

EUROPEAN UNION



Committee of the Regions

**The Subsidiarity Early Warning System of
the Lisbon Treaty – the role of regional
parliaments with legislative powers and
other subnational authorities**

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It does not represent the official views of the Committee of the Regions.**

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List of Abbreviations

General

AER	Assembly of European Regions
AEBR	Association of European Border Regions
CALRE	Conference of European Regional Legislative Assemblies
CEMR	Council of European Municipalities and Regions
CEPLI	European Confederation of Local Intermediate Authorities
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
CLRAE	Congress of Local and Regional Authorities of the Council of Europe
COM	European Commission
COPPEM	Standing Committee Euro-Mediterranean Partnership of the Local and Regional Authorities
CoR	Committee of the Regions
COREPER	Permanent Representatives Committee
COSAC	Conference of Community and European Affairs Committees of Parliaments of the European Union
CPMR	Conference of Peripheral Maritime Regions
EEA	European Economic Area
EIPA	European Institute of Public Administration
EU	European Union
EP	European Parliament
EWS	Early Warning System
GGG	Leuven Centre for Global Governance Studies
IA	Impact Assessment
IPEX	Inter-parliamentary EU Information Exchange Platform
IT	Information Technology
MLG	Multilevel Governance
MEPs	Members of the European Parliament
MPs	Members of the Parliament
NGO	Non-Governmental Organisation
NUTS	Nomenclature of territorial units for statistics
REGLEG	Conference of European regions with legislative power
REGPEX	Regional Parliamentary Exchange
SMN	Subsidiarity Monitoring Network
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Austria

NR	Nationalrat - Federal Chamber of National Parliament
BR	Bundesrat - Regional Chamber of National Parliament
BVG	Bundesverfassungsgesetz - Federal Constitution
EU-InfoG	EU-Informationsgesetz
L-BN	Lissabon Begleitnovelle - Lisbon amendment to the BVG

Belgium

BP	Brussels Regional Parliament
CIREU	Committee of International Relations and European Issues of the Parliament of the French Community
COCOF	Commission communautaire française (French Community Commission)
COCOM	Commission communautaire commune (Common Community Commission)
COCON	Commission communautaire flamande (Flemish Community Commission) (in French)
FCP	French-speaking Community Parliament
FP	Flemish Parliament
GCP	Parliament of the German-speaking Community in Belgium
PFWB	Parliament of the Federation Wallonia-Brussels
VGC	Vlaamse Gemeenschapscommissie (Flemish Community Commission) (in Dutch)
WP	Walloon Parliament

Bulgaria

CEAOEF	Committee on European Affairs and Oversight of the European Funds
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Cyprus

EAS	European Affairs Service
HSCFEA	House Standing Committee on Foreign and European Affairs

Czech Republic

ARCR	Association of Regions of the Czech Republic
CEA	Committee of European Affairs of the Chamber of Deputies

Denmark

EAC European Affairs Committee

Estonia

EUAC European Union Affairs Committee

France

EAC European Affairs Commission
SEAC Senate's European Affairs Committee

Germany

BT Bundestag (Federal Parliament)
BR Bundesrat (Legislative body representing the 16 *Länder* at federal level)
BSPC Baltic Sea Parliamentary Conference
GG Grundgesetz (Basic Law, i.e. German federal constitution)
IntVG Integrationsverantwortungsgesetz (Act on Assuming Responsibility for EU Integration)
EUZBBG Gesetz über die Zusammenarbeit von Bundesregierung und Deutschem Bundestag in Angelegenheiten der Europäischen Union, EU-Zusammenarbeitsgesetz (Act on Cooperation between the Federal Government and the BT in matters concerning the EU)
EUZBLG Gesetz über die Zusammenarbeit von Bund und Ländern in Angelegenheiten der Europäischen Union: (Act laying down terms of inter-institutional cooperation in EU matters between the Federation and the Länder)

Greece

CEA Committee on European Affairs

Hungary

EUC European Union Committee

Ireland

JCES Joint Committee on European Scrutiny
IRO Irish Regions Office

Italy

CAPIRe Controllo delle Assemblee sulle Politiche e gli Interventi Regionali

Latvia

EAC European Affairs Committee
LALRG Latvian Association of Local and Regional Governments

Lithuania

CEA Committee on European Affairs
CFA Committee on Foreign Affairs

Luxembourg

CAEEDCI Commission des Affaires étrangères et européennes, de la Défense, de la Coopération et de l'Immigration (Commission of European and Foreign Affairs, Defence, Cooperation and Immigration)
SYVICOL Syndicat des Villes et Communes Luxembourgeoises

Malta

FEAC Foreign and European Affairs Committee

The Netherlands

EUAC European Union Affairs Committee

Poland

EUAC European Union Affairs Committee

Portugal

AR Assembleia da República
EAC European Affairs Committee

Romania

DCL Directorate for Community Law
EAC European Affairs Committee

Slovakia

CEA Committee on European Affairs
ZMOS Association of municipalities and towns of Slovakia

Slovenia

CEA Committee on EU Affairs
CFP Committee on Foreign Policy

Spain

COPREPA Conference of Presidents of the Regional Parliaments
(Conferencia de Presidentes de Parlamentos autonómicos
españoles)

Sweden

SALAR Swedish Association of Local Authorities and Regions

The United Kingdom

CCCTB Common Consolidated Corporate Tax Base
EM Explanatory Memorandum
ESC European Scrutiny Committee
OEAS Officers of the European Affairs Services
HoC House of Commons
HoL House of Lords

1 Introduction

1.1 The Subsidiarity Principle

1.1.1 The subsidiarity principle at the level of the EU institutions

In the context of the European Union's (hereafter 'EU') decision-making process, the principle of subsidiarity ensures that decisions are taken as closely as possible to citizens and that the EU may only intervene in certain specific circumstances. In particular, the principle holds that, in areas which do not fall within its exclusive competence, the EU shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at the central level or at the regional and local level, but can, by reason of the scale or effects of the proposed action, be better achieved at Union level (Article 5(3) of the Treaty on European Union (hereafter 'TEU')).

The ordinary legislative procedure usually starts with a proposal from the Commission.¹ At this stage, Article 2 of Protocol (No 2) on the application of the principles of subsidiarity and proportionality (hereafter 'the Protocol') states that '*[b]efore proposing 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.*' Moreover, the draft legislative act² shall contain a justification with regard to the principle of subsidiarity in order to make it possible to assess compliance with the principle. This duty to motivate compliance with the subsidiarity principle is very important to ensure that subsidiarity issues are taken into consideration from the very outset of the legislative process.³ Article 5 of the Protocol specifies that '*[t]his statement should contain some assessment of the proposal's financial impact and, in the case of a directive, 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.*

¹ Legislative acts can also be submitted to the ordinary legislative procedure on the initiative of a group of Member States, of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice of the European Union or the European Investment Bank. See Articles 289(4) and 294(15) TFEU.

² This notion is defined in Article 3 of the Protocol as '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 legislative act.'

³ European Commission, *Report from the Commission on subsidiarity and proportionality* (18th report on Better Lawmaking covering the year 2010), Brussels, 10 June 2011, COM (2011) 344 final, p. 2.

Draft 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.'

The European Commission is responsible for making the correct choices as to the opportunity (subsidiarity) and the form (proportionality)⁴ of proposals for EU action at an early stage of policy development. It publishes yearly reports on subsidiarity and proportionality, which present the mechanisms put in place by the Commission to demonstrate the respect of this responsibility.⁵ In its 2012 report covering 2011, the Commission explains notably that it has published roadmaps⁶ for all major initiatives, in which it outlines its intentions and presents an initial justification with regard to subsidiarity and proportionality. These ideas are later analysed through stakeholder consultations and through an impact assessment process, which accompanies proposals that are expected to have a significant impact. The Impact Assessment Board systematically examines the quality of this analysis and frequently requests a stronger justification of the need for action at the EU level. A statement on subsidiarity is contained in the Explanatory Memorandum with each legislative proposal and repeated in its recitals.

Once the proposal is ready, the European Commission sends it to both the European Parliament and the Council. It is simultaneously communicated to the national parliaments within EU Member States⁷ which may respond by sending a reasoned opinion in the context of the Early Warning System (hereafter 'the EWS').

Ever since the adoption of the 1993 Inter-institutional Agreement on procedures for implementing the principle of subsidiarity, the European Parliament and the Council also have to ensure the proposal's conformity with the principles of subsidiarity and proportionality.⁸ Both the Council and the European Parliament

⁴ The subsidiarity principle is often associated with the principle of proportionality, according to which '*the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties*' (Article 5(4) TEU). The proportionality principle guides the *intensity* of EU action, namely the form and nature of its intervention, both for exclusive and shared competences. Rather than asking *who* should act - which is the essence of the subsidiarity principle - the proportionality principle poses the question *what should be the form and nature of EU action*. Any decision at EU level shall favor the least restrictive option. European Commission, *Report from the Commission on subsidiarity and proportionality* (18th report on Better Lawmaking covering the year 2010), Brussels, 10 June 2011, COM (2011) 344 final, p. 2.

⁵ European Commission, *Report from the Commission on subsidiarity and proportionality*, (19th report on Better Lawmaking), Brussels, 10 July 2012, COM(2012) 373 final, p. 3.

⁶ These roadmaps are available at http://ec.europa.eu/governance/impact/index_en.htm (EN).

⁷ According to Article 4 of the Protocol all draft legislative acts and amendments shall be forwarded by the European Commission, the Council and the European Parliament to national parliaments.

⁸ *Official Journal* C 329, 6.12.1993, p. 135. Note: in 1993, the European Parliament, the Council and the Commission concluded an Inter-institutional Agreement on procedures for implementing the principle of subsidiarity, which entered into force with the Treaty of Maastricht. According to the Treaty, '[t]he three

have to provide a justification wherever an amendment they propose affects the scope of the EU's action. Within the Council, the Committee of Permanent Representatives (COREPER) ensures that the principles of subsidiarity and proportionality are respected.⁹ In the European Parliament, a specific rule is included in the internal Rules of Procedure on the 'Examination of respect for the principle of subsidiarity'.¹⁰ The rule states that compliance is verified by the relevant committees dealing with the legislative file and by the Committee on Legal Affairs. Moreover, the committee in charge of the file shall not take the final vote before the eight weeks have expired.

After this eight-week period, the European Parliament and the Council discuss the proposal on two successive readings. If they do not reach an agreement, the proposal is transmitted to a Conciliation Committee, composed of Members of the Council and the European Parliament, who discuss the proposal with representatives of the Commission. Once this Committee has reached an agreement, the text is brought before the European Parliament and the Council for a third reading before it can be adopted.¹¹

The European Commission, the European Parliament and the Council of the European Union are obliged to consult the Committee of the Regions (hereafter 'the CoR') when legislating in a broad array of domains, including transport; employment; social policy; education, vocational training, youth and sport; culture; public health; trans-European networks; economic, social and territorial cohesion; environment and climate change; and energy.¹² Moreover, the European Parliament, the Council or the Commission can decide to consult the CoR in any other area, especially in cases relating to cross-border cooperation. As a general rule, the CoR may issue an opinion on its own initiative whenever it wants. As of 2010, the CoR has modified its Rules of Procedure in order to include an explicit reference to the subsidiarity and proportionality principles in all its opinions.¹³

Moreover, the CoR concluded a Protocol with the European Commission to organise their mutual cooperation in 2001. This Protocol was revised in 2005

institutions shall, under their internal procedures, regularly check that action envisaged complies with the provisions concerning subsidiarity as regards both the choice of legal instruments and the content of a proposal. Such checks must form an integral part of the substantive examination.' Ten years later, the three institutions adopted an Inter-institutional Agreement on better law-making setting out a number of specific initiatives and procedures to improve the quality of law-making, including the obligation for the European Commission to justify in its explanatory memoranda how the proposed measures comply with the principle of subsidiarity. See: *Official Journal C 321*, 31 December 2003, p. 1.

⁹ Council Decision 2009/937/EU, *Official Journal L 325*, 11 December 2009, p. 35.

¹⁰ Rule 38a.

¹¹ This description relates to the ordinary legislative procedure.

¹² Article 307 TFEU.

¹³ *Official Journal L 6*, 9 January 2010, p. 14.

and again on 16 February 2012. The revisions aim at strengthening the cooperation and exchanges between the Commission and the CoR and to improve the implementation of Protocol (No 2) on the application of the principles of subsidiarity and proportionality.¹⁴ There are no similar protocols on cooperation with other European institutions.¹⁵

1.1.2 Enforcement of the subsidiarity principle by the EU Member States

Naturally, the subsidiarity principle remains but an empty shell in the absence of mechanisms to verify and enforce compliance: its effectiveness indeed depends on regular checks in order to verify whether, in each given case, action at the EU level is necessary and has an added value, compared with action at the national level.

Initially, the only option for Member States to enforce compliance was to invoke the principle as a grounds for annulment in the context of an action for annulment against a legislative act brought by a Member State government before the Court of Justice of the European Union (hereafter ‘the CJEU’) (in other words: *after* the legislation had already been passed at the EU level).

In 1997, however, specific monitoring mechanisms were first introduced by the ‘Protocol on the application of the principles of subsidiarity and proportionality’, attached to the Treaty of Amsterdam. Ever since, the European Commission has been under an obligation to consult national and local institutions and civil society prior to proposing specific legislative acts.

A new Protocol on the application of the principles of subsidiarity and proportionality was adopted with the Treaty of Lisbon to further reinforce and improve the monitoring and enforcement mechanisms. In particular, every draft legislative act must be systematically communicated to all the national parliaments of Member States.

The national parliaments subsequently have an eight-week period to object to

¹⁴ <http://cor.europa.eu/en/about/interinstitutional/Documents/EN.pdf> (EN).

¹⁵ The CoR did, however, sign cooperation agreements respectively with the EU Publications Office on 17 December 2003 (see <http://cor.europa.eu/en/about/interinstitutional/Documents/3ce79767-d1bf-4d63-a360-e1cb037fb31b.pdf> (FR)) and with the Congress of Local and Regional Authorities of the Council of Europe on 13 April 2005 (see <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1624951&SecMode=1&DocId=1617022&Usage=2> (EN)). Moreover, the CoR has launched a number of cooperation initiatives with the other European institutions, such as the European Parliament and the European Council. As for the latter, it is customary that the President of the European Council invites every year the CoR’s conference of presidents (of the political groups) for a ‘territorial dialogue’ ahead of the Spring European Council. The European Commission is also represented at this meeting via its President or Commissioner for regional policy.

the EU draft legislation on grounds of subsidiarity (i.e. the EWS). Article 7 of the Protocol states that if a certain proportion of national parliaments object to a specific proposal within the eight-week deadline, the EU institution concerned is obliged to review its draft legislation. Whether the different thresholds are reached is calculated on the basis of the ‘votes’ expressed by the different national parliaments. It must be noted in this context that in principle each national parliament has two votes, except for bicameral parliamentary systems, where each of the two chambers can cast one vote (with 28 EU Member States the total number of votes to be cast thus stands at 56).

If reasoned opinions represent at least one-third of all votes, the draft must be reviewed by the institution from which the draft originated. The latter may decide to maintain, amend or withdraw the draft, but is nonetheless required to justify its decision. This is the so-called ‘yellow card’ procedure. In policy areas concerning freedom, security and justice, the threshold is one quarter, rather than one-third, of the votes from national parliaments.¹⁶

In addition to the ‘yellow card’ procedure, there is an ‘orange card’ procedure: if a *majority* of national parliaments consider that a draft legislative act infringes the subsidiarity principle, the proposal must be reviewed by the relevant institution. If it decides to maintain the proposal, the case is referred to the European Parliament and the Council, which render their decision at the first reading. They may reject the proposal in case of infringement of the subsidiarity principle by a 55% majority in the Council or a majority vote in the European Parliament.

Furthermore, the Treaty of Lisbon has empowered Member States ‘on behalf of their national parliament or a Chamber thereof’ (Article 8(1) of the Protocol), as well as the CoR, to institute an action for annulment against a specific EU legislative act on account of an alleged violation of the subsidiarity principle.

1.1.3 The involvement of regional parliaments in the Subsidiarity EWS

The Treaty of Lisbon and the Protocol have also opened the door for closer involvement of regional parliaments with legislative powers in the aforementioned monitoring process. In the context of the EWS, Article 6 of the Protocol states that ‘it is for each national Parliament or each chamber of a national parliament to consult, where appropriate, regional parliaments with legislative powers’.

¹⁶ Article 7(2) of the Protocol.

The significance of this novelty should not be underestimated. An estimated 70% of EU legislation has a direct impact on the local and regional level in Europe.¹⁷ Moreover, large parts of EU legislation have to be implemented by European regions. It should also be stressed that eight out of 28 EU Member States (Austria, Belgium, Finland, Germany, Italy, Portugal, Spain and the United Kingdom) have regions with legislative powers. Other EU Member States also comprise sub-national bodies, including regional assemblies, but without legislative powers.

In spite of the impact of the EU decision-making process on regions throughout the EU, and in spite of regional assemblies' sometimes wide-ranging powers and their importance for, and proximity to EU citizens, the multitude of sub-national entities within the EU have for a long time been ignored by the main actors of the European construction - i.e., the EU Member States - and have been kept out of the EU decision-making process. Some of these entities, chief amongst them the German *Länder*¹⁸, have struggled to obtain political representation within the EU bodies. Together with the progressive acceptance of the principle that decisions must be taken as closely as possible to citizens, this has gradually led to the recognition that regional and local authorities ought to be more closely involved in the European construction and that assemblies close to citizens ought to be able to express their view on the EU legislative process.

The President of the European Commission, Mr. Barroso, has framed this as follows: *'[i]f we are to address the complex challenges facing us, all the players in society - the European institutions, national, regional and local authorities, the social partners and civil society - must act together in order to move forward in the same direction. It is only in partnership that we can make Europe progress.'*¹⁹

Together with this change in mentality, the legal changes brought about by the Lisbon Treaty have the potential to greatly enhance political participation of sub-national policy-making bodies in supra-national decision-making processes.

This presupposes, however, that both national parliaments and regional parliaments with legislative powers adapt to this evolution and modify their internal rules of procedure. In addition, specific mechanisms of cooperation need to be established between these bodies in the eight EU Member States in

¹⁷ CoR website, <http://cor.europa.eu/en/about/Pages/key-facts.aspx> (EN).

¹⁸ Germany is the oldest EU Member State having a federal structure. Its Regions - *Länder* - were very well organised and most independent regional entities in Europe, which explains why they were willing to obtain influence at the European level. M. Suszycka-Jasch & H.C. Jasch, 'The Participation of the German Länder in Formulating German EU-Policy', 10 *German Law Journal*, 2009, p. 1252.

¹⁹ Jose Manuel Barroso, European Commission President, quoted in <http://cor.europa.eu/en/documentation/brochures/Documents/84fa6e84-0373-42a2-a801-c8ea83a24a72.pdf> (EN).

which regions have legislative power in order to ensure an effective organisation of the subsidiarity check and a follow-up of the position issued by the national parliament.

As for the 20 other EU Member States in which regions do not have legislative power, regional and local authorities are generally not involved in the formal procedures for subsidiarity monitoring. Yet, a number of informal mechanisms may be used to involve these authorities in the national parliaments' work and to incorporate their opinions into the subsidiarity assessments made by national parliaments.

1.2 Aim of the study

Against this background, the aim of the present study is to provide an overview and an assessment of the involvement of regional parliaments having legislative powers (part 1 of the report), and other regional assemblies and relevant stakeholders (part 2 of the report) in the Subsidiarity EWS in the wake of the Lisbon Treaty.

The thrust of part 1 of the report lies with the eight EU Member States where regional parliaments are endowed with legislative powers in the sense of Article 6 of the Protocol which suggests national parliaments ought to consult regional parliaments having legislative powers in the context of the EWS.

This part of the report looks at a variety of questions in this context:

- **Level of involvement:** to what extent can regional parliaments weigh in the EWS? Can they adopt decisions/positions on the compliance of legislative proposals with the subsidiarity principle? Are these decisions/positions binding on the national parliament or not? Can regional parliaments take part in the EWS vote? Are their decisions/positions communicated to the EU institutions?
- **Mechanisms:** what procedures have been developed: have regional parliaments introduced procedures on subsidiarity monitoring? How do they receive EU draft legislation and related relevant information? Do they filter incoming EU draft legislation for purposes of subsidiarity monitoring? Do regional parliaments dispose of separate staff for conducting subsidiarity checks? Which committee(s) is/are responsible for scrutinising compliance with the subsidiarity principle? At what level are decisions on subsidiarity compliance taken (committee or plenary)?

- **Cooperation:** to what extent do regional parliaments cooperate with other actors at the central level (national parliament), the regional level (regional government) or the cross-regional level (other regional parliaments)?

In part 2, the report analyses the 20 remaining EU Member States where regional authorities do not have actual legislative powers. The extent to which these authorities and other relevant stakeholders participate in the EWS is of course far more limited. Nonetheless, practice reveals that in numerous countries there exist informal channels through which these authorities and stakeholders can express their views on subsidiarity issues (e.g. through participation in committee meetings of the national parliaments).

Both in relation to the eight EU Member States with regional parliaments having legislative powers and in relation to the remaining EU Member States, the aim of the study is not simply to describe the existing (formal and informal) mechanisms and channels through which regional parliaments, regional assemblies and other relevant stakeholders are involved in the EWS. Rather, the aim is to go beyond a pure description of these mechanisms and provide a comparison and critical assessment thereof, with a view to identifying best practices and making recommendations for the future.

A particular focus of the report is the extent to which the CoR, as the EU advisory body that represents regional and local actors within the EU, can contribute to regional involvement in the EWS. It is noted that the CoR has set up the subsidiarity monitoring network (hereafter ‘the SMN’), which permits regional and local actors to exchange information on the impact of EU initiatives from a subsidiarity perspective.²⁰ Moreover, it ‘supports all CoR subsidiarity monitoring activities in order to provide CoR rapporteurs and members with quality input from a subsidiarity viewpoint, so that proper subsidiarity assessments can be included in CoR opinions’.²¹ By June 2013, the SMN included 146 partners.²²

Moreover, the CoR has created a regional exchange database website ‘Regional Parliamentary Exchange’ (hereafter REGPEX) aimed at supporting the

²⁰ ‘The Network was set up to facilitate the exchange of information between local and regional authorities in the European Union and the Union level regarding various documents and legislative and political proposals from the European Commission which, once adopted, will have a direct impact on these authorities and the policies for which they are responsible.’ <https://portal.cor.europa.eu/subsidiarity/thesmn/Pages/default.aspx> (EN).

The network was established on the basis of two opinions of the CoR: ‘Better Lawmaking’ (CdR 121/2005), rapporteur: Michel Delebarre and ‘Guidelines for the application and monitoring of the subsidiarity and proportionality principles’ (CdR 220/2004), rapporteur: Peter Straub.

²¹ CoR, Subsidiarity Annual Report 2012, R/CdR 3141-2013, p. 4.

²² http://portal.cor.europa.eu/subsidiarity/Documents/SMN%20-%20List%20of%20Network%20Partners/SMN%20-%20List%20of%20Network%20Partners%20-%20EN%20-%2010%20Jun%202013_MASTER%20LIST.pdf (EN).

subsidiarity analyses of regions with legislative powers during the Early Warning phase and at facilitating the exchange of information between regional parliaments and governments throughout the EU with regard to subsidiarity.²³

Against this background, one of the specific questions the present report addresses is the extent to which the SMN and REGPEX can be of added value to regional parliaments, regional assemblies and other relevant stakeholders, and whether there exists room for improving both tools.

1.3 Methodology

The first part of the report, which deals with the eight EU Member States where regions enjoy legislative powers, has primarily been based on the results of a broad survey exercise in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. Out of 75²⁴ regional parliaments that were contacted, the research team received 66 completed questionnaires, providing valuable and up-to-date information on the respective institutions' involvement in the EWS.²⁵

The second part of the report, which deals with the remaining 20 EU Member

²³ <http://extranet.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx> (EN).

²⁴ According to CALRE, there are 74 regional parliaments having legislative powers in the EU (<http://www.calre.net/irisnet.be/index.php/what-is-calre/history>). Yet, it appears the list should also include the Italian 'Consiglio Regionale del Trentino Alto Adige', which - albeit not a member of CALRE - nonetheless corresponds to a regional assembly having legislative powers. Consequently, the present study starts from the assumption that there are 75 regional parliaments having legislative powers in the EU.

