

**SEIMAS OF THE REPUBLIC OF LITHUANIA  
COMMITTEE ON EUROPEAN AFFAIRS**

**OPINION**

**ON BEHALF OF THE SEIMAS OF THE REPUBLIC OF LITHUANIA**

**on THE COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN  
ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE  
REGIONS *THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY:  
STRENGTHENING THEIR ROLE IN THE EU'S POLICYMAKING* COM(2018) 703**

13 February 2019, No 100-P-10

Vilnius

The Committee on European Affairs of the Seimas,

- *having examined* the Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *The principles of subsidiarity and proportionality: strengthening their role in the EU's policymaking* COM(2018) 703 (hereinafter referred to as the Communication),
- *having studied* Position No P\_EST-276 of the Republic of Lithuania on the Communication drafted by the Ministry of Foreign Affairs of the Republic of Lithuania,
- *realising* that the quality of the EU legislation depends on the active engagement of all the legislative bodies,
- *underlining* the significance of the principle of subsidiarity in the legislative process of the European Union,
- *reminding* that the principle of subsidiarity is applied as a means to ensure that the EU takes action only when it is necessary and in the areas where its action can produce clear benefits compared to measures at national or local levels,
- *aiming at* a consistent, efficient, and active application of the subsidiarity principle,
- *pointing out* that the legal basis of a draft legislative act, which corresponds with the objective and the content of the draft, is, according to the Court of Justice of the European Union, a matter of constitutional importance, which determines the application of the subsidiarity control mechanism in relation to the draft,

- *emphasizing* the role of the national Parliaments, established by the Treaty on European Union, in ensuring compliance with the principle of subsidiarity,
- *pointing out* that the yellow card procedure, provided for in Protocol No 2 to the Treaty on European Union and the Treaty on the Functioning of the European Union *on the application of the principles of subsidiarity and proportionality* (hereinafter referred to as Protocol No 2 *on the application of the principles of subsidiarity and proportionality*), when a certain number of national Parliaments/Chambers adopt reasoned opinions stating that a draft legislative act does not comply with the principle of subsidiarity and the draft therefore must be reviewed, has been applied in practice on extremely rare occasions since the entry into force of the Treaty of Lisbon,
- *with a view to* engaging not only national Parliaments but also local authorities and the public in the legislative process of the European Union in order to bring the EU closer to its citizens,
- *believing* that the principle of subsidiarity is integrally related to the principle of proportionality,
- *recognising* that the Communication is the basis for further discussion on the strengthening of the role of the principles of subsidiarity and proportionality in the EU's policymaking,
- *realising* that some proposals offered below can be related to Treaty amendments but *refraining from* seeking any amendments exclusively for strengthening the role of the subsidiarity principle,
- *having appreciated* the experience of the Seimas in determining the conformity of draft legislative acts with the principle of subsidiarity,
- *having considered and taking into account* the conclusions on the Communication made by the specialised committees of the Seimas, namely the Committee on Environment Protection, the Committee on Audit, the Committee on Budget and Finance, the Committee on Economics, the Committee on Rural Affairs, the Committee on Culture, the Committee on Social Affairs and Labour, the Committee on Health Affairs, the Committee on Legal Affairs, the Committee on State Administration and Local Authorities, and the Committee on Human Rights, and
- *following* Article 180<sup>9</sup> of the Statute of the Seimas and Paragraph 26 of the Regulation on the Consideration of the European Union Matters by the Seimas of the Republic of Lithuania,

**hereby expresses, on behalf of the Seimas, the following Opinion:**

to recommend that the Government specify Position No P\_EST-276 of the Republic of Lithuania of 5 November 2018 on the Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *The principles of subsidiarity and proportionality: strengthening their role in the EU's policymaking* COM (2018) 703 by proposing therein that:

1. In the legislative process of the European Union, the priority should be given to more effective enforcement rather than development of new legislation;
2. Welcoming the aspiration for the application of the uniform criteria, i.e. the single assessment grid, by all the EU legislative bodies – both EU institutions and national Parliaments – in appraising the compliance of draft legislative acts with the principle of subsidiarity, a broader discussion should be carried out on the appropriateness of all the criteria that are proposed for inclusion in the grid without preventing legislative bodies from including additional elements in the assessment in specific cases where necessary;
3. The eight-week term for presenting reasoned opinions by the national Parliaments, established in Protocol No 2 *on the application of the principles of subsidiarity and proportionality*, should be applied flexibly and exclude not only August but also other holidays and recesses, e.g., Christmas week;
4. The European Commission should meet its commitments more effectively to carry out impact assessments for substantial amendments proposed and engage local authorities therein in view of their specific role in implementing EU legislation; and, where necessary (when there are large differences between the regions), include territorial impact in the impact assessment;
5. In order to achieve a broader involvement of local authorities and the public in the subsidiarity control mechanism in the national Parliaments, a review of Protocol No 2 *on the application of the principles of subsidiarity and proportionality* should be discussed with a view to establishing a twelve-week term for submission of reasoned opinions;
6. The Commission should draft general responses to the reasoned opinions of national Parliaments when their number is considerable but insufficient to trigger the yellow card procedure. Organisation of a broader debate on the respective matter with the

participation of representatives from national Parliaments and the European Parliament, where the Commission could present its arguments, should be considered;

7. The reduction of the number of reasoned opinions necessary to trigger the yellow card procedure should be discussed;
8. A discussion should be held on the right for the national Parliaments to draft and submit reasoned opinions on the compliance of draft legislative acts with not only the principle of subsidiarity but also the principle of proportionality, as well as on the right to assess the legal basis of draft legislative acts (conferral of powers).

Gediminas Kirkilas

Chair of the Committee