest;

- we reaffirm the necessity of making effective use of and enhancing tools such as IPEX for the exchange of information and opinions, including on matters of subsidiarity and proportionality;

- now that five years have passed since the early warning mechanism was introduced, it is fitting to reaffirm the validity of the procedural choices made by the Chamber of Deputies, with particular reference to:

- the judicious restriction of subsidiarity tests, which are applied only to major legislative projects that seem liable to conflict with the principle, a selective approach that leaves room for in-depth analysis;

- the extension of oversight activities to include an analysis of the legal basis of proposals, which is in keeping with the approach of most national parliaments;

- the separation of opinions relating to subsidiarity from those relating to proportionality. Indeed, the extension of the early warning mechanism to include questions of proportionality would be contrary to the prescriptions of Protocol No. 2 and mark a clear departure from the Chamber of Deputies' own position which, ever since the Convention started its work, has always been that the scope of the mechanism should be limited to reduce its potential to stall European law-making. Further, while subsidiarity control refers solely to draft EU legislation relating to matters over which the EU's jurisdiction is non-exclusive, proportionality refers to any legal act of the EU, including for matters over which it does exercise exclusive powers. Further, at the operational level, although the two principles are connected in many ways, compliance tests would seem to demand partially separate methodologies and procedures, especially under the Italian system;

recognising also that this final document must be transmitted to the European Parliament and to the European Commission as part of political dialogue;

expresses a

FAVOURABLE OPINION

with the following observations:

- 1) EU institutions need to ensure a more rigorous enforcement of the principles of subsidiarity and proportionality when preparing the policy-making and legislative planning of the European Commission and the Council so that initiatives with real European added value can be identified at an early stage;
- 2) the European Commission and other relevant bodies of the EU should provide more detailed reasons to show that their legislative proposals comply with the principles of subsidiarity and proportionality and, pursuant to Protocol No. 2, provide qualitative and quantitative indicators to this end;
- 3) the impact-assessment methods used by the Commission, the European Parliament and the Council should be comparable and compatible, also to make it easier for national parliaments to check compliance with the principles of subsidiarity and proportionality;
- 4) *ex-post* assessment of EU policies needs to become a permanent and integral part of the process of developing new EU policies, and the assessment should refer to five key criteria (effectiveness, efficiency, relevance, consistency, and European value added). It is therefore to be hoped that the European Commission will further develop, both in quantitative and qualitative terms, "retrospective" assessments of subsidiarity and proportionality.