²⁵ The following regional parliaments completed the questionnaire: the Abruzzo Regional Assembly, the Åland Parliament, the Parliament of Andalusia, the Regional Council of Aosta Valley, the Aragonese Parliament, the Asturias Legislative Assembly, the Azores Legislative Assembly, the Baden-Württemberg State Parliament, the Regional Council of Basilicata, the Basque Regional Parliament, the Bavarian State Parliament, the Berlin City Parliament, the Brandenburg State Parliament, the Bremen City Parliament, the Brussels-Capital Region Parliament, the Burgenland State Parliament, Calabria Regional Assembly, the Carinthia State Parliament, the Parliament of Castile-La-Mancha, the Catalan Regional Parliament, the Emilia Romagna Regional Legislative Assembly, the Extremadura Regional Assembly, the Flemish Parliament, the Friuli-Venezia Giulia Regional Assembly, the Galician Regional Parliament, the Parliament of the German-speaking Community, the Hamburg City Parliament, the Hesse State Parliament, the Parliament of the Balearic Islands, the Parliament of La Rioja, the Regional Council of Liguria, the Lower Austria State Parliament, Lower Saxony State Parliament, the Madeira Legislative Assembly, the Assembly of Madrid, the Marche Regional Legislative Assembly, the Mecklenburg-Vorpommern State Parliament, the Regional Council of Molise, the Regional Assembly of Murcia, the Navarre Regional Parliament, the Northern Ireland Assembly, the North Rhine-Westphalia State Parliament, the Piedmont Regional Assembly, the Rhineland-Palatinate State Parliament, the Saarland State Parliament, the Salzburg State Parliament, the Saxony State Parliament, the Saxony-Anhalt State Parliament, the Schleswig-Holstein State Parliament, the Scottish Parliament, the Sicilian Regional Assembly, the South Tyrol Autonomous Province Legislative Assembly, the Steiermark State Parliament, the Thuringia State Parliament, the Trentino-South Tyrol Autonomous Region Legislative Assembly, the Trento Autonomous Province Legislative Assembly, the Tuscany Regional Legislative Assembly, the Tyrol State Parliament, the Regional Council of Umbria, the Regional Parliament of Valencia, the Regional Council of Veneto, the Vienna State Parliament, the Vorarlberg State Parliament, the Welsh National Assembly, the Parliament of the Federation Wallonia-Brussels and the Walloon Parliament.

States, has primarily been drawn up on the basis of extensive desk research. The provisional results from this process have been supplemented by a survey exercise, in the context of which national parliaments and various cross-regional *fora* were consulted.

Furthermore, the report reproduces information contained in the CoR 2010 study on ‘The role of Regional Parliaments in the process of subsidiarity analysis within the Early Warning System of the Lisbon Treaty’²⁶, hereafter ‘CoR 2010 study’, as well as information and data collected for the CoR in 2011 by the European Institute of Public Administration (EIPA), hereafter ‘information and data collected for the CoR by EIPA, 2011’.²⁷

In terms of desk research, the research team has consulted a broad variety of sources, including:

- relevant academic literature;²⁸
- information to be found on the websites of national parliaments, regional parliaments, regional assemblies and relevant stakeholders;
- the Inter-parliamentary EU Information Exchange Platform (hereafter ‘IPEX’) website;²⁹
- the REGPEX website;³⁰
- the Conference of European Regional Legislative Assemblies (hereafter ‘CALRE’);³¹
- the Conference of Community and European Affairs Committees of Parliaments of the European Union (hereafter ‘COSAC’) website.³²

The researchers involved in the project have also, on a subsidiary basis, conducted interviews with a number of contact persons at the regional and

²⁶ Drafted by the European Institute of Public Administration - European Centre for the Regions (EIPA-ECR, Barcelona), ISBN 978-92-895-0541-3.

²⁷ Under the framework contract CDR/ETU/106/2009 ‘Constitutional Affairs and European Governance’.

²⁸ See for instance A. Biondi, ‘Subsidiarity in the Courtroom’, in A. Biondi, P. Eeckhout & S. Ripley (eds.), *EU Law After Lisbon* (Oxford, Oxford University Press 2012) pp. 213-227; S. Alonso De León, ‘Regions and Subsidiarity in the European Union: A Look at the Role of the Spanish and other Regional Parliaments in the Monitoring of Compliance with the Principle of Subsidiarity’, *European Public Law* 18, no. 2, 2012, pp. 305-322; V. Constantinesco, ‘La subsidiarité comme principe constitutionnel de l’intégration européenne’, *Aussenwirtschaft* (1991) pp. 439-459; E. Domorenok, ‘The Committee of the Regions: In search of Identity’, *Regional & Federal Studies* 19(1), 2009, pp. 143-164; C. Jeffery, ‘Social and Regional Interests: ESC and Committee of the Regions’, in J. Peterson & M. Shackleton (eds.), *The Institutions of the European Union* (Oxford, Oxford University Press 2002) pp. 326-346; J. Kottmann, ‘Europe and the regions: subnational entity representation at Community level’, *European Law Review* 26 (2), 2001, pp. 159-176; J. Loughlin, ‘“Europe of the Regions” and the Federalization of Europe’, *Publius*, Vol. 26, No. 4, 1997, pp. 141-162; M. Suszycka-Jasch & H.C. Jasch, ‘The Participation of the German Länder in Formulating German EU-Policy’, 10 *German Law Journal*, 2009, p. 1252.

²⁹ <http://www.ipex.eu/IPEXL-WEB/home/home.do> (EN/FR).

³⁰ <http://extranet.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx> (EN).

³¹ <http://www.calre.net/irisnet.be/> (EN).

³² <http://www.cosac.eu/> (EN/FR).

national level, and have supplemented the information received in the context of the survey exercises by means of targeted *ad hoc* queries (by phone and e-mail).

2 Part 1 - Involvement in the EWS of Regional Parliaments having legislative powers

2.1 Description of the mechanisms put in place

2.1.1 Austria

Procedures at the central level

*General*³³

Austria has a bicameral Federal Parliament consisting of the Federal Chamber (*Nationalrat*, ‘NR’) and the Regional Chamber (*Bundesrat*, ‘BR’). The 183 members of the NR are elected for a period of five years by universal suffrage. The 62 members of the BR are elected by the state parliaments (*Landtage*) for the duration of the respective state parliament’s term, which is five years (except in Upper Austria where it is six years). Each *Land* is represented in the BR by a minimum of three and a maximum of twelve members, depending on the size of the population of the *Land* concerned.

The Federal Constitution (*Bundesverfassungsgesetz*, ‘BVG’³⁴) lays down the general rules regarding political scrutiny in EU matters. More specifically, the rights and obligations of the Federal Parliament pertaining to subsidiarity monitoring are enshrined in the BVG by means of the *Lissabon-Begleitnovelle* (‘L-BN’) (an amendment act), adopted by the Parliament on 8 July 2010.³⁵

Article 23 BVG now explicitly recognises the rights of both Chambers to engage in subsidiarity monitoring and to issue reasoned opinions on the compatibility between EU draft legislation and the subsidiarity principle. The NR and BR each have one vote in the EWS. Moreover, the L-BN introduced a duty of cooperation between the Federal Government and the Federal Parliament in terms of exchange of information and expertise (new Art. 23 e (1) and Art. 23 g (2) BVG), as well as a duty of cooperation between the BR and the *Länder* (Art.

³³ CoR 2010 study, p. 7.

³⁴ The BVG is available at http://www.ris.bka.gv.at/Dokumente/Erv/ERV_1930_1/ERV_1930_1.pdf (EN - not including amendments adopted after 1 March 2010), or at <http://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10000138/B-VG%2c%20Fassung%20vom%2030.10.2012.pdf> (DE).

³⁵ The L-BN is available at http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2010_I_57/BGBLA_2010_I_57.pdf (DE).

23 g (3) BVG).

Exchange of information and filtering

The European Commission automatically forwards all EU legislative proposals to the chancery of the Parliament. In addition, both Chambers of the Austrian Parliament enjoy an extensive right of information *vis-à-vis* the Federal Government. Thus, for every EU legislative proposal, the responsible Minister is obliged to provide the NR and the BR with all relevant information (Art. 23 e (1) BVG).

The exchange of information has further been formalised by the adoption of the EU Information Act (*EU-Informationsgesetz* - 'EU-InfoG')³⁶, which entered into force on 1 January 2012. Paragraph 1(2) of the EU-InfoG states that the chancery of the Parliament (*Parlamentsdirektion*) is responsible for establishing a databank that presents all EU legislative proposals it receives from the European Commission as well as any relevant information forwarded by the responsible Federal Ministries. The chancery of the Parliament serves both the NR and BR through two separate departments - the NR department and the BR department. All directly transmitted documents are publicly accessible in the EU database.³⁷

According to paragraph 5 of the EU-InfoG, the Minister for European and International Affairs provides comprehensive reports to both Chambers of the Parliament twice a year on the European Commission annual work programme and on EU legislative proposals on which negotiations in the Council are expected to begin within the next six months. Both Chambers of the Parliament are granted access to the European Council database (paragraph 2 EU-InfoG).

Art. 23 g (2) BVG enables both the NR and BR to request a subsidiarity analysis on EU draft legislation from the competent Federal Minister. This Minister is granted a maximum period of two weeks to respond to the request. The recommendations of the Ministries and the subsidiarity analyses they provide are an important source of information for the NR and BR. The recommendations are, however, not binding.

Within the Austrian Parliament, EU draft legislation is pre-checked by the parliamentary administration. In particular, the administration establishes preparatory lists that include short legal analyses as well as the deadlines for

³⁶ The EU-InfoG (*Bundesgesetz über Information in EU-Angelegenheiten (EU-Informationsgesetz)*) is available at <http://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/20007573/EU-InfoG%2c%20Fassung%20vom%2017.01.2013.pdf> (DE).

³⁷ <http://www.parlament.gv.at/PAKT/EU/> (DE).

completing the subsidiarity scrutiny. These lists are sent once a week to the members of the EU Committees in both Chambers.³⁸

The actual selection of EU draft legislation that is subject to subsidiarity monitoring takes place in the NR and the BR. Each Chamber has internal procedures to achieve this end. In particular, each Chamber delegates responsibility for subsidiarity monitoring to an EU (sub)Committee.

*Nationalrat*³⁹

Within the NR, subsidiarity monitoring is formally a prerogative of the General Committee (*Hauptausschuss*).⁴⁰ For reasons of efficiency, however, the General Committee established a specialised EU subcommittee, to which it permanently delegated the task of conducting subsidiarity checks on behalf of the NR. The General Committee holds the right to revoke this delegation at any time and to conduct the procedure itself. In such cases, the General Committee must deliver a report to the plenary. The plenary can then adopt a formal motion to issue a reasoned opinion, or, for legislation already adopted at EU level, to initiate proceedings before the CJEU for infringement of the subsidiarity principle.⁴¹

The formal procedure for exchanging information between the EU subcommittee, the plenary and the ministerial level is laid down in the Rules of Procedure of the NR.⁴²

Within the eight-week window and up until 48 hours before the session, any member of the EU subcommittee may set the examination of EU draft legislation on the agenda of the subcommittee.⁴³ The EU subcommittee may request a subsidiarity analysis from the competent Federal Minister.⁴⁴

The Rules of Procedure for the NR moreover provide for an instrument to investigate European affairs, namely the *EU-Enquete*, by means of which any Member of the General Committee may request an investigation by the NR on European affairs (Paragraph 98 b).⁴⁵ Such investigation aims to permit a

³⁸ IpeX, National Parliaments, Austrian National Council, ‘Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity’, available at <http://www.ipeX.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a68eda549447a.do> (EN).

³⁹ *Ibid.*

⁴⁰ Article 23 k (2) BVG.

⁴¹ CoR 2010 study, p. 9.

⁴² The Rules of Procedure of the NR are available at <http://www.parlament.gv.at/ZUSD/RECHT/GOG-NR.pdf> (DE).

⁴³ Paragraph 31 c (3) of the Rules of Procedure of the NR.

⁴⁴ Paragraph 31 c (14) of the Rules of Procedure of the NR.

⁴⁵ For further information, see http://www.parlament.gv.at/PERK/RGES/GOGNR/gog14_P98-98b.shtml#P98b (DE).

discussion with EU institutions on European affairs in general and is open to the public. It may be conducted by Members of the NR, the BR and Austrian Members of the European Parliament.⁴⁶

Furthermore, every single Member of the NR has the right to propose to take legal action before the CJEU on grounds of subsidiarity; such proposals are then forwarded to the *Hauptausschuss* for further debate (Paragraph 26a of the Rules of Procedure).

Decisions adopted in the context of the subsidiarity scrutiny are published through IPEX and communicated to the Presidents of the European Commission, the European Parliament and the Council. They are also sent to all Members of the Federal Government, the Members of the NR, the President of the BR and Austrian Members of the European Parliament (hereafter ‘the MEPs’).

Decisions and documentation concerning subsidiarity scrutiny are published in the official communications of the parliamentary information office (*Aussendungen der Parlamentskorrespondenz*).⁴⁷

As of October 2013, the NR has issued two reasoned opinions for violations of the subsidiarity principle.⁴⁸

Bundesrat⁴⁹

By analogy to what is the case for the NR, a specialised EU committee is established in the BR so as to conduct the subsidiarity scrutiny on its behalf.⁵⁰ Any member of the EU committee may request the submission of a reasoned opinion on the incompatibility of draft EU legislation with the subsidiarity principle.⁵¹ Such a request has to be motivated.⁵² The EU committee takes a decision by simple majority, relying on the regular provisions of the BR’s Rules

⁴⁶ See <http://www.parlament.gv.at/PERK/PE/MIT/EUInfo/index.shtml> (DE).

⁴⁷ CoR 2010 study, p. 17.

⁴⁸ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

⁴⁹ See also IPEX, National Parliaments, Austrian Federal Council, ‘Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity’, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a695b94b7450e.do> (EN).

⁵⁰ Paragraph 13a of the Rules of Procedure of the BR, available at <http://www.parlament.gv.at/PERK/RGES/GOBR/gobr2.shtml#P13a> (DE).

⁵¹ Members of the BR dispose of a free mandate and thus are allowed to represent a different opinion than the one delivered by their parliaments. This issue is relevant from the point of view of the political composition of the BR. Members of the BR sit in political groups, which may differ from parties forming the majority in the State Parliaments. A member of the BR may thus oppose the opinion delivered by his/her parliament because of a different political affiliation.

⁵² Paragraph 13 b (7) 3 of the Rules of Procedure of the BR.

of Procedure. Any member of the BR that is not part of the EU committee may assist in the committee's work without the right to vote. If the BR or half of the representatives of at least three *Länder* demand, the EU Committee must delegate the procedure to the plenary assembly. In such cases, the EU Committee is obliged to present a report on the matter.⁵³

Decisions of the BR on EU matters are communicated to the President of the European Commission, the President of the European Council, the President of the European Parliament as well as to all members of the BR, the President of the NR, all state parliaments, state presidents and Austrian MEPs.⁵⁴

Decisions and documentation concerning subsidiarity scrutiny are published in the official communications of the parliamentary information office (*Aussendungen der Parlamentskorrespondenz*).⁵⁵

As of October 2013, the BR has issued 11 reasoned opinions for violations of the subsidiarity principle.⁵⁶

Cooperation between the two Chambers

The two Chambers work independently, although there is a good practice of mutual information-sharing both at the administrative level and at the level of political groups. The NR and BR have no general obligation to consult each other or to take the other Chamber's positions into consideration. However, pursuant to the BVG and their respective Rules of Procedure, the Chambers are obliged to exchange information when a reasoned opinion is issued or when taking legal action for infringement of the subsidiarity principle before the CJEU. The Chambers extend the right of information about their decisions in EU matters to Austrian MEPs.⁵⁷

Cooperation with other national parliaments

Except for information pooling via IPEX, there are no formal mechanisms of cooperation and information exchange between either chamber and other national parliaments. Yet, the Permanent Representation of Austria in Brussels informally communicates decisions of the Parliament to other EU Parliamentary representations. Similarly, reasoned opinions and available subsidiarity analyses

⁵³ CoR 2010 study, p. 10.

⁵⁴ *Ibid.*

⁵⁵ CoR 2010 study, p. 17.

⁵⁶ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

⁵⁷ CoR 2010 study, p. 11.

from other national parliaments are circulated among the members of the NR and the BR. The BR also participates in the SMN and circulates among its members all documents received through this network.⁵⁸

Procedures at the regional level

General

The Chancery department responsible for the BR forwards EU draft legislation to both the members of the BR and automatically to all state parliaments (Art. 23 g (3) BVG) through the national contact point for the *Länder* (*Verbindungsstelle der Bundesländer*).⁵⁹ The national contact point coordinates the distribution of this information to the *Länder* at the executive level. The office of the national contact point is embedded within the government office of Lower Austria in Vienna. Its main task is to support the *Länder* in coordinating their views and circulating information for the purposes of national regulation and decision-making.

There are nine state parliaments in Austria: the Burgenland State Parliament, the Carinthia State Parliament, the Lower Austria State Parliament, the Salzburg State Parliament, the Steiermark State Parliament, the Tyrol State Parliament, the Upper Austria State Parliament, the Vienna State Parliament and the Vorarlberg State Parliament.

The Austrian Constitution does not identify the specific legislative competences of the *Länder*. Instead, it states in general terms that, '*[i]n so far as a matter is not expressly assigned by the Federal Constitution to the Federation for legislation or also execution, it remains within the Länder's autonomous sphere of competence*' (Article 15, § 1 BVG). The legislative competences of the *Länder* include, *inter alia*, youth protection; organisation of municipalities; organisation of regional authorities; nursery schools; environmental protection; land use planning; removal of waste and wastewater; roads (except for federal roads); transfer of agricultural and forestry land; social assistance and care for disabled persons; promotion of culture; promotion of agriculture; and hospitals.

Additionally, Article 12 BVG enumerates areas in which the basic legislation is adopted by the Federation, while the *Länder* adopt implementing legislation. These areas include, *inter alia*, social welfare; public bodies responsible for extra-judicial dispute-settlement; electricity; labour legislation, and; the protection of workers and employees in so far as they are engaged in agriculture and forestry.

⁵⁸ *Ibid.*, p. 16.

⁵⁹ CoR 2010 study, p. 10.

Moreover, a specific distribution of competences applies in relation to taxation (Article 13 BVG), schools, education and public education (Article 14a), and public procurement (Article 14b).

Each state parliament is furthermore responsible for adopting the regional budget.⁶⁰

Parallel procedures for subsidiarity scrutiny by state governments and state parliaments

In Austria, subsidiarity assessments can be conducted both at the level of the state governments and at the level of the state parliaments. Both procedures may run in parallel, yet they are not wholly unrelated: state governments may indeed assist state parliaments in organising a subsidiarity scrutiny; conversely state parliaments may intervene in the subsidiarity assessments conducted by their respective governments, inasmuch as this is specifically foreseen by the regional legislation. In practice, intensive exchange of information takes place between the two actors.

Coordinated procedure at the level of the state governments

The Federal Government informs state governments about EU draft legislation.

The administrations of the nine Austrian state governments have agreed on a coordinated procedure for testing EU draft legislation against the subsidiarity and proportionality principles.⁶¹ They examine the European Commission's annual legislative work programme and select EU draft legislation that is deemed relevant from a subsidiarity perspective (i.e. draft legislation that is linked to the legislative competences of the *Länder* and necessitates a subsidiarity assessment). The selected files (around 10 to 15 per year) are divided among the *Länder*. In each case, a single *Land* will be responsible both for preparing the scrutiny before the publication of the EU initiative, and for conducting the actual assessment once it is published. This *Land* will also be responsible for preparing a draft position, which is submitted to the vote of all state governments. If the position obtains the agreement of all state governments, a 'common' or a 'uniform' state position is ultimately sent to the

⁶⁰ An overview of the law of the regions may be found in the index of regional law, established by the liaison body of the *Bundesländer*. For further information, see <https://www.ris.bka.gv.at/RisInfo/IndexLR.pdf> (DE).

⁶¹ Verfahren der Länder zur Prüfung und Weiterverfolgung von EU-Initiativen vor dem Hintergrund von Subsidiarität und Verhältnismäßigkeit in der Fassung des Beschlusses der Landesamtsdirektorenkonferenz vom 28. April 2010 auf Grund eines Vorschlages der Länderexpertenkonferenz vom 26. Jänner 2010. The text of the agreement is reproduced in German in A. Kiefer, 'Mehr Länderzusammenarbeit durch die Subsidiaritätskontrolle: das arbeitsteilige Modell im Rahmen bestehender Kooperations- und Beteiligungsstrukturen', in A. Rosner & P. Bußjäger (eds.), *Im Dienste der Länder - im Interesse des Gesamtstaates: Festschrift 60 Jahre Verbindungsstelle der Bundesländer* (Vienna, 2011).

Federal Government.⁶²

Pursuant to Article 23 d paragraph 2 BVG, a ‘uniform’ state position may be issued in areas belonging to the legislative competences of the *Länder*. Such uniform state position has binding effect for the Federal Government. Consequently, the Federal Government is bound to defend this position in the negotiations and voting within the EU Council. It may only deviate from this position for imperative grounds of external and integration policy.⁶³ A ‘common’ state position is a state position that obtained unanimous agreement of the state governments, but which does not concern a legislative competence of the *Länder*. Common state positions have no binding effect for the Federal Government. Yet, the administration of the Chancellor and the Federal Ministry for European and International Affairs recommend the Federal Government to take such common state positions into account as much as possible.⁶⁴

In case EU draft legislation has not been selected in advance through the process described above, but nevertheless appears to be relevant from a subsidiarity perspective after its publication, the *Land* chairing the Conference of State Minister Presidents (*Landershauptmännerkonferenz*) is responsible for taking further action.

The state governments inform both the state parliaments and the BR about their assessments of EU draft legislation. In turn, the state parliaments commit to supporting the positions of the state governments through their respective representations within the BR.⁶⁵

Participation of state parliaments in the subsidiarity monitoring procedure of the state governments

While state parliaments are of course free to conduct a subsidiarity assessment of their own (see below), they may also, on occasion, be involved in the subsidiarity scrutiny organised by the state governments (as described above).

⁶² Next to the assessment of EU draft legislation from the perspective of the subsidiarity and proportionality principles, the coordinated procedure is also used to raise general concerns and observations in relation to the draft legislation concerned.

⁶³ In practice, state governments try to be constructive and to avoid a blocking of the EU draft legislation.

⁶⁴ See <http://www.bka.gv.at/DocView.axd?CobId=50625> (DE) at p. 12.

⁶⁵ It is noted that this is a policy commitment, rather than a legally binding obligation. For further information, see Verfahren der Länder zur Prüfung und Weiterverfolgung von EU-Initiativen vor dem Hintergrund von Subsidiarität und Verhältnismäßigkeit in der Fassung des Beschlusses der Landesamtsdirektorenkonferenz vom 28. April 2010 auf Grund eines Vorschlages der Länderexpertenkonferenz vom 26. Jänner 2010. The text of the agreement is reproduced in German in A. Kiefer, ‚Mehr Länderzusammenarbeit durch die Subsidiaritätskontrolle: das arbeitsteilige Modell im Rahmen bestehender Kooperations- und Beteiligungsstrukturen‘, in A. Rosner & P. Bußjäger (eds.), *Im Dienste der Länder - im Interesse des Gesamtstaates: Festschrift 60 Jahre Verbindungsstelle der Bundesländer* (Vienna, 2011).

The extent to which regional parliaments are involved in the procedure set up by the state governments depends on what is prescribed by the relevant regional legislation. There is no uniform mechanism for all state parliaments in this context. Each Land may indeed adopt specific rules to organise the involvement of its state parliament in the procedure.⁶⁶

In Burgenland, for instance, Article 83 of the State Constitution⁶⁷ states that the State Government immediately informs the State Parliament of EU draft legislation, which is forwarded to it by the Federal Government and which (1) concerns the legislative competences of the *Land* or (2) is otherwise of interest to the *Land*. The State Parliament may issue its decision to the State Government, which is bound by its content, insofar as the decision has been communicated on time and concerns a matter that is included in the legislative competences of the *Land*. The State Government may deviate from this decision for imperative grounds of state and integration policy. Such grounds have to be immediately communicated to the State Parliament.

Similar rules exist in other *Länder*. In Vorarlberg,⁶⁸ the State Government may only deviate from the decision of the State Parliament for imperative grounds of state interests and integration policy, which have to be immediately communicated to the State Parliament. In Upper Austria,⁶⁹ the State Government may only deviate from the decision of the State Parliament for imperative grounds of state interests. In Steiermark⁷⁰ and Tyrol⁷¹, the State Government may deviate from the content of the decision issued by the State Parliament as long as it communicates the underlying reasons to the State Parliament.

