

2. PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union;

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as laid down in Article I-11 of the Constitution, and to establish a system for monitoring the application of those principles,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe:

Article 1

Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article I-11 of the Constitution.

Article 2

Before proposing European legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal.

Article 3

For the purposes of this Protocol, 'draft European legislative acts' shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a European legislative act.

Article 4

The Commission shall forward its draft European legislative acts and its amended drafts to national Parliaments at the same time as to the Union legislator.

The European Parliament shall forward its draft European legislative acts and its amended drafts to national Parliaments.

The Council shall forward draft European legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by them to national Parliaments.

Article 5

Draft European legislative acts shall be justified with regard to the principles of subsidiarity and proportionality. Any draft European legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a European framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft European legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

Article 6

Any national Parliament or any chamber of a national Parliament may, within six weeks from the date of transmission of a draft European legislative act, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft European legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft European legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.

Article 7

The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

Where reasoned opinions on a draft European legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second paragraph, the draft must be reviewed. This threshold shall be a quarter in the case of a draft European legislative act submitted on the basis of Article III-264 of the Constitution on the area of freedom, security and justice.

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft European legislative act originates from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

Article 8

The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a European legislative act, brought in accordance with the rules laid down in Article III-365 of the Constitution by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against European legislative acts for the adoption of which the Constitution provides that it be consulted.

Article 9

The Commission shall submit each year to the European Council, the European Parliament, the Council and national Parliaments a report on the application of Article I-11 of the Constitution. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.