State parliaments

The abovementioned division of labour agreed to at the level of the Austrian state governments does not as such extend to the state parliaments. It is nonetheless observed that state parliaments are also discussing the possibility of establishing a similar division of labour in relation to their own subsidiarity assessments of EU draft legislation. Yet, as of early September 2013, no final

⁶⁶ The research team did not find any specific rules in the state legislation of Carinthia, Lower Austria, Salzburg and Vienna.

⁶⁷ The Constitution of Burgenland is available at <http://www.ris.bka.gv.at/GeltendeFassung/LrBglD/10000141/L-VG%2c%20Fassung%20vom%2030.10.2012.pdf> (DE).

⁶⁸ Article 55 of the Constitution of Vorarlberg, available at <http://voris.vorarlberg.at/voris/voris/0/0000.doc> (DE).

⁶⁹ Article 6 of the State Constitutional Act on the Participation of the Region of Upper Austria in the European Integration, available at http://www.land-oberoesterreich.gv.at/files/publikationen/Verf_schriftenreihe_Nr1.pdf (DE).

⁷⁰ §32c of the Rules of Procedure of the Steiermark State Parliament, available at http://www.ris.bka.gv.at/Dokumente/LrStmk/LRST_0010_002/LRST_0010_002.pdf (DE).

⁷¹ Paragraphs 3-4 of the State Constitutional Act on the cooperation of the Tyrolean State in European integration affairs, available at <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrT&Gesetzesnummer=10000144> (DE).

decision has been taken to this end.⁷²

In any case, state parliaments remain of course free to decide whether or not to conduct a subsidiarity check of draft EU legislation (regardless of the subject-matter and regardless of whether they participate in the subsidiary assessment conducted by their respective state government).⁷³

Upon receiving EU draft legislation, the BR immediately informs the state parliaments of its intentions on whether to issue a reasoned opinion or not, and gives them the opportunity to take a position (Art. 23 g (3) BVG). Moreover, it indicates the deadlines for submitting reasoned opinions applicable to each piece of EU draft legislation.

Most Austrian state parliaments rely on existing resources to conduct subsidiarity scrutiny and have undertaken internal adjustments and organised training for staff members. In some state parliaments, subsidiarity monitoring is supported by staff from the legal department (e.g. the Steiermark State Parliament⁷⁴) or from the chancery of the Director of the State Parliament (e.g. Lower Austria State Parliament). In others, there is no staff specifically in charge of subsidiarity scrutiny (e.g. the Salzburg, Vorarlberg and Vienna State Parliaments).⁷⁵ Some *Länder* stress that the human resources at their disposal are insufficient and overstretched, and assert that, due to financial constraints, they are not able to increase their staff.

Most state parliaments have an established procedure for selecting EU draft legislation and conducting the subsidiarity scrutiny.⁷⁶ In particular, most state parliaments have created a specific Committee responsible for European Affairs. The committee's procedure for scrutinising subsidiarity is swifter than the plenary procedure.

The majority of state parliaments collaborate with the administration of the state governments to prepare and conduct the subsidiarity analysis. This cooperation flows from the fact that - as described above - numerous state parliaments have

⁷² This information has been communicated to the research team by a member of the Liaison Office of Vienna in Brussels.

⁷³ A. Kiefer, 'Mehr Länderzusammenarbeit durch die Subsidiaritätskontrolle: das arbeitsteilige Modell im Rahmen bestehender Kooperations- und Beteiligungsstrukturen', in A. Rosner & P. Bußjäger (eds.), *Im Dienste der Länder - im Interesse des Gesamtstaates: Festschrift 60 Jahre Verbindungsstelle der Bundesländer* (Vienna, 2011).

⁷⁴ See § 3 (1) of the Rules of Procedure of the Steiermark State Parliament, available at http://www.ris.bka.gv.at/Dokumente/LrStmk/LRST_0010_002/LRST_0010_002.pdf (DE).

⁷⁵ There is no information available on the level of expertise of state parliaments with regard to subsidiarity.

⁷⁶ Although most *Länder* have adopted specific subsidiarity monitoring procedures, this is not the case for all Austrian state parliaments. In Salzburg, for instance, all EU-related questions are handled by the Regional Government due to the limited resources (in terms of staff member availability) at the level of the State Parliament.

limited staff resources and a lack of expertise with regard to subsidiarity issues. The nature and the extent of the collaboration varies from one *Land* to another.

In numerous *Länder*, the collaboration starts with the selection of EU draft legislation.⁷⁷ In these *Länder*, the State Government forwards to the State Parliament all EU draft legislation that touches upon the legislative competences of the State Parliament and that has been transmitted by the Federal State to the *Länder*. Moreover, the State Government informs the State Parliament of the deadline established by the Federation for *Länder* to communicate their opinion.

The collaboration may also consist in the provision of technical support by the state government on subsidiarity issues or regular information by the state government of developments in European affairs. In Lower Austria, the State Parliament may request technical advice from the Committee on European Affairs of the State Government regarding specific EU draft legislation. In Steiermark, the State Government issues a report on the development of European affairs every three months to the State Parliament.⁷⁸

In certain *Länder*, such as Lower Austria, Vorarlberg and Vienna, State Parliaments are very active and submit numerous decisions on subsidiarity.⁷⁹ In other *Länder*, the monitoring of EU draft legislation (including from a subsidiarity perspective) is mainly organised at the level of the state governments (with little or no autonomous role for the state parliaments themselves).

The BR is not bound by the positions on subsidiarity expressed by the state parliaments. Article 23 g (3) BVG nonetheless invites the BR to consider the opinions issued by the state parliaments.

Cross-regional cooperation

Subsidiarity issues are regularly discussed during the meetings of the Presidents of state parliaments (*Landtagspräsidentenkonferenz*) and the Directors of these parliaments (*Landtagsdirektorenkonferenz*). Both conferences allow for exchanges of information between key figures in the state parliaments and can give an ‘early warning’ about EU legislative proposals that may be relevant for subsidiarity scrutiny. They have thus an important role in placing subsidiarity questions on the state parliaments’ agendas.

⁷⁷ This is notably the case in Burgenland, Steiermark, Tyrol, Upper Austria and Vorarlberg. For further information, see the references mentioned in footnotes 67-71.

⁷⁸ Article 41 para. 9 of the Constitution of Steiermark (see link above).

⁷⁹ This information has been communicated to the research team by a member of the Liaison Office of Vienna in Brussels.

Moreover, representatives of Austria's nine state parliament administrations are part of a network that also includes representatives of the administrations of all 16 state parliaments in Germany. The purpose of this network is to exchange information and experiences, including on subsidiarity issues.

The Tyrol State Parliament, the Autonomous Province of South Tyrol and the Autonomous Province of Trento cooperate in the framework of the 'Three Provinces' Parliament' (*Dreier-Landtag*). Thus, the three legislative assemblies hold a joint meeting every two years during which they discuss matters of common interest. At their meeting of 30 March 2011, for instance, they decided to promote cooperation between their respective European Affairs Committees.

Finally, five Austrian State Parliaments are members of the SMN.⁸⁰

Coordination between the central and regional level

Information

Pursuant to an agreement concluded in 1992 between the Federation and the *Länder* on the right for *Länder* and municipalities to collaborate on European integration affairs, the Federation - in practice, the Federal Government - transmits all EU draft legislation to the *Länder*.⁸¹

Moreover, according to Art. 23 g (3) BVG, upon receiving EU draft legislation, the BR immediately informs the state parliaments of its intentions on whether to raise a reasoned opinion or not, and gives them the possibility to take a position (Art. 23 g (3) BVG). To this end, the BR conducts a pre-examination of EU draft legislation and sends lists of selected proposals to the state parliaments. These lists are updated approximately every month and indicate the applicable deadlines for submitting reasoned opinions.

In addition, a list of all EU draft legislation and corresponding deadlines is automatically forwarded to the *Länder* through the national contact point by way of an electronic newsletter.⁸² Moreover, for every calendar year, responsible Federal Ministries forward information to the *Länder* about the legislative planning of the European Commission in the given policy sector. As mentioned, the national contact point (embedded within the government office of Lower Austria in Vienna) coordinates the distribution of this information to the *Länder*

⁸⁰ The Burgenland State Parliament, the Carinthia State Parliament, the Lower Austria State Parliament, the Tyrol State Parliament and the Vorarlberg State Parliament.

⁸¹ http://www.ris.bka.gv.at/Dokumente/LrNo/LRNI_1992149/LRNI_1992149.pdf (DE).

⁸² <http://www.parlament.gv.at/PAKT/AKT/EUMAIL/> (DE).

at the executive level. Its main task is to support the *Länder* in coordinating their views and circulating information for the purposes of national regulation and decision-making. Since the national contact point has significant expertise and a well-established network, it also proves a suitable forum for coordinating on matters concerning subsidiarity scrutiny. The national contact point facilitates the exchange and circulation of documents, information and views and in this way contributes to a better preparation and coordination of work within the BR.

Moreover, there is a platform for exchange of information, namely the ‘*Föderalismuskonferenz*’, which is composed of the President of the BR and the presidents of the state parliaments. The chair of the Conference of the Presidents of the State Parliaments (*Landtagspräsidentenkonferenz*) can be invited to address the EU Committee of the BR on behalf of the state parliaments, but his voice in the procedure is purely advisory. The national contact point is responsible for circulating the agendas of the forthcoming BR committee meetings among the State Parliaments. In this way, the state parliaments are made aware of subsidiarity-related discussions planned in the BR, and acting through their presidents, they may petition the chair of the conference of the presidents of the state parliaments to discuss the issue on their behalf if deemed necessary.⁸³

Follow-up to the decisions of state governments and state parliaments

As mentioned above, state governments may agree to submit a ‘uniform’ state position (in areas belonging to the legislative competences of the *Länder*) or a ‘common’ state position (in other areas) to the Federal Government. Pursuant to Article 23 d paragraph 2 BVG, ‘uniform’ state positions have binding effect for the Federal Government, which is bound to defend this position in the negotiations and voting within the EU Council. It may only deviate from this position for imperative grounds of external and integration policy. ‘Common’ state positions have no such binding effect for the Federal Government. Yet, the Federal Government is invited to take such common state positions into account as much as possible.⁸⁴

As far as the positions of state parliaments are concerned, the BR is not bound by such positions, albeit Article 23 g (3) BVG invites the BR to consider the opinions issued by state parliaments.

Recent experience demonstrates that the BR and its EU Committee take into consideration the content of timely positions of state governments or individual initiatives of state parliaments relating to subsidiarity scrutiny of EU draft

⁸³ CoR 2010 study, p. 19.

⁸⁴ See <http://www.bka.gv.at/DocView.axd?CobId=50625> (DE) at p. 12.

legislation and to issue reasoned opinions based thereupon. Moreover, the BR regularly invites representatives of state parliaments and experts from state governments to further discuss these issues.⁸⁵

State parliaments are informed about all subsidiarity-related decisions and motions adopted by the BR. This right is guaranteed by the BVG through the amendments introduced by the L-BN, and is reinforced in the Rules of Procedure. Decisions concerning subsidiarity are also communicated to the Austrian MEPs.⁸⁶

Assessment of the EWS by regional parliaments⁸⁷

The mechanisms described in the previous parts demonstrate that state parliaments in Austria are willing to be involved in the EWS and that most have introduced internal procedures to this end.

Although one State Parliament - the Vienna State Parliament - expressed satisfaction with the existing regional and national subsidiarity procedures, most state parliaments note a number of obstacles that hinder their efficient involvement in the EWS:

- The core obstacle faced by state parliaments within the EWS is the urgency imposed by the eight-week deadline.
- This first obstacle is aggravated by the fact that information from other regional parliaments in the EU that could be helpful for the subsidiarity check needs to be translated, a process which may take valuable time.
- Another problem highlighted by state parliaments concerns the lack of administrative capacities. In certain state parliaments (e.g. Salzburg), financial constraints simply do not permit hiring additional staff members. As a consequence, it is not possible for these state parliaments to properly analyse EU draft legislation from a subsidiarity angle.
- On a related note, the difficulty of training staff members in charge of subsidiarity scrutiny is also regarded as an obstacle. An efficient subsidiarity check requires that examiners go beyond a superficial assessment of legislative proposals, but instead engage in an in-depth analysis of proposals. This requires specific training and may be very time-consuming.

⁸⁵ This information has been communicated to the research team by a member of the Liaison Office of Vienna in Brussels.

⁸⁶ CoR 2010 study, p. 20.

⁸⁷ The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

- Finally, some state parliaments believe that the motivations given by the European Commission in its explanatory memoranda of legislative proposals are often limited to commonplaces. These parliaments consider that an early and serious involvement of *Länder* before the submission of EU draft legislation should further be taken into consideration.

Against this background, Austrian State Parliaments consider that the CoR could provide valuable help to state parliaments through its REGPEX and SMN tools.

They notably believe that REGPEX could become an efficient tool to permit such early exchange of information, expanding its value beyond a simple collection of information on subsidiarity checks conducted in the past. State parliaments note the necessity of having an early exchange of information with a quick and simple presentation of contents. As to the language barrier, the Lower Austria State Parliament has suggested that positions of State Parliaments should already be registered on REGPEX when the issuing of a decision of the Parliament on subsidiarity appears probable (on the basis of the majority/minority relationships). This could save valuable time and would permit the translation of the positions on subsidiarity becoming available through REGPEX simultaneously with the final decision of the Parliament itself. Such practice could ensure that REGPEX becomes a ‘real-time network’ rather than an ‘ex post’ archive system.

As to the SMN, five Austrian state parliaments are members of the network, namely Burgenland, Carinthia, Lower Austria, Tyrol and Vorarlberg. The Tyrol State Parliament suggests that the SMN should give early support and advice on the preparation of subsidiarity analyses of EU draft legislation, e.g. in the form of technically sound analyses, which could be presented and discussed during the parliamentary proceedings.

2.1.2 *Belgium*

Procedures at the central level

General

The Belgian Federal Parliament is bicameral. The House of Representatives is composed of 150 directly elected members. It is the political chamber *par excellence*: it decides on the budget, votes motions of confidence and is the primary legislator. The Senate, on the other hand, is currently composed of 71

Senators⁸⁸ and three members of the Royal Family. The Senate is an assembly for long-term ‘reflection’ which represents the Communities (see below).⁸⁹ Pursuant to the (sixth) State reform package agreed upon in October 2011, no further separate elections will be organised for the Senate. After the Belgian federal elections of 2014, the Senate will become a joint organ bringing together 50 Senators of the federated entities⁹⁰ and 10 co-opted Senators (based on the electoral results of the House of Representatives). As a result of the aforementioned State reform, its competences will in the near future be mostly limited to State reforms and constitutional affairs. Otherwise, it will serve as an assembly for reflection on certain societal themes.

At the ‘regional’ level, the Belgian Federation consists of two types of political entities: Communities (Flemish, French - since May 2011, the French Community has renamed itself the Federation Wallonia-Brussels; however, the Constitution does not reflect this change - and German-speaking); and Regions (Flanders, Wallonia and Brussels-Capital). Each of the Regions and Communities has a parliamentary assembly. However, the Flemish Region and the Flemish Community have long merged their institutions into one Flemish Government and one single Flemish Parliament. Accordingly, there is a total of seven legislative assemblies⁹¹ in the Belgian Federation. In addition, within the bilingual Brussels-Capital Region, community affairs are handled by a French Community Commission (COCOF), a Flemish Community Commission (COCON/VGC) and a Common Community Commission (COCOM). The members of the language groups in the Brussels Regional Parliament constitute the assemblies for the different Community Commissions.⁹²

⁸⁸ 40 Senators are directly elected, 21 Senators are appointed by the Communities and 10 Senators are co-opted by their peers.

⁸⁹ CoR 2010 study, p. 23.

⁹⁰ 29 Senators are designated by the Flemish Parliament, ten designated by the Parliament of the Federation Wallonia-Brussels, eight designated by the Walloon Parliament, two designated by the francophone group of the Brussels-Capital Region Parliament and one designated the Parliament of the German-speaking Community.

⁹¹ The Federal House of Representatives: 150 directly elected members; *The Federal Senate*: 71 (+3 royal family members) senators; *The Flemish Parliament (FP)*: 124 directly elected members; *The Walloon Parliament (WP)*: 75 directly elected members; *The Brussels Regional Parliament (BP)*: 89 directly elected members (of which 72 are elected from francophone party lists and 17 from Flemish party lists); *The Parliament of the Federation Wallonia-Brussels (PFWB)*: 94 members of whom 75 are members of the Walloon Parliament and 19 members are elected by the francophone group in the Brussels Regional Parliament; *Parliament of the German-speaking Community in Belgium (GCP)*: 25 members directly elected by the voters of the German language area of Belgium.

⁹² 72 members of COCOF, 17 members of VGC.

*Cooperation between the different parliaments to organise the subsidiarity check*⁹³

The case of Belgium is somewhat unusual: it is the sole Member State to have annexed a specific unilateral declaration⁹⁴ ('Declaration 51') to the Lisbon Treaty stipulating that the parliamentary assemblies of the Regions and the Communities should be regarded as national parliaments when an EU draft legislative proposal falls within their competences. The Belgian authorities were clearly set on granting a significant role to regional and/or community parliaments in the context of the subsidiarity rules of the Lisbon Treaty. This results from the persistent concern in the Belgian Federation to secure significant regional and community involvement in EU decision-making.

In anticipation of the subsidiarity check as foreseen in the rejected draft Constitutional Treaty, the Belgian parliamentary assemblies in 2005 drafted an inter-parliamentary cooperation agreement (hereafter 'the 2005 Cooperation Agreement').⁹⁵ This agreement was signed by the Presidents of all legislative assemblies and organised the participation of the Regional and Community parliaments in the application of the subsidiarity scrutiny mechanism. In addition to the fact that the draft Constitutional Treaty ultimately failed to be ratified, the Council of State⁹⁶ identified two internal legal obstacles to the 2005 Cooperation Agreement.⁹⁷

⁹³ CoR 2010 study, pp. 24-27.

⁹⁴ Declaration by the Kingdom of Belgium on national Parliaments, C 115/355, Official Journal of the European Union, 9 May 2008. 'Belgium wishes to make clear that, in accordance with its constitutional law, not only the Chamber of Representatives and Senate of the Federal Parliament but also the parliamentary assemblies of the Communities and the Regions act, in terms of the competences exercised by the Union, as components of the national parliamentary system or chambers of the national Parliament.'

⁹⁵ Ontwerp van samenwerkingsakkoord tussen de Federale Wetgevende Kamers, de parlementen van de Gemeenschappen en de parlementen van de Gewesten ter uitvoering van het Protocol betreffende de toepassing van de beginselen van subsidiariteit en evenredigheid gehecht aan het Verdrag tot vaststelling van een Grondwet voor Europa, available at

http://www.dekamer.be/kvvcr/showpage.cfm?section=/pri/europe&language=nl&story=sub.xml&rightmenu=right_pri (NL); Projet d'accord de coopération entre les Chambres législatives fédérales, les parlements des Communautés et les parlements des Régions visant la mise en oeuvre du Protocole sur l'application des principes de subsidiarité et de proportionnalité, annexé au Traité établissant une Constitution pour l'Europe, available at http://www.dekamer.be/kvvcr/pdf_sections/pri/europe/cprecooperationWEB.pdf (FR).

⁹⁶ The Council of State section legislation offers opinions on the drafting quality of binding measures and verifies the conformity with existing regulatory measures.

⁹⁷ The legal issues highlighted by the Council of State were the following:

- There was no explicit legal basis for parliaments to conclude inter-institutional cooperation agreements. A legal basis exists in the Special Law on the Reform of the Institutions of 8 August 1980 that grants executive organs such capacity, but it is unclear whether these powers also extend to parliaments. The Council of State advised the creation of an explicit legal basis through an amendment of the Special Law on the Reform of the Institutions of 8 August 1980. Amendments to this law require a two-thirds majority and a majority within each language group;
- The 2005 Cooperation Agreement foresaw that the Council of State could be requested to deliver an opinion in the event that parliamentary assemblies disputed each other's competencies to submit a reasoned

The issue of adapting the internal Belgian structures to the new subsidiarity monitoring rules re-emerged with the Lisbon Treaty. A new inter-parliamentary cooperation agreement was discussed and agreed on by the parliaments at an administrative level in July 2008 (hereafter ‘the 2008 Cooperation Agreement’)⁹⁸, copying most aspects of the preceding 2005 agreement. It also introduced new elements to align the cooperation agreement with the content of the Lisbon Treaty. The exact status of the 2008 Cooperation Agreement is, however, unclear. The agreement was endorsed at an administrative level, but was never actually signed by the presidents of all the parliaments involved. Accordingly, the 2008 Cooperation Agreement has not taken effect. Its ratification has been blocked primarily because the two legal hurdles identified by the Council of State in 2005 (see above) remain unresolved.⁹⁹

Although the 2008 Cooperation Agreement has not yet entered into force, the relevant institutions generally apply it *de facto* in concrete situations.

House of Representatives

Since 1 September 2006, the European Commission transmits all legislative proposals directly to national parliaments. In Belgium, these documents are sent to the Senate, which forwards them to the other Belgian parliaments. Within the House of Representatives, the analysis centre of the Advisory Committee on European Affairs selects documents that are relevant for Belgium and for the Federal Parliament. The Advisory Committee on European Affairs is composed of ten Members of the House of Representatives and ten Belgian MEPs.¹⁰⁰ The presence of ten MEPs is deemed to facilitate the transmission of information

opinion under the subsidiarity scrutiny system. This extension of the current role of the State Council with a new task required an amendment of the coordinated laws on the Council of State.

⁹⁸ Flemish Parliament, *Gedachtewisseling over de stand van zaken aangaande het intra-Belgische samenwerkingsakkoord noodzakelijk voor de operationalisering van een aantal bepalingen van het verdrag van Lissabon*, (*Échange de vues sur l'état d'avancement de l'accord de coopération interne à la Belgique nécessaire pour l'optimisation d'un certain nombre de dispositions du traité de Lisbonne*), *Stuk* 1807 (2007-2008) - nr. 1, pp. 1-33, available at <http://docs.vlaamsparlement.be/docs/stukken/2007-2008/g1807-1.pdf> (FR/NL).

⁹⁹ Legislative proposals to amend the Special Law and the Laws on the Council of State were introduced in the House of Representatives and the Senate in 2008. However, the banking crisis and the ongoing efforts to conclude an overall agreement on a comprehensive institutional reform have slowed down the process. As mentioned, the required revision of the Special Law imposes special majorities (e.g. a two-thirds majority and a majority in each language group) that seem hard to achieve in the absence of a general institutional reform package (on which a political consensus has been sought in vain during the past years). In addition to the strictly legal obstacles, the 2008 Cooperation Agreement also unveiled a relatively new political sticking point. The simplified revision procedure foreseen in Article 48(7) of the Treaty on European Union allows national parliaments to state their opposition to the use of so-called ‘passerelles’. Since Belgium considers its regional and community parliaments to be part of the national parliamentary system, this could entail each of the seven parliaments (and possibly COCOF) being able to block the application of a ‘passerelle’ clause. This issue is unresolved and the Flemish Parliament, in particular, seems to insist on maintaining a right to voice opposition to the application of ‘passerelle’ measures.

¹⁰⁰ Article 68 of the Rules of Procedure of the House of Representatives, available at http://www.lachambre.be/kvvcr/pdf_sections/publications/reglement/reglementF.pdf (FR).

from the European Parliament to the National Parliament and consequently to enhance transparency.¹⁰¹ Pursuant to Article 37 *bis* of the Rules of Procedure of the House of Representatives, the analysis centre screens EU draft legislation. Upon request of the President, of one-third of the members of a standing committee, of the President of the House of Representatives, or upon the analysis centre's own initiative, the analysis centre drafts a note, *inter alia*, assessing the compatibility of the EU draft legislation with the subsidiarity principle. Subsequently, the note is transmitted to the parliamentary committee responsible for the domain covered by the EU legislation. If it concerns an entirely new legislative proposal, then the analysis centre of the Advisory Committee on European Affairs prepares a draft reasoned opinion, which is forwarded to the responsible committee. Thereafter, the competent parliamentary committee decides whether or not to prepare a final reasoned opinion. This reasoned opinion is adopted by the competent committee or, if one-third of the committee members so request, within the plenary assembly.¹⁰² It is published as a parliamentary document and communicated both to the EU institutions and to the Federal Government.

In principle, the Federal Ministers transmit the agenda of the European Council together with an explanatory note and the minutes of the meetings to the House of Representatives. The Belgian Permanent Representation to the EU also systematically transmits to the Advisory Committee on European Affairs all documents relating to the activities of the European Council. All documents are also transmitted to the presidents of the committees, the Euro-promoters¹⁰³ and the secretariat of the responsible committee.¹⁰⁴

As of October 2013, the House of Representatives has issued four reasoned opinions.¹⁰⁵

¹⁰¹ http://www.dekamer.be/kvvcr/pdf_sections/pri/europe/HISTORIQUE.pdf (FR).

¹⁰² CoR 2010 study, p. 24. See also IPEX, National Parliaments, Belgian Chamber of Representatives, available at <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/bechb.do?appLng=EN> (EN).

¹⁰³ Pursuant to Article 37 of the Rules of Procedure of the House of Representatives (see link above), each permanent committee designates one Euro-promoter among its political members. The Euro-promoters are responsible for the follow-up within the permanent committee of opinions, propositions of resolutions, recommendations and other final texts of the Advisory Committee on European Affairs, as well as EU draft legislation and other documents of the European Commission that are transmitted to the Euro-promoters by the secretariat of the Advisory Committee on European Affairs. For a list of these Euro-promoters, see http://www.dekamer.be/kvvcr/pdf_sections/pri/europe/Europrom7_6_12.pdf (FR).

¹⁰⁴ For further information, see http://www.dekamer.be/kvvcr/pdf_sections/pri/europe/PROCEDURE_SUIVI_PROCESSUS_DECISION_EUR_OPEEN.pdf (FR).

¹⁰⁵ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

*Senate*¹⁰⁶

As for the Belgian Senate, all documents sent by the European Commission arrive in a specific mailbox¹⁰⁷ managed by the European Affairs Unit of the Senate. These documents are automatically forwarded to the House of Representatives and all regional and community parliaments.

Within the Senate, the European Affairs Unit proposes to the Chair of the Federal Advisory Committee for European Affairs¹⁰⁸ a list of documents to be sent to the competent committee(s). The Chair approves or modifies this list. These documents are sent to the members of the relevant committee(s) together with advice from the Legal Department of the Senate that indicates whether the European draft legislation falls within an area of the Senate's competence.

If the issue is not discussed within the competent committee or if no remarks are made, the document is considered to be in line with the principles of subsidiarity and proportionality. The procedure then stops and the Senate is presumed not to have any subsidiarity concerns. If remarks are made, however, the committee drafts an opinion on the matter, which, after being adopted by the committee, must be approved by the plenary of the Senate.

The opinion is then sent to the other Belgian parliaments and to the secretariat of the Conference of the Presidents of the Belgian parliamentary bodies. This secretariat collects any other opinions from other Belgian parliaments on the matter and sends them to the relevant EU institutions.¹⁰⁹

As of October 2013, the Senate has issued two reasoned opinions.¹¹⁰

Cooperation between Chambers

The House of Representatives and the Senate in 1995 established a Federal Advisory Committee for European Affairs. The Federal Advisory Committee is made up of ten members of the House, ten senators and ten Belgian MEPs. Moreover, there are close contacts between both Chambers at an administrative level (through the Joint secretariat of the Federal Advisory Committee for European Affairs) and at the political level (through regular meetings of the

¹⁰⁶ CoR 2010 study, p. 28.

¹⁰⁷ eurodoc@belgoparl.be.

¹⁰⁸ For further information on this Committee, see the next section on the cooperation between Chambers.

¹⁰⁹ For further information, see IPEX, National Parliaments, Belgian Senate, 'Scrutiny of documents coming from the European Union and compliance with the principle of subsidiarity - Belgian Senate', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc53833144701384bf923330a67.do> (EN).

¹¹⁰ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

political groups of each house).¹¹¹

Procedures at the regional level

Legislative competences

The Belgian regional parliaments are the Brussels-Capital Region Parliament, the Flemish Parliament, the Parliament of the German-speaking Community, the Parliament of the Federation Wallonia-Brussels (the Belgian Constitution still uses the term ‘Parliament of the French Community’ – see above) and the Walloon Parliament. The Regions and Communities have diverse legislative competences.

Regions have legislative competence for airports, space planning, environment and water policy, rural renovation and nature conservation, housing, agriculture, economic affairs, energy policy, subordinated powers (municipalities, inter-municipal companies and public social assistance centres), employment, public works, transportation and scientific research, sustainable development, equality of chances and tourism.¹¹²

Communities hold legislative competence over cultural affairs (e.g. arts, sport, tourism); education; audio-visual matters; personal matters (family, childhood, youth, health and social activities); intra-Belgian, Euro-regional, European and international affairs (including agreements and treaties); and use of languages in education.¹¹³

Furthermore, in 2005, a transfer of competences occurred from the Walloon Region to the German-speaking Community pursuant to Article 139 of the Belgian Constitution in the following areas: protection of monuments, landscape, excavations and funerals, employment, control of municipalities and church fabrics.¹¹⁴

According to Declaration 51, every parliament part of the Belgian parliamentary system is entitled to independently carry out a subsidiarity test on EU draft

¹¹¹ Information and data collected for the CoR by EIPA, 2011.

¹¹² Legal basis: Special Act of 8 August 1980 on Institutional Reform. For further information, see http://www.parlbruparl.irisnet.be/images/Loispec/frvii_002.pdf (FR); <http://gouvernement.wallonie.be/competences> (FR) and <http://www.vlaamsparlement.be/vp/pdf/20092010/enpar291009.pdf> (EN).

¹¹³ Legal Bases: Act of 31 December 1983, Special Act of 8 August 1980 on Institutional Reform. For further information, see <http://www.vlaamsparlement.be/vp/pdf/20092010/enpar291009.pdf> (EN) and http://www.dgparlament.be/en/desktopdefault.aspx/tabid-1015/1600_read-27133/ (EN).

¹¹⁴ For further information, see http://www.dgparlament.be/en/desktopdefault.aspx/tabid-1015/1600_read-27133/ (EN).

legislative acts that fall within their competence.¹¹⁵ Consequently, community and regional parliaments have adopted or are in the process of adopting Rules of Procedure integrating their involvement in the EWS.

Apart from the fact that each parliament, whether national or regional, can express positions on compliance with the subsidiarity principle, regional parliaments can - within their respective legislative competences - take part in the voting in the EWS. The vote distribution system is further elaborated below.

*Procedures for subsidiarity monitoring*¹¹⁶

The **Brussels-Capital Region Parliament** has yet to organise a procedure for conducting subsidiarity checks. The procedure, currently under preparation, will organise a selective check. The selection will be guided by the competences of the Region of Brussels-Capital and the interests expressed by the MPs. The procedure will in principle establish a seven-week time limit for the subsidiarity check. The organ in charge would be either one of the seven permanent committees of the Parliament (depending on the subject matter concerned) or the plenary assembly itself. Once the Parliament begins conducting such checks, the support of the Regional Executive will likely be necessary.

The **Flemish Parliament** has drafted new internal rules for subsidiarity monitoring. These rules state that the staff members of the Parliament's European Office¹¹⁷ forward all EU draft legislation to the competent standing committee, which decides whether or not to carry out a subsidiarity check.¹¹⁸ Each Member of the Parliament may raise a subsidiarity issue; thereafter, the issue is brought before a mixed committee composed of both the committee responsible for the area covered by the EU draft legislation and the Committee on European affairs. These two committees may then discuss the issue and vote on a draft opinion, which is subsequently submitted for voting in the plenary session. If so requested by a standing committee, the European Office prepares a decision on subsidiarity. There is no structural cooperation on subsidiarity issues between the Flemish Parliament and the Flemish Government. Nonetheless, if necessary, the Parliament can rely on the expertise of the Flemish administration and the Flemish Government. The Flemish Parliament maintains close relations with the Flemish Permanent Representation to the EU Institutions. The staff

¹¹⁵ Declaration by the Kingdom of Belgium on national Parliaments, C 115/355, *Official Journal of the European Union*, 9 May 2008. For further information, see footnote 94.

¹¹⁶ There is no public information available on the level of expertise of regional parliaments with regard to subsidiarity and on the existence of training for officials and members of parliaments in view of the EWS.

¹¹⁷ Within the Flemish Parliament, there is no specific committee in charge of subsidiarity monitoring. Yet, the Flemish Parliament has a small European Office (one full-time and three part-time staff members) whose tasks mainly consist of distributing the EU proposals to the competent Standing Committees.

¹¹⁸ In practice, however, the standing committees do not pay much attention to the legislative proposals of the EU.

members of the Flemish Representation regularly assist the committees of the Flemish Parliament and are useful for establishing contacts and obtaining information. This input can help the Parliament to formulate an opinion on subsidiarity. The Standing Committees of the Flemish Parliament regularly invite staff members of the European Commission to provide clarification on specific initiatives or legislative proposals of the European Commission.

Within the **Parliament of the Federation Wallonia-Brussels** (the Belgian Constitution still uses the term ‘Parliament of the French Community’ – see above), the Rules of Procedure have recently been adapted to include provisions on subsidiarity monitoring. Pursuant to Article 31 of the Rules of Procedure,¹¹⁹ a ‘Euro-promoter’ shall be appointed.¹²⁰ The ‘Euro-promoter’ is in charge of monitoring European affairs, in collaboration with the Parliament’s European Affairs Unit (‘the Unit’).¹²¹ The European Affairs Unit examines the EU draft legislation and proposes a selection of documents depending on what is most relevant at the time and whether the community level has responsibility for the issue. The Unit may write an explanatory note or legal note on the compatibility with the principles of subsidiarity and proportionality. Along with these notes, all legislative and consultative documents relevant to the competences of the Federation Wallonia-Brussels are sent to the members of the Committee for International Relations and European Affairs (the Committee). Upon request from a member of the Committee, the issue is put on the Committee’s agenda. Upon request of one-third of its members, the Committee moreover requests the ‘Euro-promoter’, within a fixed time limit, to formulate a draft opinion on, *inter alia*, the principles of subsidiarity and proportionality. The Committee may draft a decision on subsidiarity, which is then distributed as a parliamentary document to the MPs. The Conference of Presidents of the Parliaments may adopt the opinion or decide to put it on the plenary assembly’s agenda. The opinion - adopted by the Conference of Presidents or by the plenary assembly - is communicated by the President of the Parliament to the Secretariat of the Conference of Presidents. The administrative staff of the parliament has expressed the hope of working more closely with the Regional Executive as the executive has information and expertise in all the fields in which the administration will have to carry out subsidiarity checks.

Since October 2012, a procedure for subsidiarity monitoring is available within the **Parliament of the German-speaking Community in Belgium**. As is the

¹¹⁹ The Rules of Procedure are available at <http://www.pfwb.be/le-travail-du-parlement/doc-et-pub/reglement-du-parlement> (FR).

¹²⁰ As of October 2013, the Euro-promoter has not yet been designated by the Parliament.

¹²¹ In January 2009, the Parliament established a unit responsible for European affairs in the Study, Documentation and European Affairs Directorate. Subsidiarity monitoring is dealt with by the legal advisor and the secretary of the directorate. The European Affairs Unit acts as the secretariat of the Committee for International Relations and European Affairs when the latter is dealing with European issues.

case for other regional parliaments, the Parliament of the German-speaking Community receives all draft EU legislative acts from the Belgian Senate. There is no concrete cooperation with the German-speaking Community's Government on questions relating to subsidiarity monitoring. Within the Parliament of the German-speaking Community, a legal advisor analyses these documents through a comparative examination within IPEX and the CoR. A systematic check is not organised because of a problem of resources (in terms of time and staffing). Committee I of the Parliament of the German-speaking Community is in charge of the subsidiarity check. The procedure consists of several steps: selection of relevant documents and draft of a first opinion by a legal advisor; possibility for Committee I to ask for an opinion by another relevant committee; decision on subsidiarity by Committee I; adoption of the decision by the Parliament. Each of these steps is subject to a strict time table.¹²²

Following a phase of implementation and evaluation, the procedure will be formally enshrined in the Rules of Procedure of the Parliament.

The **Walloon Parliament** applied a specific procedure in 2010 as a test case, but has not yet integrated this procedure into its internal rules. However, since 2010, the internal rules contain several references to the subsidiarity check carried out by the Parliament.¹²³ The Walloon Parliament receives European draft legislative acts and filters them through a competencies test. Only proposals that touch upon Walloon competencies are sent to the MPs. The Advisory Committee Responsible for EU Affairs may formulate an opinion on subsidiarity, which is subsequently sent to the plenary session for assessment and possible approval.¹²⁴ It may act on its own initiative, or upon request of a Member of the Walloon Parliament, a Belgian Member of the European Parliament elected by the French-speaking electoral college and not residing in the Brussels-Capital Region, or the Walloon Government.¹²⁵

¹²² There is a strict time table for each of these steps:

- Day 1-14: The legal advisor establishes a selection of relevant documents for the President of the Parliament. On this basis, the legal advisor writes a first opinion and the President of the Parliament (Chairman of Committee I) puts the item on the agenda;
- Day 1-28: If necessary (in light of the subject matter concerned), Committee I asks another committee of the Parliament to communicate an opinion on the EU draft legislative act and sets a deadline to this end;
- Until day 42: Committee I examines both the EU draft legislative act and the opinion and issues decision on subsidiarity in case of infringement of the subsidiarity principle;
- Until day 56: Adoption of the decision on subsidiarity by the Parliament. If this is not possible due to time constraints, Committee I may itself adopt the decision as an official decision of the parliament. The decision on subsidiarity is then sent to the Belgian institutions and is forwarded through the Conference of Presidents of Parliaments to the EU institutions.

¹²³ Articles 48, 115 and 116, available at <http://nautilus.parlement-wallon.be/archives/documentation/roi.pdf> (FR).

¹²⁴ The Advisory Committee Responsible for EU Affairs is composed of nine Members of the Walloon Parliament and the Belgian MEPs elected by the French-speaking electoral college and not residing in the Brussels-Capital Region. Article 48 (2) of the Rules of Procedure of the Walloon Parliament (see link above).

¹²⁵ Article 48 (5) of the Rules of Procedure of the Walloon Parliament (see link above).

Cross-regional cooperation

The regional parliaments interact via the Conference of the Presidents of the Belgian parliamentary bodies, which includes the two chambers of the National Parliament as well as the regional parliaments.

Pursuant to an agreement with the German *Land* Rhineland-Palatinate, the representation of the Rhineland-Palatinate State Government at the Federal State and at the EU in Brussels transmits a weekly report to the Parliament of the German-speaking Community. This report contains timely information on EU issues and on reasoned opinions that have been submitted.

Except for the Parliament of the German-speaking Community, all regional parliaments in Belgium are members of the SMN.

Coordination between the central and regional level

Although the 2008 Cooperation Agreement (see above) has not entered into force, the relevant institutions generally apply it *de facto* in concrete situations. Essentially, in the Cooperation Agreement, all Belgian parliaments acknowledge that, in accordance with ‘Declaration 51’ and the Belgian Constitution, each parliament must be recognised as a national parliament within the exercise of its legislative competences. The regional parliaments receive all European Commission legislative proposals and consultation documents automatically and unfiltered via the Senate. Each parliament can separately and autonomously examine whether the legislative proposal complies with the principle of subsidiarity. When a parliament - national or regional - considers that the EU draft legislation concerns a subject-area belonging to its competences, it informs the other parliaments within two weeks from the beginning of the eight-week period for the EWS. Other parliaments may contest this competence and bring a case before the Council of State.¹²⁶

The regional parliaments may issue reasoned opinions on subsidiarity issues and take part in the EWS voting system within their respective fields of legislative competence. The 2008 Cooperation Agreement effectively establishes a system of vote distribution and divides the two Belgian subsidiarity votes between the federal and the regional levels.¹²⁷ Importantly, there is no need for a consensus on a ‘level basis’ to make use of the subsidiarity vote. As soon as one chamber at the federal level considers a legislative proposal to be in breach of the subsidiarity principle, at least one subsidiarity vote is ‘activated’. Furthermore,

¹²⁶ Article 4 of the 2008 Cooperation Agreement, available at <http://docs.vlaamsparlament.be/docs/stukken/2007-2008/g1807-1.pdf> (FR/NL).

¹²⁷ Article 6 of the 2008 Cooperation Agreement.

if (at least) one parliament at the regional and community level has the same opinion, the second subsidiarity vote is also used. For the so-called ‘exclusive legislative proposals’ - which concern exclusively federal or exclusively regional and community competences - the competent level controls the two Belgian subsidiarity votes. Once again, no consensus is needed: it is enough for two regional and community parliaments with different linguistic statuses (e.g. the Flemish Parliament (Dutch speaking) and the Walloon Parliament (French speaking)) to identify a proposal’s infringement of the subsidiarity principle to trigger the two Belgian subsidiarity votes in the EWS.¹²⁸

The reasoned opinions of all Belgian Parliaments together with the subsidiarity votes are clustered and sent to the EU institutions on behalf of the Belgian Parliamentary System by the Secretariat of the Conference of Presidents of the Belgian parliamentary bodies.

Another important element of the Cooperation Agreement relates to the possibility of referring a case to the CJEU on subsidiarity grounds. The still-to-be ratified 2008 Cooperation Agreement stipulates that a case is referred to the CJEU if one competent parliament made a request for this to happen. However, both the 2005 and 2008 versions of the cooperation agreements leave much to be decided as regards recourse to the CJEU. It is, for instance, not clear whether applications would be submitted by the federal/regional executive or by the parliaments in their own right. Internal Belgian legal and administrative processes for CJEU referrals must also meet the European requirements. So far, the issue has been identified by the administrations involved, but concrete conclusions on the issue have yet to be reached.¹²⁹

Assessment of the EWS by regional parliaments¹³⁰

General

So far, except for the Flemish Parliament,¹³¹ none of the Belgian regional parliaments has issued any decision on subsidiarity activating their subsidiarity vote. In general, it appears that members of regional parliaments in Belgium show little interest in European affairs and subsidiarity monitoring. It is difficult to convince the MPs of the importance of subsidiarity monitoring.

¹²⁸ CoR 2010 study, p. 35.

¹²⁹ CoR 2010 study, pp. 35-36.

¹³⁰ The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

¹³¹ On 8 May 2013, the Flemish Parliament issued a resolution holding that the proposal for a directive establishing a framework for maritime spatial planning and integrated coastal management (COM(2013) 133) infringes the subsidiarity principle.

In some regional parliaments, subsidiarity is not perceived as a means to increase involvement in the European decision-making process. Members view the decision-making process that occurs in the EU Council via the Ministers representing Belgium as much more interesting. At this stage, the regional parliaments closely monitor the government's action and organise a systematic debriefing following Council meetings.

Moreover, MPs have the impression that a decision on subsidiarity does not have any impact on the EU decision-making process.

Another reason for the lack of interest in subsidiarity monitoring is that the EU is rather well perceived in Belgium, implying that people do not necessarily want to object to any draft EU decision and that subsidiarity scrutiny does not bring any electoral benefit to the regional MPs in Belgium.

Nevertheless, in certain regional parliaments, specific procedures have been established to better monitor European affairs, including subsidiarity issues. For instance, in the Parliament of the Walloon-Brussels Federation (Parliament of the French Community), the new Rules of Procedure state that a 'Euro-promoter' shall be appointed by the Committee for International Relations and European Affairs in order to monitor European affairs.

The Parliament of Brussels-Capital has no experience with subsidiarity checks or with the EWS, but is currently preparing a procedure to this end.

Main obstacles to the EWS

The main obstacles to the EWS identified by Belgian regional parliaments include the massive amount of documents to be analysed; the short EU deadlines; the lack of adapted structures in small Parliaments, and the costs involved (in terms of time and resources).

Generally, regional parliaments consider that they are ill-equipped to carry out the subsidiarity check in comparison to the staff of the EU Commission and of the impact assessment board.

Role of the CoR

As far as the role of the CoR is concerned, the Parliament of the Federation Wallonia-Brussels has suggested that it would be helpful to have a single tool that would allow access to all relevant information both at the national and regional levels.

The Parliament of the German-speaking Community considers that the database created for regional parliaments to exchange positions on EU draft legislative acts - REGPEX - is very useful. Especially for small regions, which for diverse reasons are not able to systematically analyse all documents, such a system permits them to work more efficiently on subsidiarity checks. This has in turn benefits for the network of regional parliaments as a whole.

2.1.3 Finland

Procedures at the central level

*General*¹³²

Finland has a 200-seat unicameral Parliament (*Eduskunta*¹³³). MPs are elected directly and by secret ballot for four-year terms according to a proportional system based on districts. An important reform of the Finnish Constitution¹³⁴ came into force on 1 March 2000 and further strengthened the Parliament's role as the supreme organ of State (e.g. the Prime Minister is elected by the Parliament). The Speaker - elected amongst the MPs - together with the Speaker's Council, leads the parliamentary activity.

Within Finland there is one geographic entity, the Åland Islands, which has had constitutionally entrenched autonomy since 1921.¹³⁵ The Åland Islands is the home of a unilingual Swedish-speaking community. It has its own Parliament (*Ålands Lagting*¹³⁶) and Government (*Ålands Landskapsregering*¹³⁷).

*Evolution*¹³⁸

The *Eduskunta's* committees have routinely examined subsidiarity in respect of EU draft legislation ever since 1995, especially through the parliamentary scrutiny system of EU matters introduced at the time of Finland's accession to the EU. With regard to this scrutiny, the *Eduskunta* has delegated its powers to the Grand Committee (*Suuri valiokunta, Stora utskottet*),¹³⁹ which acts as the Parliament's EU Committee. Åland's MPs have the right to attend Grand

¹³² CoR 2010 study, p. 92.

¹³³ <http://web.eduskunta.fi> (FI) and <http://web.eduskunta.fi/Resource.phx/parliament/index.htm> (EN).

In Swedish, it is called '*Riksdagen*'.

¹³⁴ <http://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf> (EN).

¹³⁵ See the Act on the Autonomy of Åland, available at

<http://www.finlex.fi/fi/laki/kaannokset/1991/en19911144.pdf> (EN).

¹³⁶ <http://www.lagtinget.aland.fi/> (SV).

¹³⁷ www.regeringen.ax (SV).

¹³⁸ CoR 2010 study, pp. 92-95.

¹³⁹ Except for the Common Foreign and Security Policy, which has been delegated to the Foreign Affairs Committee.

Committee meetings. Its most important task is to ensure that the national parliament has a proper say in EU decision-making and that parliamentary scrutiny is effective in this regard, especially when defining Finland's position on matters to be decided in the European Council on behalf of the *Eduskunta* as a whole. The Finnish scrutiny model has inspired several parliaments of the new Member States when establishing their own system.¹⁴⁰

In November 2003, an *ad hoc* 'Committee to assess EU scrutiny procedures'¹⁴¹ was appointed by the Speaker's Council of the Finnish Parliament in order to assess the impact of the EU's Constitutional Treaty on the European scrutiny system. The conclusions of the *ad hoc* Committee were submitted to the Speaker's Council on 18 February 2005.¹⁴² The Åland Parliament was also involved in the preparation of this report.¹⁴³

In its report, the 'Committee to assess EU scrutiny procedures' concluded that there was no need to change the statutes concerning the *Eduskunta's* overall participation in the formulation of Finnish policy on EU matters. Nevertheless, the subsidiarity check mechanism would necessitate the creation of a procedure to enable the *Eduskunta* to raise an objection on the grounds of the subsidiarity principle. The *ad hoc* Committee decided to assign the subsidiarity checks to the Grand Committee, and submitted a draft proposal to amend the *Eduskunta's* Rules of Procedure to this effect. The *ad hoc* Committee also stressed that it would be in accordance with the Finnish constitutional system for the Grand Committee to continue consulting with the Government on subsidiarity issues.

The *ad hoc* Committee moreover proposed that the hearing of the Åland Parliament should be integrated into the subsidiarity mechanism in the Grand Committee, while asserting that the *Eduskunta's* information systems had to be developed so that the Åland Parliament would be informed at the same time as the *Eduskunta*.

Following the *ad hoc* Committee's conclusions, a new subsidiarity monitoring mechanism was effectively enshrined in the Rules of Procedure of the Parliament and the Rules of Procedure of the Parliament's Grand Committee.¹⁴⁴ The procedure was created in consultation with the Åland Parliament.

¹⁴⁰ P. Kiiver, 'European scrutiny in a comparative perspective', Maastricht University, p. 50. Electronic copy available at: <http://ssrn.com/abstract=1426078> (EN).

¹⁴¹ This Committee was composed of senior MPs and civil servants.

¹⁴² Report of the Committee to assess EU Scrutiny procedures, 'Improving EU Scrutiny', EDUSKUNNAN KANSLIAN JULKAISU 4/2005, available at http://www.eduskunta.fi/triphome/bin/thw.cgi/trip/?%7bAPPL%7d=erekj&%7bBASE%7d=erekj&%7bTHWIDS%7d=0.1/1369211821_380574&%7bTRIPPIFE%7d=PDF.pdf (EN).

¹⁴³ The Åland Parliament has given a statement before the *ad hoc* Committee. See *inter alia ibid.*, p. 4.

¹⁴⁴ <http://web.eduskunta.fi/Resource.phx/valiokunnat/valiokunta-suv01/tyojarjestys.htx> (FI).

The Finnish Parliament

Pursuant to Section 30 of the Rules of Procedure of the Finnish Parliament, EU draft legislation that is forwarded electronically by the EU institutions to the Finnish Parliament shall be recorded as received by the Grand Committee. The EU Secretariat of the Finnish Parliament sends it to the Grand Committee, the appropriate sectorial committees, as well as the Åland Parliament, so that they can express their opinion as to the compatibility of the draft legislation with the principle of subsidiarity to the Grand Committee.

EU draft legislation is not automatically examined. Subsidiarity checks only take place if a proposal is made to this end and generates sufficient support. Any Member of the Grand Committee, the appropriate sectorial committee or the Åland Parliament may request the Grand Committee to conduct a subsidiarity check within a six-week time limit.¹⁴⁵ If the proposal originates from a Member of the Grand Committee or a sectorial committee, the Grand Committee decides by simple majority whether to carry out the subsidiarity check or not. If the proposal originates from the Åland Parliament, the Grand Committee is obliged to carry out the subsidiarity check. The EU Secretariat conducts the subsidiarity check and reports its conclusions to the Grand Committee, the appropriate sectorial committees and the Åland Parliament.¹⁴⁶ The Grand Committee hears the Government and prepares a subsidiarity report. The report is sent to the Parliament's plenary assembly. Should the report conclude that there has been a violation of the subsidiarity principle, the report will include a draft reasoned opinion, which will be put to the vote in the Parliament's plenary assembly. If the Finnish Parliament decides to issue the reasoned opinion, it will send its decision and the report of the Grand Committee to the EU institutions. If the report of the Grand Committee should find that there is no breach of the subsidiarity principle, it will still be forwarded to the EU institutions.

In addition, all EU proposals of any significance are subject to the usual parliamentary scrutiny procedure. As of October 2013, the Finnish Parliament has issued three reasoned opinions.¹⁴⁷

¹⁴⁵ This is provided for in the Rules of Procedure of the Grand Committee, available at <http://web.eduskunta.fi/Resource.phx/valiokunnat/valiokunta-suv01/tyojarjestys.htx> (FI) and discussed in <http://www.cosac.eu/subs-finland/2012/6/25/finland.html> (EN).

¹⁴⁶ <http://www.cosac.eu/subs-finland/2012/6/25/finland.html> (EN).

¹⁴⁷ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

Cooperation with the Government

Pursuant to Section 96 of the Finnish Constitution, European draft legislation and other documents that fall within the *Eduskunta*'s powers are sent to the Parliament in the form of a Government Communication. A Government Communication is generally prepared by the ministry which is responsible for the respective area and is approved in a full session of the Government. Such communication notably includes a subsidiarity assessment.¹⁴⁸ Moreover, the Government shall provide the appropriate committees with information on European affairs. The Grand Committee shall be informed of the Government's position on European affairs.

The parliamentary right to receive information on European affairs is further developed by Section 97 of the Finnish Constitution. Section 97 states that the Foreign Affairs Committee of the Parliament shall receive from the Government, upon request and when otherwise necessary, reports of matters pertaining to foreign and security policy. Correspondingly, the Grand Committee of the Parliament shall receive reports on the preparation of other matters in the EU. Moreover, the Prime Minister shall provide the Parliament with information on matters discussed at the European Council beforehand and without delay after meetings of the European Council.

Cooperation with other national parliaments

Apart from the publication of reasoned opinions on the IPEX website, the exchange of information and coordination with national parliaments in other Members States takes place on an *ad hoc* basis.¹⁴⁹

Procedures at the regional level

The Åland Parliament is the only regional parliament with legislative powers in Finland.

The Åland Parliament has 30 seats. Members are elected every four years directly and by secret ballot. The competence of the Åland Parliament is exclusive and not delegated by the Finnish Parliament or Government.

The competences are specified in Section 18 of the Act on the Autonomy of Åland and include, *inter alia*, public order and safety; housing; the appropriation of real property, and the protection of nature and the environment. Moreover, the Parliament is responsible for adopting the budget for Åland (Section 44 of

¹⁴⁸ <http://web.eduskunta.fi/dman/Document.phx?documentId=xj09507113500110&cmd=download> (EN).

¹⁴⁹ CoR 2010 study, p. 99.

the Act on the Autonomy of Åland).¹⁵⁰

In Finland, there is no filtering of EU draft legislation at the national level. All proposals covered by the EWS are sent to the Åland Parliament. It is up to the latter to make the initial assessment on whether or not an EU proposal is within the competence of the region.¹⁵¹

There is no staff specifically in charge of subsidiarity scrutiny in the Åland Parliament.¹⁵² EU draft legislation is sent by e-mail to all Members of the Regional Parliament for information. It is only checked if a member of the Parliament or its Autonomy Committee takes the initiative to do so.

The decision whether or not to issue a decision on subsidiarity is taken by the Autonomy Committee. The opinion is sent within a period of six weeks to the Finnish National Parliament, which examines it in the Grand Committee. The proposal of the Grand Committee is presented to the Parliament in plenary session. The decision on subsidiarity of the Åland Parliament must always be attached to the Finnish Parliament's communication on the matter to the EU institutions, irrespective of whether or not the National Parliament decides to issue a reasoned opinion itself.¹⁵³

Although there is no explicit legal basis for this, the Åland Government also examines all EU draft legislation with regard to subsidiarity and may inform the Åland Parliament that there are grounds to carry out a subsidiarity check on a given matter.

Cross-regional cooperation

The Parliament does not cooperate with any other national or regional parliaments in Europe for subsidiarity monitoring purposes on a formal or permanent basis. The Åland Parliament is a SMN partner and member of CALRE.

Coordination between the central and regional level

Apart from the involvement of the Åland Parliament in the subsidiarity monitoring procedure at the level of the *Eduskunta*, the cooperation between the Regional Parliament and the National Parliament is mostly technical in nature.

¹⁵⁰ For further information, see http://www.regleg.eu/index.php?option=com_content&view=article&id=77 (EN).

¹⁵¹ CoR 2010 study, pp. 97-98.

¹⁵² There is no information available on the level of expertise of regional parliaments with regard to subsidiarity and on the existence of training for officials and members of parliaments in view of the EWS.

¹⁵³ CoR 2010 study, p. 101.

The National Parliament sends EU draft legislation to the Regional Parliament by e-mail. There are also informal contacts between officials. Overall, subsidiarity checks are carried out independently by the Regional and the National Parliament.

Forwarding of EU legislation¹⁵⁴

In Finland, EU draft legislative acts are forwarded electronically to the Åland Parliament's designated e-mail box at the same time as they are distributed within the National Parliament. In general, they are forwarded to the Åland Parliament every working day, within hours of being received by the National Parliament. As Åland is a unilingual Swedish-speaking community in Finland, the Åland Parliament will receive the EU legislative drafts when there is a Swedish version available.

Time limit¹⁵⁵

The Grand Committee of the Finnish Parliament has requested that any input from the Åland Parliament be received within six weeks, to allow two weeks for processing. However, the time limit may be extended on an *ad hoc* basis.

Follow-up to the regional opinion¹⁵⁶

The decision on issuing a reasoned opinion is taken by the national parliament.

When the Åland Parliament sends a subsidiarity opinion to the *Eduskunta's* Grand Committee, the latter is obliged to consider it but is not bound by its conclusions. The subsidiarity procedure described above would then be launched. The report drafted by the Grand Committee, to be examined by the chamber sitting in plenary, includes *verbatim* the Åland Parliament's observations. If the plenary decides not to adopt a reasoned opinion, the Grand Committee's report will, in any case, be forwarded to the EU institutions for information. In sum, in all cases, any input from the Åland Parliament is included *verbatim* in the material forwarded to the EU institutions.

Assessment of the EWS by the regional parliaments¹⁵⁷

The main obstacle identified by the Åland Parliament with regard to efficient subsidiarity monitoring concerns a lack of resources. Moreover, it deplors the

¹⁵⁴ *Ibid.*, p. 100.

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.*, pp. 100-101.

¹⁵⁷ The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

fact that other regional parliaments' decisions on subsidiarity are not always translated into other languages.

2.1.4 Germany

Procedures at the central level

*General*¹⁵⁸

The legislative functions at the German federal level are vested in two institutions, the Federal Assembly (*Bundestag*, BT), and the Federal Council (*Bundesrat*, BR). Their rights and institutional obligations resulting from Germany's membership in the EU are spelled out in the Federal Constitution or the 'Basic Law' (*Grundgesetz*, GG),¹⁵⁹ in the Act on Assuming Responsibility for EU Integration (*Integrationsverantwortungsgesetz*, IntVG)¹⁶⁰ adopted in 2009, and in two acts laying down the terms for inter-institutional cooperation on EU matters between the Federal Government (*Bundesregierung*) and the BT (EUZBBG, 1993)¹⁶¹ on the one hand, and between the Federation and the *Länder* (EUZBLG, 1993) on the other hand.¹⁶²

The current 620 members¹⁶³ of the BT are directly elected by universal suffrage every four years. The 69 members of the BR are not directly elected. Instead, the BR is composed of representatives of the state governments. Every *Land* is represented by at least three and not more than six representatives of its Government which can only exercise their votes *en bloc* (per *Land*).

The aforementioned legal instruments contain procedures for general political scrutiny on EU matters by the Federal Government on the one hand, and the BT and BR on the other. They also regulate the exchange of information between the Federal Government and the legislative bodies. Prior to the entry into force of the Lisbon Treaty, the acts concerned, as well as the BT and BR Rules of Procedure were amended to ensure that the subsidiarity check had an explicit legal basis, and to spell out the rights and obligations of the BT and BR in the

¹⁵⁸ CoR 2010 study, pp. 43-44.

¹⁵⁹ The German Basic Law is available at <http://www.bundestag.de/bundestag/aufgaben/rechtsgrundlagen/grundgesetz/gg.html> (DE) and in English at <https://www.btg-bestellservice.de/pdf/80201000.pdf> (the English version does not reflect the amendments of Article 93 adopted on 11 July 2012).

¹⁶⁰ http://www.bundestag.de/bundestag/europa_internationales/eu/mitwirkungsrechte/intvg.pdf (DE);

http://www.bundestag.de/htdocs_e/bundestag/committees/a21/legalbasis/intvg.html (EN).

¹⁶¹ http://www.bundestag.de/bundestag/europa_internationales/eu/mitwirkungsrechte/euzbbg.pdf (DE);

http://www.bundestag.de/htdocs_e/bundestag/committees/a21/legalbasis/euzbbg.html (EN).

¹⁶² http://www.bundesrat.de/cln_236/nm_9548/DE/struktur/recht/euzblg/euzblg-node.html?nnn=true (DE).

¹⁶³ The exact number of BT members may slightly differ from term to term.

context of the subsidiarity scrutiny.¹⁶⁴

The subsidiarity checks come on top of the existing tasks and responsibilities of the BR and BT, but benefit from the established good practices and expertise of both Chambers on EU matters.

Both BT and BR hold one vote in the EWS.

Each of the 16 *Länder* of Germany has its own state parliament and state government. There is no direct link between the state parliaments and the BT or the BR. Yet, there is a direct link between every state parliament and the relevant state government, which is part of the BR. In Germany, the 16 state governments participate through the BR in the legislation and administration of the Federal State. Through their participation in the BR, the state governments also take part in the EWS. The position of the state parliament is forwarded to the state government, which considers it in its voting in the BR. In specific cases, it may be bound in its voting by the position of the state parliament. Moreover, every *Land* may request the BR via its (state government) representatives within the BR to conduct a subsidiarity scrutiny on EU draft legislation.

Subsidiarity check¹⁶⁵

At the federal level, the subsidiarity checks have been integrated into the regular decision-making process. Since the entry into force of the Lisbon Treaty, all EU draft legislation submitted for debate in the BT and the BR have two headings: Part A and Part B. Part A corresponds to subsidiarity scrutiny and Part B is subject to regular political scrutiny.¹⁶⁶

Forwarding of EU draft legislation

The BT and the BR both receive the original EU draft legislation directly from the European Commission and the Council, as well as from the Federal Government. Within a two-week period, the Federal Government also submits a subsidiarity assessment to both legislative bodies pursuant to Section 7(1) EUZBBG.

¹⁶⁴ The EUZBBG, concerning primarily the BT's rights, was amended in September 2009 and in September 2012. The EUZBLG, on the rights of the BR, was also amended in September 2009, and in July 2010 the *Länder* and the Federal Government adopted an additional cooperation agreement. Changes to those acts related mainly a) to extending both chambers' right of information vis-à-vis the federal government on all EU matters, communications and documents related to the subsidiarity scrutiny and b) to procedural questions and legal representation for issuing of a 'reasoned opinion' or either of the chambers referring a case to the CJEU.

¹⁶⁵ CoR 2010 study, p. 44.

¹⁶⁶ For decisions taken under heading B, the objective is for each Chamber to establish a position on the content of the legislative proposal, which the Federal Government should consider in its negotiations at EU level.

At the federal level, there is no preliminary phase to select EU legislative proposals that are relevant from a subsidiarity angle. All proposals are automatically forwarded to the BT and BR.

Bundestag

The BT's subsidiarity monitoring procedure is laid down in Articles 93, 93a and 93b of the Rules of Procedure of the BT. Upon receiving EU draft legislation, the EU department of the BT Administration prepares a proposal for referral, determining which committees should be involved in the examination of the drafts that it considers to be relevant for the subsidiarity check. The proposal for referral is signed by the Chair of the EU Affairs Committee and is forwarded to the President of the BT. In consultation with the parliamentary groups, the President refers EU draft legislation to one 'lead' committee, while others may be asked for input (in the form of an opinion).

The lead committee next examines the extent to which the proposal is in line with the subsidiarity principle. If the committee suggests to issue a reasoned opinion, or suggests to bring a case before the CJEU on grounds of subsidiarity, it must first consult the EU Affairs Committee pursuant to Article 93a of the Rules of Procedure of the BT. A subsidiarity analysis must then be presented to the plenary together with the lead committee's report and the recommendation for a resolution. The former analysis is prepared by the EU department of the BT administration (*Referat P1*) at the request of the EU Affairs Committee.¹⁶⁷

The final vote is taken by the plenary by simple majority upon recommendation of the lead Committee. The Presidium of the BT is then responsible for the administrative tasks of communicating the decision to the institutional stakeholders (*Bundesregierung*, BR, EU institutions, IPEX).¹⁶⁸

As of October 2013, the BT has issued three reasoned opinions.¹⁶⁹

¹⁶⁷ CoR 2010 study, p. 45.

¹⁶⁸ *Ibid.* For further information, see IPEX, National Parliaments, German Bundestag, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity - German Bundestag', available at http://www.bundestag.de/htdocs_e/bundestag/europe/ipex/subsidiarity.pdf (EN) and 'Scrutiny of European affairs documents coming from the European Union and/or the Federal Government - General scrutiny and monitoring compliance with the principle of subsidiarity', available at http://www.bundestag.de/htdocs_e/bundestag/europe/ipex/subsidiarity.pdf (EN).

¹⁶⁹ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

Bundesrat¹⁷⁰

EU legislative proposals are distributed by the Presidium to all members. They can be the subject of subsidiarity scrutiny at the initiative of the BR President, at the request of a BR member, or at the request of a *Land*. The BR President will determine the responsible sectorial committees depending on the subject. Several committees can discuss the same issue simultaneously. It is noted, however, that the EU Committee is always the leading committee for EU draft legislation and delivers its opinion last. All members of the BR have the right to access information and debates of any BR committee (without the right to vote).¹⁷¹

The EU Committee presents its report to the plenary together with a recommendation for a resolution. The report can be adopted by tacit assent, or in a formal vote, by simple majority. The members can only exercise their votes (between three and six) *en bloc* (per *Land*). The presidium of the BR is responsible for the administrative tasks of communicating the decision to stakeholders in the different institutions.

In case of emergency, the President of the BR may decide that a special EU Chamber (*Europakammer*), comprising one member of the BR from every *Land*, can take decisions on behalf of the BR and issue a reasoned opinion.¹⁷²

As of October 2013, the BR has issued nine reasoned opinions.¹⁷³

Cooperation between the BT and BR¹⁷⁴

The BT and the BR work independently and have no obligation to consult each other or take their respective positions into consideration. However, it is customary for the BT and BR to exchange information, and to immediately inform one another if either body intends to issue a reasoned opinion or bring a case before the CJEU.

¹⁷⁰ CoR 2010 study, pp. 45-46.

¹⁷¹ The EU Committee usually meets on Fridays, after all sectorial committees have had the chance to discuss the EU legislative proposals and have assessed whether they should be subject to the subsidiarity scrutiny process.

¹⁷² For further information, see

<http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a91c74dc75bdb.do> (EN).

¹⁷³ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

¹⁷⁴ CoR 2010 study, p. 46.

Procedures at the regional level

General

There are 16 state parliaments (*Landtage*) in Germany: the Baden-Württemberg State Parliament, the Bavarian State Parliament, the Berlin City Parliament, the Brandenburg State Parliament, the Bremen City Parliament, the Hamburg City Parliament, the Hesse State Parliament, the Lower Saxony State Parliament, the Mecklenburg-Vorpommern State Parliament, the North Rhine-Westphalia State Parliament, the Rhineland-Palatinate State Parliament, the Saarland State Parliament, the Saxony State Parliament, the Saxony-Anhalt State Parliament, the Schleswig-Holstein State Parliament and the Thuringia State Parliament.

The legislative competences of the Federation and the *Länder* are regulated in detail by the Basic Law. Articles 70-74 govern the distribution of legislative powers between the *Länder* and the Federation.

- In the fields subject to the exclusive legislative power of the Federation (Article 73 Basic Law), the *Länder* shall have power to legislate only when and to the extent that they are expressly authorised to do so by a federal law. The Federation holds exclusive legislative competence, *inter alia*, in the following fields: all foreign policy issues, defence, civil protection, citizenship, currency and monetary affairs, and customs duties and foreign trade.
- In fields subject to concurrent legislative powers (Articles 72 and 74 Basic Law), the *Länder* shall have power to legislate so long as and to the extent that the Federation has not exercised its legislative power by enacting a law (Article 72(1) Basic Law).¹⁷⁵
- Otherwise, the *Länder* shall have the right to legislate insofar as the Basic Law does not confer legislative powers on the Federation (Article 70 Basic Law). Their state parliaments thus hold the sole right of legislation in the areas not addressed in Articles 70-74 of the Basic Law. These matters include, *inter alia*, culture, schools and education, local authorities, police, right of assembly, public service law, nursing home law, hotel and catering

¹⁷⁵ Yet, a difference has to be made between areas subject to the necessity clause (*Erforderlichkeitsklausel*) and those that are not. Pursuant to Article 72(2) Basic Law there are certain domains (e.g. public welfare, the promotion of research and the transfer of land), where the Federation ‘shall have the right to legislate (...) [only] if and to the extent that the establishment of equivalent living conditions throughout the federal territory or the maintenance of legal or economic unity renders federal regulation necessary in the national interest.’ In other domains (e.g. civil law, criminal law, registration of birth, death and marriages, law of association, land distribution and labour law), this necessity clause does not apply.

law, press, broadcasting and new media.

- Furthermore, Article 72(3) Basic Law enumerates several fields (e.g. hunting, protection of nature and management of water resources) where the *Länder* may enact laws at variance with federal legislation.
- Finally, the state parliaments of the *Länder* are responsible for adopting the state budget, according to the relevant provisions in the constitution of every *Land*.

Involvement of the regional level in the subsidiarity check

State parliaments can adopt positions on subsidiarity. In principle, however, these positions are not directly submitted to the EU institutions. Nevertheless, certain state parliaments in fact do send their decisions directly to the European Commission.¹⁷⁶ State parliaments' interests are represented first and foremost by their governments, whose selected members or designated representatives sit in the BR at the federal level.

As a consequence, the impact of state parliaments on the EWS depends primarily on their relation with their governments. As the same principle applies in relation to the scrutiny of the German federal legislation, the subsidiarity scrutiny procedure for European legislation can benefit from practices which have already been established and is in essence an addition to existing cooperation between state parliaments and state governments in relation to federal law-making.

At the state level, the search to find the most suitable system for subsidiarity scrutiny is still on-going. There have been a variety of responses from different institutions and the procedures vary across the different *Länder*.¹⁷⁷ Since 2009, most *Länder* have changed their policies in order to facilitate the necessary cooperation between governments and parliaments. Overall, there is a clear trend towards a stronger involvement of state parliaments in EU affairs (although there is at least one state parliament that admits that, even if a specific procedure is foreseen in the parliament's Rules of Procedure, it does not currently carry out any subsidiarity check of EU draft legislation). Whenever new rules have been adopted, they have allowed for enhanced scrutiny of state governments; encompassing options for parliamentary decisions which are binding for the relevant state government (as for the Baden Württemberg State Parliament, see below), or for more detailed and stronger rights to information.

¹⁷⁶ The Bavarian State Parliament, for instance, sends its positions also directly to the European Commission. See <http://www.maximilianeum-online.de/de/druckversion/5828.php> (DE).

¹⁷⁷ CoR 2010 study, p. 44.

The subsidiarity check is at the heart of the new rules. Overall, the *Länder* have undertaken a number of different legal, procedural and organisational adaptations.

In the meantime, most state parliaments have adopted specific procedures to conduct the subsidiarity check, sometimes through a revision of the State Constitution,¹⁷⁸ sometimes through a revision of the Rules of Procedure.¹⁷⁹ Moreover, most state parliaments have concluded agreements with their corresponding state governments in order to organise the forwarding of EU draft legislation.¹⁸⁰

Pre-selection of EU draft legislation by the state governments

In some cases, the relevant state government conducts a pre-selection of relevant EU draft legislation. In Baden-Württemberg, for instance, the State Parliament receives briefings from the State Government on EU-matters (pre-legislative and legislative matters) which are of crucial political importance for the *Land*, and which concern the *Land's* legislative competences or its vital interests. The briefings in early-warning matters are provided within a deadline of three weeks from the moment when the State Government itself receives the EU-documents from the BR.

¹⁷⁸ See for instance Article 34a of the Constitution of Baden-Württemberg, available at <http://www.lpb-bw.de/bwverf/bwverf.htm> (DE); Article 79(2-3) of the Constitution of Bremen, available at http://www.bremische-buergerschaft.de/fileadmin/user_upload/Informationsmaterial/Landesverfassung.pdf (DE).

¹⁷⁹ See for instance the Rules of Procedure of the Brandenburg State Parliament, available at http://www.landtag.brandenburg.de/sixcms/media.php/5701/Geschaeftsordnung_Intranet_Juni2010.pdf (DE).

¹⁸⁰ See for instance the Act on the participation of the Bavarian State Parliament (*Parlamentsbeteiligungsgesetz*), available at http://www.bayern.landtag.de/scripts/get_file.php?file=PBG.pdf (DE) as well as the agreement on the participation of the Parliament (*Vereinbarung zum Parlamentsbeteiligungsgesetz*), available at http://www.bayern.landtag.de/scripts/get_file.php?file=Anlage_3_VerPBG_08022011.pdf (DE); Agreement between the State Government of Hesse and the State Parliament of March 2011; Agreement between the Saxony State Government and the State Parliament of 20 April 2011; Act on the participation of the Saxony Anhalt State Parliament with the State Government, available at <http://www.landtag.sachsen-anhalt.de/fileadmin/downloads/LIG.pdf> (DE); Agreement between the Saarland State Government and the State Parliament on the information and the participation in European Union affairs and in the large region 'SaarLorLux' of 6 May 2009, available at http://www.saarland.de/dokumente/thema_europawoche/Vereinbarung_Version_Urkunden_StK_Internet.pdf (DE); Agreement between the Saxony State Government and the State Parliament on the consultation of the State Parliament in subsidiarity monitoring and on the cooperation in European affairs of 20 April 2011, presented at http://www.landtag.sachsen.de/de/aktuelles/pressemitteilungen/1378_7536.aspx (DE); Agreement between the Saxony Anhalt Government and the State Parliament on the participation of the Parliament with the Government pursuant to Article 62 of the State Constitution, available at <http://www.landtag.sachsen-anhalt.de/fileadmin/downloads/LIV.pdf> (DE); Agreement between the Schleswig-Holstein State Government and the State Parliament from October 2011 on the consultation of the Parliament in the framework of the subsidiarity check and on cooperation in EU affairs (document available at <http://www.landtag.ltsh.de/infothek/wahl17/drucks/1800/drucksache-17-1849.pdf> (DE)); Agreement between the Thuringia State Government and the State Parliament on the information by the State Government and the participation of the Parliament in European affairs (available at http://www.thueringer-landtag.de/imperia/md/content/landtag/gesetze/drs53030_go.pdf, pages 28-39 (DE)).

In a similar vein, in Berlin, the Senate (State Government) informs the State Parliament without delay of all European affairs and EU draft legislation, to the extent that they involve the City of Berlin.¹⁸¹

Technical support by the state government in relation to subsidiarity monitoring

Certain state governments provide technical support to their state parliaments in order to conduct subsidiarity monitoring.

In Bremen, for instance, there is no prior filtering procedure for selecting EU draft legislation with regard to its material relevance but the Senate (State Government) examines EU draft legislation and transmits it to the chancellery of the Parliament together with a technical assessment of its conformity with the subsidiarity principle.¹⁸² Similar procedures exist notably in Rhineland-Palatinate,¹⁸³ Saarland,¹⁸⁴ Saxony,¹⁸⁵ in Schleswig-Holstein¹⁸⁶ and in Thuringia.¹⁸⁷

¹⁸¹ Article 50 of the Constitution of Berlin, available at [http://www.parlament-berlin.de/pari/web/wdefault.nsf/vFiles/D14/\\$FILE/Verfassung%20von%20Berlin%20\(17.03.10\).pdf](http://www.parlament-berlin.de/pari/web/wdefault.nsf/vFiles/D14/$FILE/Verfassung%20von%20Berlin%20(17.03.10).pdf) (DE).

¹⁸² This procedure is based on Article 79(2-3) of the Constitution of Bremen, available at http://www.bremische-buergerschaft.de/fileadmin/user_upload/Informationsmaterial/Landesverfassung.pdf (DE).

¹⁸³ In Rhineland-Palatinate, a formal agreement between the State Parliament and the State Government foresees that the analysis of EU draft legislation with regard to subsidiarity is primarily done by the State Executive. The State Government transmits EU draft legislative acts to the State Parliament by email and formal letter. Within the State Parliament, it is the 'Committee for European Union Affairs and One World' that examines EU draft legislation from a subsidiarity angle and that monitors the analysis of EU draft legislation by the State Government. For further information, see the agreement between the Rhineland-Palatinate State Parliament and the State Government pursuant Article 89b of the Constitution of the *Land* on the information of the State Parliament by the State Government of 4 February 2010, available at <http://www.landtag.rlp.de/icc/Internet-DE/nav/07f/binarywriterservlet?imgUid=6b35427a-6405-a01b-e592-6bf983c6eaca&uBasVariant=1111111-1111-1111-1111-111111111111> (DE).

¹⁸⁴ In Saarland, the Committee on European Affairs and Questions of the Inter-Regional Parliamentary Council may request the State Government to engage in a subsidiarity analysis of EU draft legislation. For further information, see the agreement between the Saarland State Government and the State Parliament on the information and the participation in European Union affairs and in the large region 'SaarLorLux' of 6 May 2009 mentioned above.

¹⁸⁵ In Saxony, a written statement on all EU draft legislation in the fields of competences of the State Parliament and for which a breach of subsidiarity could be considered is joined to the legislation concerned. For further information, see the agreement between the Saxony State Government and the State Parliament on the consultation of the State Parliament in subsidiarity monitoring and on the cooperation in European affairs of 20 April 2011 mentioned above.

¹⁸⁶ In Schleswig-Holstein, the State Government transmits all EU draft legislation together with a cover page containing a first subsidiarity appraisal by the State Government. Moreover, it supports the Parliament in the subsidiarity check of European draft legislation that is of fundamental political importance and of direct interest to the *Land*. For further information, see the agreement between the Schleswig-Holstein State Government and the State Parliament from October 2011 on the consultation of the Parliament in the framework of the subsidiarity check and on cooperation in EU affairs mentioned above.

¹⁸⁷ In Thuringia, the Government conducts a preliminary analysis with regard to subsidiarity and informs the Parliament of its conclusions. For further information, see the agreement between the Thuringia State Government and the State Parliament on the information by the State Government and the participation of the Parliament in European affairs mentioned above.

Time limit

The deadline for terminating the subsidiarity check in state parliaments is aligned with the meeting schedule of the BR, which is in charge of collecting and forwarding the subsidiarity objections issued by state parliaments.

Given that the BR brings together state government representatives (not state parliament representatives), it is the responsibility of state governments to provide sufficient time for their parliaments to express an opinion. Each *Land* has its own system of cooperation between the government and the parliament. Decisions made at the state level feed into the federal level through the BR, and the *Länder* themselves must make sure that their procedures fit into the timeframe set out in Protocol.

The time limit varies depending on the size and workload of the state parliament. There are *Länder* that have no fixed deadlines for the state parliament to carry out the subsidiarity scrutiny process and where the procedure is incorporated into the routine flow of parliamentary work (this applies to the majority of *Länder*). Other *Länder* have agreed on fixed deadlines for the completion of the various stages of the subsidiarity scrutiny process (e.g. Baden-Württemberg¹⁸⁸).

Organ which takes the decision

In most parliaments, the decision to issue a decision on subsidiarity is taken by the plenary assembly. Yet, in some cases, one committee - generally the Committee for European Affairs - may take the decision itself. This is for example the case in Thuringia¹⁸⁹ or Hamburg. In other cases, the decision can only be taken at committee (instead of plenary) level in cases of emergency. This is, for example, the case in the Berlin City Parliament, the Bremen City Parliament or the Saxony State Parliament.

Staff

Most state parliaments have two to four staff members within their administration to conduct the subsidiarity check.

¹⁸⁸ The Baden-Württemberg State Government has a maximum of three weeks from the moment that an EU proposal is transmitted to it to present all relevant documents and subsidiarity analyses to its State Parliament for scrutiny. This deadline is imposed by the act of the *Land* Baden-Württemberg on the participation of the State Parliament in European Union affairs of 17 February 2011, available at http://www.umwelt-online.de/recht/allgemei/laender/bw/eulg_ges.htm (DE).

¹⁸⁹ For further information, see the Rules of Procedure of the Parliament, available at http://www.thueringer-landtag.de/imperia/md/content/landtag/gesetze/drs53030_go.pdf (DE).

In addition, within their representation to the EU in Brussels, some state parliaments - e.g. the Baden-Württemberg State Parliament and the Hesse State Parliament - dispose of desk officers to keep track of the pre-legislative and legislative work of the European Commission and provide information to the State Parliament, also concerning subsidiarity aspects.

Follow-up of the decision

The decisions adopted by the state parliaments in relation to subsidiarity may influence the position of the state government in its vote in the BR. However, as a general rule, the state governments are not bound by the decisions of the state parliaments by virtue of the constitutional rule of own political responsibility of the executives (*Prinzip der Eigenverantwortung der Regierung*).¹⁹⁰ If the government of a *Land* intends to present a motion for a reasoned opinion in the BR, it must inform its parliament of the grounds for presenting this motion. The state parliaments have the right to express their disagreement with the government's opinion, but the parliamentary recommendations are not legally binding on state governments. However, the government must explain its position if it decides not to follow the parliamentary recommendation. In some *Länder* (e.g. Bavaria and Saxony), the state governments have indicated their commitment to take the position of the state parliament into consideration, should the latter conclude to the existence of a subsidiarity breach.

Baden-Württemberg is so far the only *Land* which has changed its Constitution to formally strengthen the rights of the State Parliament in this context. Article 34a stipulates that the Parliament can issue a decision that is binding for the Government, including in its voting in the BR, if the transfer of *Länder* competences to the EU is concerned or if the EU proposal affects areas where the *Länder* have exclusive legislative competences. However, the government can still deviate from the parliament's decision, if this is 'in the interest of the Land'.¹⁹¹

Officially, communication on subsidiarity scrutiny between the state and the EU level is channelled through the BR.

It is moreover observed that all *Länder* executives have their own representations to EU institutions in Brussels, which they can use to establish

¹⁹⁰ This is a general principle of German law, by which the executive can only receive binding instructions in matters laid down by the constitution [federal or regional] or a specific statute, otherwise executives are politically accountable to the legislative by virtue of confidence of the majority.

¹⁹¹ For further information, see the Constitution of Baden-Württemberg, available at <http://www.lpb-bw.de/bwverf/bwverf.htm> (DE).

individual contacts with the EU institutions.¹⁹² In addition, four State Parliaments¹⁹³ - Bavaria, Baden-Württemberg, North Rhine-Westphalia and Hesse - have similarly established liaison/representation offices in Brussels. Regular meetings take place between the representatives of these Brussels offices. The staff members of these offices inform their respective state parliament of recent developments in EU affairs and organise meetings with representatives of the EU institutions.

Cross-regional cooperation

With a view to exchanging information and lessons learned on a cross-regional basis, and notably on subsidiarity issues, two distinct networks have been set up:

- a network between the Chairmen of the Committees on European Affairs of all 16 German state parliaments, and;
- a network between representatives of the administrations of all 16 German state parliaments and representatives of the administrations of the nine Austrian state parliaments.

Moreover, ‘best practices’ on subsidiarity scrutiny are discussed once a year at the Conference of Presidents of German state parliaments.

At the level of the state governments, exchange of information takes place through the Conference of *Länder*-level EU ministers (*Europaministerkonferenz*), which acts as a permanent working group of the Conference of Minister Presidents (*Ministerpräsidentenkonferenz*). There are also a number of informal, *ad hoc* contacts between *Länder*, which take place upon the concerned *Länder*’s initiative.

Several German state parliaments also engage in cross-regional cooperation with state parliaments from other states through various formal or informal channels. Regular meetings take place between the representatives of the Brussels offices of the State Parliaments of Bavaria, Baden-Württemberg, North Rhine-Westphalia and Hesse. Moreover, as of October 2012, there are regular meetings

¹⁹² The list and contact details of these offices representing German *Länder* are available at http://www.bruessel-eu.diplo.de/contentblob/1469816/Daten/3278844/download_vertreter_deutsche_Firmen.pdf (DE).

¹⁹³ The contact details of the offices representing the State Parliaments of Baden-Württemberg, Bavaria and Hesse are available at http://www.google.be/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&ved=0CDcQFjAB&url=http%3A%2F%2Fcor.europa.eu%2Fen%2Fregions%2FDocuments%2Fregional-offices.xls&ei=yMqUffVB8rI0AXhj4GoCw&usq=AFQjCNFGCA2thJAnwci4Dd7vrcgcCNtD_w&sig2=oDcFvS4YqV3iUDcrTO9L1w&bvm=bv.46751780,d.d2k. For further information on the liaison office of the North Rhine-Westphalia State Parliament, see http://www.landtag.nrw.de/portal/WWW/GB_I/I.7/Europa/Aktuelle-Meldungen/0902_Euro.jsp (DE).

(once or twice a year) of Members of the State Parliaments and Regional Assemblies of Niedersachsen, Bremen, Hamburg, Groningen (NL), Friesland (NL) and Drenthe (NL). The aim is to exchange information and to discuss topics of regional interest. Yet, there is no specific cooperation on subsidiarity issues. Furthermore, the Bremen City Parliament, the Hamburg City Parliament and the Mecklenburg-Vorpommern State Parliament participate in the Baltic Sea Parliamentary Conference (BSPC). Finally, the Thuringia State Parliament collaborates with the Parliament of the German-speaking Community of Belgium.

All state parliaments are members of CALRE, but the extent to which they participate varies from one *Land* to another. Ten State Parliaments also take part in the CoR's SMN.¹⁹⁴ Overall, even the parliaments that are currently not active in these organisations/networks express a wish to receive feedback and information on subsidiarity.

Coordination between the central and regional level

All documents meant for debate in the BR, including EU draft legislation, are forwarded to the state governments and to the state parliaments.

As mentioned above, the 16 state governments participate through the BR in the legislation and administration of the Federation. Through their participation in the BR, the state governments also take part in the EWS. The state parliaments may influence the position of the state governments, but as a general rule, the state governments are not bound by the decisions of the state parliaments.

Differing points of view at national and regional levels¹⁹⁵

The BR and BT deliver their opinion on subsidiarity independently from one another. This means that the *Länder* are not affected by the opinion of the BT, they merely need to find a common position among themselves in the BR.

Follow-up/feedback from the National Parliament¹⁹⁶

All decisions of the BR, including subsidiarity decisions, are passed on to the state parliaments by their respective governments. Official documentation from the BR secretariat is forwarded automatically to the state governments. State

¹⁹⁴ The Bavarian State Parliament, the Baden-Württemberg State Parliament, the Hesse State Parliament, the North Rhine-Westphalia State Parliament, the Lower Saxony State Parliament, the Saxony-Anhalt State Parliament, the Schleswig-Holstein State Parliament, the Thuringia State Parliament, the Hamburg City Parliament and the Saxon Parliament.

¹⁹⁵ CoR 2010 study, p. 57.

¹⁹⁶ *Ibid.*

governments inform their parliaments in line with their respective internal provisions.

The BT's decisions are also passed on to the BR as a matter of good practice. They will in turn be forwarded by the BR to the state governments and through them find their way to the state parliaments. This exchange is solely for information purposes. However, while the exchange between the BT and BR is voluntary, once a document has entered the BR secretariat, the BR is obliged to forward it to the state governments, which then pass it on to their parliaments.

Assessment of the EWS by the regional parliaments¹⁹⁷

Obstacles for an efficient subsidiarity monitoring

Several obstacles have been identified by state parliaments with regard to subsidiarity monitoring:

- the tight eight-weeks deadline (cf. in the Baden-Württemberg State Parliament, committee meetings only take place once a month on average. In order to meet the eight-week deadline, the European Affairs Committee already had to convene several extraordinary Committee meetings);
- the vast amount of EU draft legislation;
- the lack of financial and human resources to treat EU dossiers;
- the lack of good practice/experience of the responsible staff to prepare documents for deputies and decision-makers in relation to subsidiarity monitoring;
- the late exchange of information between state parliaments on subsidiarity issues;
- the lack of a proper justification on the part of the European Commission as to the compliance with the subsidiarity principle in EU draft legislation;
- the general lack of interest in EU affairs at the political level;
- the different understanding of the concept of subsidiarity. The same problem identified in EU draft legislation may be considered as a subsidiarity problem

¹⁹⁷ The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

by some state parliaments, a proportionality problem by others, and a content-related problem by still others; and

- the increasing perception of subsidiarity as a ‘counterproductive’ or EU-critical concept.

REGPEX and SMN

Certain state parliaments suggest that REGPEX should be construed more intuitively in order to help its users to identify important information more easily.

In order to speed up the process, certain state parliaments propose to extend the exchange of information between state parliaments to the prior stage of discussions on possible subsidiarity issues. This could be organised through REGPEX but could possibly entail problems of confidentiality.

Some state parliaments consider that a database in which all reasoned opinions of national parliaments and decisions on subsidiarity of regional parliaments are stored up to date is missing. REGPEX might be expanded to this end.

Another suggestion concerns the inclusion of a direct link to the reasoned opinions issued by national parliaments that would permit to see the state and the national positions without having to repeat the search on IPEX.

Most state parliaments support the development of the SMN. Some consider that it could be improved to be more user-friendly and accurate.

2.1.5 Italy

Procedures at the central level

General¹⁹⁸

In accordance with the Constitution of the Italian Republic, the Italian Parliament is bicameral, made up of two Assemblies: the Chamber of Deputies and the Senate of the Republic, each with equal powers. MPs are elected every five years by all citizens, aged 18 or older, for election to the Chamber, and by those aged 25 or older, for election to the Senate, respectively.

For administrative purposes, the country is divided into 20 regions, including

¹⁹⁸ CoR 2010 study, p. 62.

five special status regions (*regioni a statuto speciale*), as well as two autonomous provinces. The five special status regions of Valle d'Aosta, Friuli Venezia Giulia, Sardinia, Sicily and Trentino-Alto Adige are granted special powers under the Constitution and enjoy a wide range of administrative and economic powers. The two autonomous provinces (Trento and South Tyrol (Bolzano)) similarly enjoy a large degree of autonomy, compared to Italy's other 15 regions.

Evolution of the national legislation on the participation of the State and the Regions in the preparatory phase of the EU decision-making process

With the entry into force of the Treaty of Lisbon, a legislative adjustment was needed to align the Italian legislative and institutional framework with the new Treaty. One of the biggest challenges was to set up specific instruments and procedures to achieve effective coordination and collaboration between the different levels of government and, more specifically, to implement the EWS.¹⁹⁹ To this end, Act 11/2005 on the process of participation of Italy in the EU decision-making - which had hitherto organised the participation of the State and regions in the preparatory phase of the EU decision-making process - was amended on 24 December 2012.²⁰⁰

As a result hereof, the direct involvement of the National Parliament in the subsidiarity check of EU draft legislation has been improved and the obligation of information of the Government vis-à-vis the Parliament (see below) has been reinforced. Article 8(1) of the new Act now provides that each Chamber can express a reasoned opinion on the compliance of EU draft legislation with the subsidiarity principle, according to the mode provided for in its Rules of Procedure. Article 8(3) states that the Chambers may consult the parliaments of the regions and autonomous provinces in accordance with Article 6 of Protocol No 2. Furthermore, Article 25 provides the Presidents of the regional Parliaments and of the autonomous provincial Parliaments of Trento and Bolzano with the possibility to present their observations related to the principle of subsidiarity.

Obligation of information of the Italian Government vis-à-vis the National Parliament

Act 96/2010²⁰¹, adopted on 4 June 2010, imposes a duty on the Italian Government (in particular on the Ministry for European affairs) to inform the National Parliament of EU legislative proposals. When the parliamentary

¹⁹⁹ *Ibid.*, p. 63.

²⁰⁰ Act 234/2012, available at <http://www.lexitalia.it/leggi/2012-234.htm> (IT).

²⁰¹ Available at <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2010:96> (IT).

analysis begins, the Government must provide adequate information to both Chambers within three weeks. It must include a general evaluation of the EU draft legislative acts highlighting all the important aspects of national interest by conducting a comparative analysis of the proposal and national law.²⁰² It should also include an analysis of any expected impact on regional and local competences.

Pursuant to the latest modification of Act 11/2005 in December 2012, the competent administration of the Italian Government shall also provide the Chambers with a report assessing the compliance of EU draft legislation with the principle of subsidiarity within a period of twenty days.

Chamber of Deputies

As mentioned above, pursuant to Article 8(1) of the amended Act 11/2005, each Chamber may decide in its Rules of Procedure how it intends to conduct the subsidiarity check. In light hereof, a new procedure is currently being tested within the Chamber of Deputies with regard to the EWS. The procedure still needs to be formalised by means of a regulation.²⁰³

The new procedure entrusts responsibility for the subsidiarity scrutiny to parliamentary Committee XIV (the EU affairs Committee), which will in this context act alongside the relevant Committee(s) competent in the field of the EU draft legislation concerned. In certain circumstances, the subsidiarity check may be transferred to the plenary assembly.²⁰⁴

Once the reasoned opinion is approved by both the relevant Committee and parliamentary Committee XIV, it is sent to the EU institutions.²⁰⁵

As of October 2013, the Chamber of Deputies has issued five reasoned opinions.²⁰⁶

²⁰² See in particular Article 9 of Act 96/2010 revising Act 11/2005.

²⁰³ For further information, see Italian Senate, 'Impatto e applicazione del Trattato di Lisbona nell'ordinamento interno', Ufficio Legislativo - Dipartimento Internazionale - Camera e dell'Ufficio legislativo Senato, available at http://www.partitodemocratico.eu/Archivio/8/report_per_gruppo_europacorreto.doc (IT). The current Rules of Procedure are available at http://www.camera.it/application/xmanager/projects/camera/file/conoscere_la_camera/regolamento_camera_25_settembre_2012.pdf (IT).

²⁰⁴ Information and data collected for the CoR by EIPA, 2011.

²⁰⁵ *Ibid.*

²⁰⁶ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

*The Senate*²⁰⁷

Instead of introducing a specific procedure related to the EWS in its Rules of Procedure, the Senate has chosen to integrate the subsidiarity scrutiny within the broader scrutiny of EU initiatives.

The subsidiarity scrutiny is not carried out by Committee 14a (on EU affairs) but by the relevant Committee that is competent in the area affected by the EU draft legislation. However, in case of inactivity of the relevant Committee, Committee 14a is allowed to take over the subsidiarity scrutiny. It has in fact established a sub-committee to this end, whose role is to examine EU draft legislative acts as well as the other EU non-legislative acts, especially with regard to the EWS.²⁰⁸ Moreover, the matter may be referred to the Plenary when one-third of the members of the relevant Committee so request.

As of October 2013, the Senate has adopted eight reasoned opinions.²⁰⁹

*Cooperation between Chambers*²¹⁰

Cooperation between the Houses of the National Parliament (i.e. the Chamber of Deputies and the Senate of the Republic), has not yet been formalised. One of the envisaged solutions is the creation of an *ad hoc* Joint Committee. Generally speaking, the essential mission of this Joint Committee would be to represent the National Parliament within COSAC and the other EU bodies, ensuring an institutional representation of parliamentary groups. It is observed in this context that the establishment of a Joint Committee would to a certain extent deprive the EU affairs committees of their existing competences.

Alternatively, the Chambers could conduct the subsidiarity check one after the other, thus establishing a ‘to-and-fro’ between themselves whereby the Chamber which intervenes second, would have to approve the deliberation adopted by the first one. Nevertheless, this solution could present problems of timing since the procedure would take longer to complete.

Finally, both Chambers could continue to follow entirely separate procedures, each adopting distinct documents.

²⁰⁷ Information and data collected for the CoR by EIPA, 2011.

²⁰⁸ For further information, see Italian Senate, ‘L’attività della 14a Commissione permanente Politiche dell’Unione europea’, available at http://www.senato.it/3708?testo_generico=842 (IT).

²⁰⁹ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

²¹⁰ Information and data collected for the CoR by EIPA, 2011.

Cooperation with other national parliaments

The Chamber of Deputies cooperates with other national parliaments through the Conference of Presidents of Parliaments of the EU and the COSAC. Moreover, there are meetings of representatives of the corresponding committees of the parliaments of Europe. In addition, inter-parliamentary cooperation also takes place at the administrative level.²¹¹

Procedures at the regional level

General

Italy is a Federal State composed of 20 regions and two autonomous provinces (Trento and Bolzano). There are five regions with special status (*regioni a statuto speciale*): Valle d'Aosta, Friuli Venezia Giulia, Sardinia, Sicily and Trentino-Alto Adige. These regions are autonomous and have special powers granted under the constitution.²¹² The two autonomous provinces similarly enjoy a large degree of autonomy, compared to Italy's other 15 regions.

The legislative power of the regions is based on Title V of the Italian Constitution. The Regional Councils (i.e., the legislative bodies at the regional level) exercise their legislative competences in accordance with the provisions of Article 117 of the Italian Constitution.²¹³ Article 117(2) identifies legislative matters that are reserved exclusively to the State, such as immigration, defence, citizenship and social security; Article 117(3) lays down legislative matters for which the State and the Regions have concurrent powers, such as scientific research, health protection, land-use planning and communications; whilst Article 117(4) specifies legislative matters that are, on a residual basis, exclusively reserved to the regions. In addition, the Regional Councils are responsible for approving the regional budget.

²¹¹ http://www.camera.it/398?europa_estero=42 (IT).

²¹² The reform of Title V of the Italian Constitution, brought about with Constitutional Law 3/2001, made major changes to the ordinary regions' legislative powers. As a result of the entry into force of Constitutional Law 3/2001, entire sectors of the legal system, which had previously been removed from regional legislative authority and regulated by the state, were now directly governed by the regions themselves. Pending the bringing into line of their respective statutes, the provisions of the aforementioned constitutional law, providing for wider forms of autonomy, also apply on a transitional basis to special statute regions. A consistent line in Constitutional Court case law was thus codified in constitutional law, to the effect that special-statute regions cannot be treated less favourably than ordinary regions by virtue of their special status.

²¹³ The Italian Constitution is available at http://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf (EN). See also the CoR 2010 study, p. 62.

Forwarding of EU draft legislation

The mechanism for forwarding EU legislative proposals has two separate channels for regional executives and assemblies.

Twice per week the regional parliaments receive EU laws, EU draft legislative acts and preparatory acts from the Prime Minister's office via the *europ@* database system, through the Conference of Presidents of the Legislative Assemblies of the Regions and the Autonomous Provinces.²¹⁴ This forwarding mechanism was established by an agreement signed on 20 July 2009 between the Central Government and the Conference of Presidents of the Legislative Assemblies of the Regions and the Autonomous Provinces.²¹⁵

Moreover, the Senate's 14th Committee has established a system for forwarding lists of EU draft legislation via the Conference of the Presidents of the Legislative Assemblies of the Regions and the Autonomous Provinces containing a detailed schedule of the work of the parliamentary committees involved in the procedure.

In concreto, the forwarding of EU draft legislative acts and the reception of regional observations are detailed in the Protocol of 21 July 2009 on the agreement between the Senate, the Chamber of Deputies and the Conference of Presidents of regional Parliaments.²¹⁶

Committee in charge of scrutinising subsidiarity

Some regional parliaments have established specific Committees responsible for European affairs, which are in charge of scrutinising subsidiarity. This is the case for e.g. in the Abruzzo Regional Assembly and the Sicily Regional Assembly.

In the Calabria Regional Assembly, by contrast, responsibility for subsidiarity monitoring rests with the Committee on Budget, Economic Planning and Production Activities, EU Affairs and Foreign Relations. At staff level, four employees are charged with monitoring compliance with the subsidiarity principle.

²¹⁴ The *europ@* system is part of the Department for Community Policies portal, which can be accessed by institutions in order to make comments and assessments on all EU acts and documents, including those not forwarded via the lists.

²¹⁵ http://www.politichecomunitarie.it/file_download/726 (IT).

²¹⁶ 'Protocollo d'intesa fra il Senato della Repubblica, la Camera dei deputati e la Conferenza dei Presidenti delle Assemblée legislative delle Regioni e delle Province autonome', available at http://www.parlamentiregionali.it/dbdata/documenti/%5b4a9f983446967%5dPROTOCOLLO_DI_INTESA_luglio_2009.pdf (IT).

However, in numerous regional parliaments, there are neither dedicated committees nor staff responsible for scrutinising subsidiarity.

Existence of a procedure for subsidiarity checks

In the wake of the Lisbon Treaty, a number of Italian regions have made provisions for a specific subsidiarity scrutiny procedure, ahead of the process at the national level. This is the case for Abruzzo (Regional Act 199/2 adopted on 10 July 2012), Calabria (Regional Act 3/2007), Emilia Romagna (Regional Act 16/2008, Resolution 512/2010), Marche (Regional Act 14/2006), Sardinia (Regional Act 13/2010), Sicily (Regional 10/2010) and Tuscany (Regional Act 26/2009).

At the same time, even if they have established a specific procedural framework, some regional parliaments, (e.g. the Regional Assembly of Abruzzo) admit that they do not currently carry out any subsidiarity checks.

Conversely, certain parliaments (such as those of South Tyrol, Trento and Trentino South Tyrol) have no official procedure for subsidiarity checks in place, but have already conducted such checks in practice.

A number of regional parliaments are currently preparing subsidiarity monitoring procedures. This is, for example, the case for the Regional Council of Molise, the Friuli-Venezia Giulia Regional Assembly and the Regional Council of Umbria.

Some parliaments have not adopted any specific procedures with regard to subsidiarity checks at the regional level and do not conduct such checks either.

Filtering

In most regional parliaments, there are no filtering procedures in place. Yet, in certain parliaments, specific mechanisms have nonetheless been established to filter EU draft legislation.

In Emilia Romagna, the Legislative Assembly carries out subsidiarity checks of proposals for EU legislation which are listed at the European affairs session of the Assembly. During this session, the European Commission's annual work program is scrutinised, and initiatives considered to be of high priority and relevance to the Region are identified. The Assembly's European affairs session thus serves as a political filter for identifying relevant EU initiatives that should be subject to further scrutiny. The procedure for subsidiarity checks is laid down

in Article 38 of the Legislative Assembly's Rules of Procedure.²¹⁷ It stipulates that Committee I gives its view on compliance with the principle of subsidiarity and proportionality in the form of a resolution, taking into account the opinion of the relevant committees as well as inter-parliamentary and inter-institutional cooperation initiatives. There is a single procedure for checking the compliance of EU draft legislation with both the subsidiarity and proportionality principles and for making comments on the merits/substance.²¹⁸ Subsidiarity checks are generally completed within 20 days of receipt of the proposal by the Assembly. Irrespective of the 20-day deadline, efforts are also made to align the timeframe with that of the National Parliament.

In Sicily, all EU draft legislation is forwarded on a regular basis by the Regional Government to the Regional Assembly's EU Scrutiny Committee, which selects those acts that are particularly relevant to Sicily and puts them on its own subsidiarity monitoring agenda. If the Committee considers that the subsidiarity principle has been breached, it can decide to submit its comments to the Assembly, which may adopt a decision and submit it to the National Parliament.²¹⁹

Organ responsible for taking the final decision

Generally the decision to issue a decision on subsidiarity lies with the plenary assembly. Yet, in certain cases, the final decision can be taken at Committee level.

In the Abruzzo Regional Assembly, for instance, the outcome of the subsidiarity check takes the form of a resolution of the Regional Assembly's Committee on European Affairs, in line with the provisions of the Rules of Procedure governing the Regional Assembly's work. The resolution referred to above shall be sent to the Regional Government, both Houses of the Italian Parliament, the CoR and the Conference of Chairmen of the Legislative Parliaments of the Regions and Autonomous Provinces.²²⁰

Similarly, in Calabria, the Standing Committee on Budget, Economic Planning and Production Activities, EU Affairs and Foreign Relations examines European draft legislation on a fortnightly basis with the support of the Regional

²¹⁷ Regolamento interno dell'Assemblea Legislativa dell'Emilia Romagna, available at <http://demetra.regione.emilia-romagna.it/al/monitor.php?urn=er:assemblealegislativa:regolamentointerno:2007;143> (IT).

²¹⁸ Article 38(4) of the Rules of Procedure.

²¹⁹ For further information, see the Regional Act No. 10/2010, available at <http://www.gurs.regione.sicilia.it/Gazzette/g10-21/g10-21.pdf> (IT).

²²⁰ A regional Act was adopted on 10 July 2012 (No. 199/2) but has not yet entered into force. In order to make the above-mentioned monitoring activity possible, the Rules of Procedure governing the Regional Assembly's work first need to be amended.

Assembly's administrative structures. It also takes the final decision as to the conformity of EU draft legislation with the subsidiarity principle.

In Emilia Romagna responsibility for subsidiarity monitoring rests with Committee I (Budgetary, General and Institutional Affairs). There is no dedicated administrative structure for monitoring subsidiarity, but the staff of the legal service are familiar with the subsidiarity monitoring procedures and maintains close relations with the services and structures of the Regional Executive in this context. Regional rules and procedures may be modified in the future, and the technical structures assisting the policy-making bodies may be strengthened.

Cooperation with the Regional Executive

In some regions, such as Abruzzo, Calabria,²²¹ Emilia Romagna, Sardinia²²² and Sicily,²²³ a specific coordination mechanism has already been formally established.

In Abruzzo, the Regional Assembly and the Regional Government have, pursuant to regional Act 22/2009, established various forms of cooperation, both from a top-down perspective (in terms of transposing European legislation into regional legislation), and from a bottom-up perspective (in terms of the region's involvement in shaping European law). The various forms of cooperation are formalised in bureau decisions and regional executive resolutions. Moreover, the technical structures work in close cooperation. A Regional Act governing subsidiarity checks by the region (Act 27/2012) has only recently been introduced (and has not yet entered into force). It states that subsidiarity checks are to be carried out '*also in agreement with the regional executive.*'²²⁴

²²¹ In Calabria, the regional Act No. 3/2007 indicates that the Regional Government and the Regional Assembly should reach an agreement to express a common position on European issues. Nevertheless, the Regional Act does not prescribe the procedure for doing so. In practice, the Committee on Budget, Economic Planning and Production Activities, European Union Affairs and Foreign Relations engages in consultation with institutional (municipalities, provinces, local authorities), economic (agricultural, industrial, crafts, services and trade associations) and social (associations, movements, foundations) partners and prepares a document that is approved, after consulting the department responsible for the subject-area. It adopts a resolution (decision) according to Article 87 of the Rules of Procedure and informs the remainder of the Regional Assembly and its President, as well as the President of the Regional Government. A new model of cooperation involving all regional departments and the legislative services of both the Regional Government and the Regional Assembly will be introduced upon completion of a training course (Formez project) called 'Actions in support of Community policies'.

²²² See the regional Act of the Regional Assembly of Sardinia. 13/2010 'Disciplina delle attività europee e di rilievo internazionale della regione autonoma della Sardegna e modifiche alla legge regionale del 15 Febbraio 1996 n. 12'.

²²³ Regional Act 10/2010.

²²⁴ See the Act of the Regional Assembly of Abruzzo 37/2012, 'Modifiche alla legge regionale 30 ottobre 2009, n. 22 (Disposizioni sulla partecipazione della Regione Abruzzo ai processi normativi dell'Unione Europea e sulle procedure d'esecuzione degli obblighi comunitari)', available at http://www2.consiglio.regione.abruzzo.it/leggi_tv/abruzzo_lr/2012/lr12037.htm (IT).

In the case of Emilia Romagna, discussions on subsidiarity issues are conducted at both the policy and the technical level, with technical support from a dedicated Executive-Assembly inter-services working group. The latter begins operating at the European session phase and subsequently continues to ensure coordination each time an EU act or proposal is scrutinised, thus providing the essential link between the Executive and the Assembly. Regional Act 16/2008 contains two provisions governing the circulation of information between the Regional Government and the Legislative Assembly (Article 4) and laying down the procedural rules (Article 13). Neither provision has been fully implemented. In addition to the official circuits, there are also informal channels that can occasionally be used, especially at the political level.

In the Friuli-Venezia Giulia Regional Assembly, there is currently no cooperation, but a memorandum of understanding with the Executive is being drawn up to establish rules for cooperation. In the absence of any specific regulations, Article 191 of the internal regulations of the Regional Assembly provides that the President of the Region is required to inform the Regional Assembly of any breaches of the subsidiarity principle.²²⁵

In Veneto, there is a 'Standing Conference for the region and the local authorities within the region'.²²⁶ It is an advisory organ where both the Regional Council and the Regional Executive are represented and where subsidiarity issues are examined.

Cross-regional coordination

The regional parliaments cooperate via the Conference of Presidents of the Legislative Assemblies of the Regions and Autonomous Provinces (hereafter 'the Conference of Presidents'). This body promotes the institutional role of the assemblies of the regions and autonomous provinces, and acts as a hub for coordination and exchange of experiences regarding the legislative assemblies' areas of interest. The cooperation exists both on a technical level - by participating in the working group on European affairs - and on a political level - through the participation of one Member of Parliament per regional parliament in the coordinating Committee of Chairs of European Affairs Committees.²²⁷

In addition, there are several other relevant platforms for cooperation in which individual regional parliaments are involved.

²²⁵ For further information, see

http://www.consiglio.regione.fvg.it/pagine/istituzione/allegati/regolamento_coordinato.pdf (IT).

²²⁶ *Conferenza permanente Regione-enti locali.*

²²⁷ For further information, see www.parlamentiregionali.it (IT).

One example is the CAPIRe (*Controllo delle Assemblee sulle Politiche e gli Interventi Regionali*) project, founded by the Piedmont Regional Assembly together with Emilia Romagna, Lombardy and Tuscany. The project aims to enhance the efficiency of the regional assemblies' monitoring role by means of legislative amendments (e.g. the modification of regional statutes to better define the control function of regional assemblies), and organisational instruments (e.g. the reinforcement of internal structures). Since March 2006, the project has been promoted and directly funded by the Conference of Presidents.²²⁸

A working group has moreover been set up within the Conference of Presidents of the Legislative Assemblies of the Regions and Provinces of Trento and South Tyrol, consisting of the Presidents of the regions' respective European affairs committees. This political working group is accompanied by a technical working group made up of officials who provide the secretariat for these Committees.

The South Tyrol Legislative Assembly, the Autonomous Province of Trento and the Region of Tyrol (Austria) also cooperate in the framework of the so-called 'Three Provinces' Parliament' (*Dreier-Landtag*). Every two years, the Tyrol State Parliament, the South Tyrol Autonomous Province Legislative Assembly and the Trento Autonomous Province Legislative Assembly hold a meeting and discuss matters of common interest. On 30 March 2011, for instance, they decided to promote cooperation between the European affairs Committees of the three institutions.

Furthermore, the Trentino-South Tyrol Autonomous Region Legislative Assembly has contacts with the Austrian Tyrolean Region. They share a representative Office in Brussels, together with the Autonomous Provinces of Trento and South-Tyrol.

All Italian regional parliaments are members of CALRE.²²⁹

SMN

The Abruzzo Regional Assembly, the Calabria Regional Assembly, the Emilia Romagna Regional Legislative Assembly, the Friuli-Venezia Giulia Regional Assembly, the Lombardy Regional Assembly, the Marche Regional Legislative Assembly, the Piedmont Regional Assembly, the Sardinia Regional Legislative Assembly, the Sicilian Regional Assembly, the Trento Autonomous Province Legislative Assembly and the Tuscany Regional Legislative Assembly are

²²⁸ For further information, see <http://www.capire.org> (IT).

²²⁹ <http://www.calrenet.irisnet.be/> (EN).

members of the SMN.

Coordination between the central and regional level

The mechanism for forwarding EU legislative proposals has been detailed above, at point B.

Since the amendment of Act 11/2005 on 24 December 2012,²³⁰ the participation of the regions and the autonomous provinces in the EU decision-making has been reinforced. Article 8(3) reiterates the principle set in Article 6 of Protocol No 2 according to which the Chambers may consult the parliaments of the regions and autonomous provinces. Yet, there is no obligation for the Chambers to consult these parliaments. Furthermore, Article 25 provides the Presidents of the regional Parliaments and of the autonomous provincial Parliaments of Trento and Bolzano with the possibility to present their observations related to the principle of subsidiarity.

Regional parliaments' comments are forwarded to the committees in the Italian Parliament that are responsible for the subject-matter concerned and to the European Affairs committees. These committees draft an opinion, which may or may not, make reference to the position adopted by the regions.

As a matter of principle, however, the National Parliament is not obliged to consider the different positions of the regional assemblies or to promote the search for a common position, as there is no legal obligation to this end.²³¹ The follow-up of regional observations is detailed in the Protocol of 21 July 2009 on the agreement between the Senate, the Chamber of Deputies and the Conference of Presidents.²³²

The National Parliament usually informs regional parliaments on the final position/decision. Yet, it has no legal obligation to do so, even in the event of the regional assemblies' positions not being considered.²³³

²³⁰ Act 234/2012, available at <http://www.lexitalia.it/leggi/2012-234.htm> (IT).

²³¹ CoR 2010 study, p. 72.

²³² 'Protocollo d'intesa fra il Senato della Repubblica, la Camera dei deputati e la Conferenza dei Presidenti delle Assemblee legislative delle Regioni e delle Province autonome', available at http://www.parlamentiregionali.it/dbdata/documenti/%5b4a9f983446967%5dPROTOCOLLO_DI_INTESA_luglio_2009.pdf (IT).

²³³ CoR 2010 study, p. 72.

Assessment of the EWS by the regional parliaments²³⁴

Numerous regional parliaments are conducting subsidiarity checks of EU draft legislation, which demonstrates their interest in the EWS. Yet, certain parliaments stress that they lack sufficient human resources to monitor subsidiarity properly. Moreover, they deplore the lack of an efficient filter of EU draft legislation, given the vast amount of information received. Other obstacles that have been identified concern the tight deadlines and the cost-benefit analysis in terms of human resources needed to produce a decision on subsidiarity whose actual impact is difficult to predict.

Both the Friuli-Venezia Giulia Regional Assembly and the Marche Regional Legislative Assembly have suggested analysing the effectiveness of the various mechanisms for checking the compliance with the subsidiarity principle, especially the EWS, by scrutinising the text of the EU legislation after its adoption. This would make it possible to verify whether, and to what extent, the suggestions made to the national parliament by regional parliaments during the EWS phase are incorporated or considered.

For other regional parliaments, subsidiarity monitoring has yet to take off in practice. This start could be facilitated by greater clarity regarding the procedures for subsidiarity monitoring (particularly as regards both the technical criteria and the boundary between the technical and political dimensions of the monitoring); a more structured cooperation between the Houses of the National Parliament and the regional parliaments; a greater awareness among policymakers of the usefulness of the check; and a proper training (both theoretical and practical) of staff members.

The Emilia Romagna Regional Legislative Assembly considered that the methodological approach suggested by the European Commission to national parliaments analysing EU acts should also be taken up by the regional parliaments involved in the EWS. This approach distinguishes between assessments concerning subsidiarity and proportionality from aspects concerning the substance/merit of proposals.²³⁵

REGPEX

Regional parliaments consider that REGPEX is a key instrument to assist regions with legislative powers to take part in the subsidiarity monitoring

²³⁴ The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

²³⁵ http://ec.europa.eu/dgs/secretariat_general/rerelations/rerelations_other/npo/docs/letter_en.pdf (EN).

mechanism and provides an important source of information for regional parliaments and executives in preparing their subsidiarity assessments.

The database is deemed particularly useful for small regional parliaments which have less capacity to study and analyse EU draft legislation due to a lack of staff, as it enables them to use the analyses produced by other, larger regional parliaments.

A number of suggestions were made by the Emilia Romagna Regional Legislative Assembly to improve this tool:

- REGPEX should make a clearer distinction between regional parliaments and governments, possibly by dividing them into two subsections. Only the former's role in the EWS is explicitly recognised in the Protocol. Putting both regional executives and parliaments in REGPEX without specifying and distinguishing between their roles under a common EWS umbrella runs the risk of confusing users as to the roles of the two types of bodies.
- The 'Analysis status' heading on each EU initiative should be better outlined. It is currently difficult to assess which procedure the analysis refers to.
- Regional parliaments should forward English-language summaries of their decisions on subsidiarity, so that most members of the network could understand the various contributions. Moreover, prior to publication, a preliminary check should be carried out by the relevant regional structure forwarding the document, in order to avoid possible misunderstandings at the translation stage. It should be noted in this context that the CoR is currently developing a form in English for REGPEX partners where they can indicate the most important information concerning the subsidiarity decision of their regional parliament.
- REGPEX should allow for a distinction between cases in which the regional parliaments' contributions are related to the EWS and those where they concern the merits/substance of EU proposals without involving a subsidiarity check. In principle, only comments on subsidiarity are published in REGPEX. However, regional parliaments have asked to distinguish between positive comments and actual infringements - and within the latter, to make a clear distinction between the various grounds of the breach. This is now taken into account in the standard form in English which is being developed by the CoR.²³⁶

²³⁶ For further information on this standard form, see below, at footnote 329.

The Marche Regional Legislative Assembly also observes that REGPEX notifications (in relation to the start of the eight-week period to conduct the subsidiarity check, the decision by the CoR to issue an opinion or its decision to launch a consultation) are not received as regularly as they were in the first years. The Assembly considers that this reduces REGPEX' effectiveness.

2.1.6 Portugal

Procedures at the central level

General background²³⁷

The National Parliament of Portugal (*Assembleia da República* - AR) is a unicameral legislature, composed of 230 members, who are directly elected by secret ballots, under universal, secret suffrage to four-year terms. In administrative terms, Portugal is made up of three territorial areas: the mainland and the two autonomous regions (*regiões autónomas*) of the Azores and Madeira. The mainland is divided into 18 districts (*distritos*), each headed by a governor appointed by the Minister of Internal Administration. The Azores and Madeira have a constitutionally mandated autonomous status.

The Portuguese Constitution²³⁸ and Act 43/2006 of 25 August 2006, as amended by Act 21/2012 of 17 May 2012²³⁹ and which regulates the work of the European Affairs Committee (EAC), provide the Portuguese Parliament with the necessary legal basis to scrutinise compliance with the principle of subsidiarity in accordance with the Lisbon Treaty.

Article 3(4) of Act 43/2006 moreover states that *'when the opinion refers to a matter that falls within the responsibility of the Legislative Assemblies of the Autonomous Regions, the latter must be consulted in a timely manner.'*

In January 2010, the EAC introduced four different procedures for subsidiarity monitoring at the national level (described below).

Subsidiarity check²⁴⁰

Pursuant to Article 3(2) of Act 43/2006 of 25 August 2006, as amended by Act 21/2012 of 17 May 2012, the EAC shall exercise the powers set out in the

²³⁷ CoR 2010 study, pp. 104-105.

²³⁸ http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf (EN).

²³⁹ Act 21/2012 of 17 May 2012 on the monitoring, assessment and pronouncement by the *Assembleia da República* within the scope of the process of constructing the European Union, available at http://www.en.parlamento.pt/Legislation/Law21_2012EN.pdf (EN).

²⁴⁰ CoR 2010 study, pp. 105-108.

Protocol on the Role of National Parliaments in the EU and the Protocol (No 2) on the application of the principles of subsidiarity and proportionality annexed to the treaties governing the EU, without prejudice to the competence of the Plenary and of the other parliamentary committees.

The AR, via the EAC, receives EU draft legislation from the European Commission and the Council.

On 20 January 2010, the EAC revised its parliamentary scrutiny procedures of European initiatives to adapt them to the new subsidiarity monitoring provisions of the Lisbon Treaty. It established four types of scrutiny: enhanced scrutiny; normal scrutiny; urgent scrutiny and ‘other’ scrutiny procedures.

Pursuant to the normal scrutiny procedure, the EAC distributes the proposals to the parliamentary standing committees responsible for the subject matter concerned. The parliamentary standing committee subsequently appoints a Member of the Parliament to act as Rapporteur and decides whether or not to scrutinise a particular initiative. If it decides to scrutinise EU draft legislation, it informs the EAC and draws up its report within six weeks from the date on which the Portuguese version of the initiative was made available. It may request information from the Government, hold hearings of Members of the Government, experts, sector associations, etc. It may also ask the EAC or the representative of the AR in Brussels for information about the scrutiny conducted by other national parliaments on the same EU draft legislation.

Once the parliamentary standing committee has approved its report, it is sent to the EAC. The latter has two weeks to prepare a written opinion on the compliance of the EU draft legislation with the subsidiarity principle. When the relevant parliamentary committees decide not to draw up a report, the EAC may still decide to produce a written opinion.

If the EAC determines that there is no breach of the subsidiarity principle, this opinion is approved in an EAC meeting and sent together with the report of the competent standing committee to the plenary, which, after approval by simple majority, forwards it to the President of the AR to the Presidents of the European Commission, of the European Parliament and of the Council of the EU, as well as to the Government.

If the EAC determines that the principle of subsidiarity has been breached, it prepares a draft resolution for the plenary. Article 3(3) of Act 43/2006 indeed states that any opinion which has been approved by the EAC and which concludes that there has been a breach of the principle of subsidiarity shall be submitted to the plenary for purposes of discussion and voting, in the form of a

draft resolution. After approval by simple majority, the President of the AR sends the reasoned opinion to the Presidents of the European Commission, of the European Parliament and of the Council of the EU, as well as to the Government.²⁴¹

Moreover, a procedure for enhanced scrutiny has been established by the EAC for EU draft legislation that it considers a priority. The procedure is initiated with the preparation of the annual report on the Work Programme of the European Commission by each parliamentary committee, during which each committee indicates whether it intends to submit any legislative initiative or matter for enhanced scrutiny. From those initiatives that are prioritised by the parliamentary committees, the EAC will select a maximum of six initiatives per year, to be subject to the enhanced scrutiny process. This selection is submitted to the plenary for approval. These EU drafts are subject to a special work programme established by the EAC, working in cooperation with the parliamentary committee in question.²⁴²

Furthermore, a procedure for urgent scrutiny has been established for cases where the EAC learns (through IPEX, reports from the representation in Brussels, etc.) that other national parliaments are having doubts concerning the compatibility with the subsidiarity principle of a given legislative initiative. In such cases, the EAC is responsible for drawing up the opinion and may, if it sees fit, require that the competent parliamentary committee pronounce on the initiative. Moreover, the EAC can take the decision on the reasoned opinion itself in cases of urgency.

Finally, a procedure has been established for non-legislative initiatives or for initiatives sent by another institution than the European Commission: the 'other' scrutiny procedure. It may indeed occur that the relevant parliamentary committee or the EAC decide to analyse an initiative because of its relevance, in which cases the EAC sets time limits for this purpose.

The EAC plays a pivotal role in the organisation of the scrutiny process. It is active at the beginning of the process, setting it in motion, and - in cases of urgency - at the final stage, approving the final opinions. Other committees play a central role in the middle of the process, namely by providing sectoral monitoring. It is up to each committee to define its own methodology for

²⁴¹ For further information on the normal scrutiny, see IPEX, National Parliaments, Assembleia da República, 'Scrutiny of documents and compliance with the principle of subsidiarity', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013af586dd9e0e79.do> (EN).

²⁴² This work programme includes an analysis of the draft, a request for clarification from the Government, initiatives to obtain information from EU institutions, exchange of information with other national parliaments, hearings (with the Commissioner proposing the draft, the Presidency of the Council and the MEP acting as rapporteur), public hearings, gathering views from stakeholders and producing studies.

managing the proposals that fall within its remit. The EAC only plays a role at this stage if the responsible sectoral committee decides not to take action or when a proposal is included at the EAC List of Priorities for political assessment. The two rapporteurs (one from the specialist committee and the other from the EAC) can work together from the outset. Ultimately, the opinion of the plenary or, in case of urgency, the opinion of the EAC prevails.²⁴³

The Permanent Representative of the Portuguese Parliament in Brussels ensures the liaison between the EAC in Portugal and the EU institutions and the communication of all relevant information.

As of October 2013, the National Parliament has issued three reasoned opinions.²⁴⁴

Filtering

The EAC pre-selects the relevant information for the purposes of the Parliament's monitoring of the EU legislative process from the information received by the Portuguese Government, the EU institutions and IPEX. A weekly list of all the EU draft legislative proposals is provided to the specialist committees so that they can start up the scrutiny process if deemed necessary. The initiatives considered to be a priority are selected by the EAC. In this way the EAC can carry out its scrutiny process without depending on the activities of the specialist committees.²⁴⁵

Cooperation with the Government

The Portuguese Parliament receives information on European affairs from the Portuguese Government, as well as from the Council and the European Parliament, through specific e-mail boxes.²⁴⁶

Moreover, if the EU draft legislation concerns a field that falls within the sphere of the AR's reserved legislative competence,²⁴⁷ the Government shall request an opinion from the AR. Pursuant to paragraphs 1 and 2 of Article 2 of the Act 43/2006, as amended by Act 21/2012, *'[w]hen matters that fall within the sphere of the Assembly of the Republic's reserved legislative responsibility are*

²⁴³ For further information, see <http://www.en.parlamento.pt/EuropeanAffairs/EuropInitiativesScrutiny.html> (EN).

²⁴⁴ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

²⁴⁵ CoR 2010 study, pp. 107-108.

²⁴⁶ CoR 2010 study, p. 107.

²⁴⁷ Matters that fall within the Assembly's exclusive legislative competence include elections, political parties, the State Budget, referenda, and the basic laws on the education system and national defence.

*pending decision at EU bodies, the Assembly shall pronounce itself thereon in accordance with the following paragraphs. 2 - Whenever the situation referred to in the previous paragraph occurs, the Government shall inform the Assembly of the Republic and ask it to issue a formal written opinion, wherefore the Government shall in good time provide the Assembly with information containing a summary of the draft or proposal, an analysis of its implications and, if one has already been set out, the position which the Government wishes to adopt.*²⁴⁸

Procedures at the regional level

General

There are two autonomous regions (*regiões autónomas*) in Portugal with legislative competences, namely the Archipelagos of the Azores and Madeira. Both have a directly elected parliamentary assembly.

The Azores Legislative Assembly has competence to legislate in numerous areas, including in relation to the political and administrative organisation of the region, economic autonomy, agricultural policy, fisheries, sea and marine resources, trade, industry and energy, tourism, infrastructure, transport and communication, environment and regional planning, solidarity and social security, health, family and migration, labour and professional training, education and youth, culture and the media, research and technological innovation, sport, public safety, civil protection and the regional budget.²⁴⁹ The Assembly also has the power to levy taxes and adapt the tax system.

The Madeira Legislative Assembly has the competence, *inter alia*, to legislate on economic affairs, transportation and the regional budget.²⁵⁰

Subsidiarity check

Although no subsidiarity checks have been carried out so far at the level of the two autonomous regions, the following procedure is foreseen when the interests of the Portuguese autonomous regions are affected by European draft legislation:

²⁴⁸ Act 21/2012 of 17 May 2012 on the monitoring, assessment and pronouncement by the *Assembleia da República* within the scope of the process of constructing the European Union, available at http://www.en.parlamento.pt/Legislation/Law21_2012EN.pdf (EN).

²⁴⁹ For further information, see the Political and Administrative Statute of the Autonomous Region of the Azores is available at http://www.alra.pt/images/alra/doc_alra/estatuto_raa/estatuto_ing.pdf (EN).

²⁵⁰ For further information, see the Political and Administrative Statute of the Autonomous Region of Madeira, available at <http://www.alram.pt/images/stories/II.LEGISLATIVA/ESTATUTO.POLI.ADMIN/Estatuto.Politico.administrativo.Republicacao.pdf> (PT).

1. The AR has to send the EU draft legislation to the regional parliaments.
2. The EAC can hold public hearings with the Azores and Madeira Legislative Assemblies, depending on the subject in question.
3. The deadline for issuing regional opinions is six weeks.
4. Once their opinions have been received, they must be analysed by the EAC rapporteur, along with the report from the relevant committee. A single opinion is thus drawn up, taking into consideration both documents, which are to be annexed to the EAC's final opinion.
5. Where the views of the AR and the regional parliaments differ, the differences must be mentioned in the final position, which will be that of the AR and which will be communicated to the EU institutions.
6. Whenever the regional parliaments take part in a monitoring procedure, the EAC informs them of its final opinion.

In neither regional parliament there is staff specifically in charge of scrutinising subsidiarity. Moreover, neither parliament created specific committees for subsidiarity analysis. Yet, it should be mentioned that a working group will be set up in the Azores Legislative Assembly, made up of an official with expertise in the field of European studies and international policy and a legal expert, both of whom will work on subsidiarity issues. The importance of subsidiarity monitoring will also be promoted with the parliamentary committees within the regional parliament.

Despite the lack of any specific mechanism for coordinating the regional parliaments' work, both the Azores Legislative Assembly and the Madeira Legislative Assembly are members of the SMN and of CALRE.

Coordination between the central and regional level

In accordance with Article 3(4) of Act 43/2006 of 25 August 2006, as amended by Act 21/2012 of 17 May 2012, whenever EU draft legislation concerns a matter that falls within the responsibility of the Legislative Assemblies of the Autonomous Regions, the latter must be consulted in a timely manner.

As described above (point B), regional parliaments may express their opinion within a six-week deadline and send a report to the EAC. These regional opinions must be analysed by the EAC rapporteur and a single opinion is thus drawn up, taking into consideration both documents, which are to be annexed to the EAC's final opinion. If the views of the AR and the regional parliaments

differ, the differences must be mentioned in the final position, which will be that of the AR.

In addition to this consultation, regional participation could also be incorporated through the public hearings organised every year by the EAC in order to discuss the priorities that should be chosen for the enhanced scrutiny.²⁵¹

It should also be mentioned that, each year, the AR organises a meeting between the EAC, MEPs, the National Parliament and the regional parliaments in order to discuss the EU's legislative schedule for the upcoming year.

Assessment of the EWS by the regional parliaments²⁵²

The two Regional Parliaments in Portugal have not actively taken part in the EWS so far. One of the reasons invoked is the lack of training of regional parliaments' officials. The organisation of training sessions specifically dedicated to subsidiarity monitoring is identified as a possible remedy.

2.1.7 Spain

Procedures at the central level

General background²⁵³

At the national level, the Spanish Parliament (*Cortes Generales*) comprises two Chambers: the Congress of Deputies (*Congreso de los Diputados*) and the Senate (*Senado*). The Congress of Deputies is composed of 350 Deputies, which are directly elected by universal suffrage for four years, and allocated per province and according to the size of the population. The Senate - currently composed of 226 Senators - relies on an election system that has been unchanged since 1977. Senators are partly directly elected (four Senators per province as a general rule) and partly appointed by the legislative assemblies of the Autonomous Communities (one for each Community and an additional Senator for every million inhabitants).

When Spain joined the European Communities, the National Parliament's involvement in European affairs was governed by Act 47/1985. This Act created the 'Joint Committee for the European Communities' (*Comisión Mixta para las Comunidades Europeas*), now named the 'Joint Committee for the European

²⁵¹ CoR 2010 study, p. 106.

²⁵² The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

²⁵³ CoR 2010 study, pp. 175-176.

Union' (*Comisión Mixta para la Unión Europea*) (pursuant to Act 8/1004 of 19 May 1994). Act 8/1994 has been amended by Act 24/2009 of 22 December 2009 and by Act 38/2010 of 20 December 2010 in order to align the role of the Joint Committee with the provisions of the Lisbon Treaty and its Protocols. Its role has further been developed by the Resolution of the Bureau of the Congress of Deputies and the Senate adopted on 27 May 2010.²⁵⁴

The Joint Committee for the European Union guarantees the involvement of the National Parliament in the preparation of EU legislation. It is composed of Deputies and Senators of all parliamentary groups.

Subsidiarity check

EU draft legislation received from the European Commission, the Council of the EU or the European Parliament is sent to the Secretariat of the Joint Committee for the European Union. Pursuant to Article 3j of Act 8/1994, as amended by Act 24/2009, the Joint Committee is in charge of scrutinising subsidiarity on behalf of the two Chambers of the National Parliament.

For each EU draft legislative act, the bureau of the Joint Committee²⁵⁵ and the spokespersons of the political groups may decide either to acknowledge the proposal or to appoint a rapporteur to prepare a report on it.²⁵⁶ In case of acknowledgment of the proposal, the subsidiarity check is considered to be provisionally finalised. In any event however, within four weeks, two parliamentary groups or one-fifth of the Members of the Committee may request a subsidiarity check to be conducted. Moreover, the Bureau and the spokespersons may change their decision for other reasons, such as the submission of negative reports by regional parliaments.

Each Chamber of the National Parliament can launch the debate on a given initiative before the four-week period, during which two parliamentary groups or one-fifth of the Members of the Committee may request a subsidiarity check to be conducted. However, in line with parliamentary practice, the Bureau and the spokespersons are always aware of the four-week deadline for including the necessary debate in the Joint Committee discussions.

If the Bureau and the spokespersons decide to start the subsidiarity check, a rapporteur is appointed and charged with scrutinising the proposal. The

²⁵⁴ Resolution approved by the Bureaux of the Congress of Deputies and of the Senate on 27 May 2010, developing Law 8/1994 (Official Parliamentary Bulletin of the Cortes Generales, A Series, no. 312, 8 June 2010), available at http://www.congreso.es/public_oficiales/L9/CORT/BOCG/A/CG_A312.PDF (ES).

²⁵⁵ The Bureau is composed of the Chair, two Vice-Chairs and two Secretaries.

²⁵⁶ Article 7 of the Resolution approved by the Bureaux of the Congress of Deputies and of the Senate on 27 May 2010 (see link above).

rapporteur prepares a report on the compliance of the EU draft legislation with the subsidiarity principle which is submitted to the Joint Committee. Members of the Joint Committee then have five days to submit alternative proposals, amendments or requests for the plenary to vote on the issue.²⁵⁷ Following a debate within the Joint Committee, the decision on the reasoned opinion is taken by the Joint Committee with a simple majority.

Pursuant to Article 149 of the Rules of Procedure of the Congress of Deputies²⁵⁸ and Article 130 of the Rules of Procedure of the Senate,²⁵⁹ the plenary of either Chamber may reserve the final decision to itself. In such case, both Chambers will take the decision separately in their respective plenary.

After the Joint Committee has approved the reasoned opinion (and if requested by the plenary of the Chambers), it is sent to the relevant EU institutions and to the National Government for information.

As of October 2013, the *Cortes Generales* has issued ten reasoned opinions.²⁶⁰

Cooperation with the Government

Once the Bureau and the spokespersons decide to start the subsidiarity check, the Joint Committee may ask the Government to submit a report on the EU draft legislation within two weeks. In practice, a request is automatically sent to the Government to submit a report.²⁶¹

Time limit²⁶²

Spanish translations of EU draft legislation are usually among the first to be ready and this accordingly increases the effective amount of time available to prepare a reasoned opinion. But the formal subsidiarity procedure, as laid down by law, is only officially launched once notification is received from the EU

²⁵⁷ Article 8.4 of the Resolution approved by the Bureaux of the Congress of Deputies and of the Senate on 27 May 2010 (see link above).

²⁵⁸ The Rules of Procedure of the Congress are available at http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/standing_orders_02.pdf (EN).

²⁵⁹ The Rules of Procedure of the Senate are available at <http://www.senado.es/web/conocersenado/normas/reglamentootrasnormassenado/detallesreglamentosenado/index.html#t4c2s2> (ES).

²⁶⁰ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

²⁶¹ IPEX, National Parliaments, Cortes Generales, ‘Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity in the Cortes Generales (ES)’, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a8d0d49af57f8.do> (EN).

²⁶² CoR 2010 study, p. 77.

institutions when all the official languages are available. Only then does the eight-week period begin to run.

*Cooperation between the Chambers*²⁶³

The two Chambers of the Spanish Parliament have agreed to work jointly on monitoring the subsidiarity aspect of EU draft legislative acts. As explained above, the Joint Committee for the European Union has been granted special powers by both chambers to allow joint work on subsidiarity issues.

Cooperation with other national parliaments

A weekly report listing the subsidiarity alerts from other national Parliaments is circulated by the parliamentary representative in Brussels in order to inform the Bureau and spokespersons of the Joint Committee before they decide on the initiatives which will be scrutinised.

Procedures at the regional level

General

There are 17 Autonomous Communities in Spain, each of which has a regional parliament.²⁶⁴

Articles 148-150 of the Spanish Constitution divide legislative competences between the State and the Autonomous Communities.²⁶⁵ The powers of the Communities include, *inter alia*, the organisation of their institutions of self-government; town and country planning and housing; public works of interest to the Autonomous Community; railways and roads whose routes lie exclusively within the territory of the Autonomous Community; recreational ports and airports and, in general, those which are not engaged in commercial activities; agriculture and livestock raising, in accordance with general economic planning; woodlands and forestry; management of environmental protection; planning, construction and exploitation of hydraulic projects, canals and irrigation of interest to the Autonomous Community, mineral and thermal waters; inland

²⁶³ CoR 2010 study, p. 79.

²⁶⁴ The 17 regional parliaments are: the Parliament of Andalusia, the Aragonese Parliament, the Asturias Legislative Assembly, the Basque Regional Parliament, the Canary Islands Regional Assembly, the Parliament of Cantabria, the Parliament of Castile and León, the Parliament of Castile-La-Mancha, the Catalan Regional Parliament, the Extremadura Regional Assembly, the Galician Regional Parliament, the Parliament of the Balearic Islands, the Parliament of La Rioja, the Assembly of Madrid, the Regional Assembly of Murcia, the Navarre Regional Parliament and the Regional Parliament of Valencia.

²⁶⁵ The Spanish Constitution is available at

http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/const_espa_texto_ingles_0.pdf (EN)

water fishing, shellfish industry and fish-farming, hunting and river fishing; local fairs; promotion of economic development of the Autonomous Community within the objectives set by national economic policy; social assistance and health.

All regional parliaments can adopt decisions on subsidiarity and send them to the Joint Committee within a four-week period. Yet, these decisions are not binding on the National Parliament.

Forwarding of EU draft legislation and filtering by the National Parliament

The National Parliament receives the European draft legislative proposals directly from the EU institutions and transmits them - via the Secretariat of the Joint Committee for the European Union and without any prior filtering procedure - to the regional parliaments.

Staff and resources

Many regional parliaments²⁶⁶ have established Committees responsible for European affairs. These Committees are generally assisted by several staff members (one or two legal adviser(s) and administrative staff) who may be either specifically assigned to this mission or belong to the general staff of the regional parliament. These staff members will have the task of preparing the analysis on subsidiarity scrutiny as well as taking forward all the relations with the EU institutions, especially the CoR, and with the EU representatives in Brussels.

In several parliaments - e.g. in the Autonomous Communities of Asturias and Catalonia - there is no specific Committee in charge of subsidiarity monitoring, but each Committee deals with subsidiarity in its own area of competence.

In a few regional parliaments, there is neither a committee nor staff in charge of scrutinising subsidiarity.

Procedures for the subsidiarity scrutiny in regional parliaments

The vast majority of Spanish regional parliaments have established specific procedures to conduct subsidiarity checks. Most of these procedures have been enshrined in Resolutions adopted by the Presidency of these parliaments.

Generally, EU draft legislative acts are submitted to the parliamentary groups

²⁶⁶ These are the regional parliaments of Andalusia, Aragon, Castile La Mancha, Extremadura, Galicia, Illes Balears, Murcia and Navarre.

and to the Committee on European affairs. Within a fixed period - fourteen calendar days in the Parliament of Andalusia,²⁶⁷ ten days in the Aragonese Parliament,²⁶⁸ in the Galician Regional Parliament and in the Parliament of La Rioja²⁶⁹ - the parliamentary groups can propose a decision on subsidiarity to the Bureau of the Committee on European affairs. Generally, approval of the opinion occurs within four weeks through the Committee on European affairs, and the Parliament will notify the Joint Committee for the European Union of the Spanish Parliament of the Committee's opinion.²⁷⁰

Certain regional parliaments have adopted different subsidiarity monitoring procedures. In the Asturias Legislative Assembly, for example, each Legislative Standing Committee establishes a permanent Early Warning Commission. Once a draft EU legislative act is forwarded to the Legislative Assembly by the Joint Committee for the European Union, the President of the Legislative Assembly allocates the dossier to the relevant Committee on the basis of the subject-matter. If signs of a possible violation of the subsidiarity principle are detected, the Early Warning Commission may request written information from the Governing Council within a maximum of fifteen calendar days, and will draft a report for the relevant Committee. The procedure must be completed within the four-week period following receipt by the Legislative Assembly of the communication from the Joint Committee for the European Union.²⁷¹

In the Basque Regional Parliament, a systematic subsidiarity check is carried out on all European legislative proposals sent by the National Parliament within four weeks. EU draft legislation is forwarded to the appropriate Committee depending on the subject-matter of the proposal. The Basque Regional Government carries out a subsidiarity check for each proposal received by the Parliament and sends the results thereof to the Basque Regional Parliament.

In the Parliament of the Balearic Islands, each EU draft legislative act is

²⁶⁷ In Andalusia, on 5 May 2010 the Bureau of the Parliament and the Board of Spokesmen approved Resolution 8-10/ACME-000010 concerning the procedure for the control of the subsidiarity principle in draft legislation of the European Union.

²⁶⁸ For further information, see

[http://bases.cortesaragon.es/bases%5CNDocumenVIII.nsf/\(SID\)/86BCDC5E658EED52C1257A83002BA56C/\\$file/DACION.pdf?OpenElement](http://bases.cortesaragon.es/bases%5CNDocumenVIII.nsf/(SID)/86BCDC5E658EED52C1257A83002BA56C/$file/DACION.pdf?OpenElement) (ES).

²⁶⁹ Resolution of the Presidency of the Parliament of La Rioja of 6 February 2012, available at <http://www.parlamento-larioja.es/files/58-2425-boletin/18a.pdf> (ES).

²⁷⁰ Similar procedures exist in the Parliament of Castile-La-Mancha (see General Resolution of the Presidency of the Parliament of 20 July 2010, available at <http://www.cortesclm.es/paginas/publicaciones/boletin/boletin7/pdf/207.pdf> (ES)); in the Catalan Regional Parliament (but there the Parliament's Bureau or the President communicates the legislative proposal to the Committee competent in the relevant field and this Committee takes the decision as to the compliance of the EU draft legislation with subsidiarity).

²⁷¹ The procedure is governed by General Resolution 3/VII issued on 4 May 2010 by the President of the Legislative Assembly on the involvement of the Legislative Assembly in the Early Warning System (available at <http://anleo.jgpa.es:8080/documentos/Boletines/PDF/7B-524.pdf> (ES)).

registered and forwarded to all the Members of the Committee that the Presidency considers competent for the matter, to the parliamentary groups and to the Government of the Balearic Islands. The Bureau, by agreement with the Committee of Spokespersons, decides whether the opinion is to be adopted by the plenary or by the relevant Committee depending on the urgency involved. An agenda is to be set for the relevant Committee within 20 working days of receipt of the document by the Parliament's registry. The parliamentary groups have 15 working days to make proposals or comments. The Government has ten working days to give its opinion, which is forwarded immediately to the parliamentary groups. The relevant Committee examines all the documents sent to it regarding compliance with the principle of subsidiarity and adopts the decision on subsidiarity, unless this is to be done in plenary. In the latter case, the president of the Committee forwards the decision on subsidiarity to the Presidency of the Parliament for the next plenary assembly. An extraordinary session may be held if necessary for reasons of timing. The Presidency forwards the opinion adopted by the committee or the plenary for consideration to the Joint Committee for the European Union.²⁷²

In the Assembly of Madrid, a regular and systematic subsidiarity check is carried out. EU draft legislation is sent to all members of the Committee for the Presidency and Justice as well as to the Government of the Community of Madrid. Within five days from receipt of the EU draft legislation, the Government, or, alternatively, any Members of the Committee, can request, in writing (possibly by email), that the Chair of the Committee launch the subsidiarity check procedure (e.g. on the basis of the existence of preliminary doubts or because the matter has particular political importance for the Community of Madrid).²⁷³ If no request to launch a subsidiarity check is received within the cited period, no further action is taken. The Chair of the Committee convenes the Committee, which requests a report on the subject from the Government of the Community, and may then appoint a working group to produce a report to be approved by the Committee and, where relevant, to be sent to the Joint Committee of the Spanish Parliament.

Cooperation with the Regional Executive

As regards the relationship between the Regional Parliament and the Regional Executive, in many cases there are systematic collaborations between both branches: all the EU draft legislative proposals received by the regional parliament are simultaneously received by, or immediately transmitted to, the

²⁷² For further information, see the Resolution of the President of the Parliament of the Balearic Islands adopted on 24 November 2010 laying down a procedure organising the subsidiarity check.

²⁷³ Resolution adopted by the Presidency of the Assembly of Madrid on 27 April 2010, available at <http://www.madrid.org/wleg/servlet/Servidor?opcion=VerHtml&n norma=6473&cdestado=P> (ES).

regional government.²⁷⁴ For other regional parliaments, such cooperation with the regional government is not systematic but rather *ad hoc* (e.g. *ad hoc* consultation of the regional government).

In general, the Regional Executive may express its opinion on subsidiarity within the deadline set in a Resolution adopted by the President of the Parliament - ten days in the Parliament of Andalusia²⁷⁵ and in the Galician Regional Parliament, or 15 days in the Asturias Legislative Assembly.²⁷⁶ The Regional Executive cooperates with the Legislative Assembly in drafting reports requested by the latter.

In certain regions, such as the Basque Country, there are no cooperation agreements, but cooperation takes place on a *de facto* basis. The Government carries out a subsidiarity check for each proposal received by the Parliament. In Galicia as well, cooperation takes place on an informal basis between the Executive and the Regional Parliament.

Cross-regional cooperation

Since 1983 there has been an annual meeting of the Conference of Presidents of the Spanish Regional Assemblies. This meeting was institutionalised in 1997 under the name of COPREPA (*Conferencia de Presidentes de Parlamentos autonómicos españoles*). Participation is voluntary in nature, but the Conference provides a useful mechanism for the exchange of information, experiences and common concerns, including on subsidiarity issues.²⁷⁷

In order to facilitate the subsidiarity monitoring by regional parliaments and to promote cross-regional cooperation in this field, the Parliaments of Aragon and Navarre have published a guide for drafting opinions in the context of the EWS (*Guía para la elaboración de los dictámenes autonómicos en el sistema de alerta temprana*).²⁷⁸ This guide was presented and discussed at the March 2011 meeting of COPREPA.

All regional parliaments are members of CALRE and seven regional parliaments

²⁷⁴ See for instance Article 1(2) of the Resolution of the President of the Extremadura Regional Assembly of 13 October 2010.

²⁷⁵ See Resolution 8-10/ACME-000010.

²⁷⁶ General Resolution 3/VII of the President of the Legislative Assembly of 4 May 2010 on the Legislative Assembly's involvement in the Early Warning System, available at <http://anleo.jgpa.es:8080/documentos/Boletines/PDF/7B-524.pdf> (ES).

²⁷⁷ CoR 2010 study, pp. 84-85.

²⁷⁸ This guide is available at http://www.fundacionmgimenezabad.es/images/Documentos/2011/20110128_ot_guia_elaboracin_dictmenes_es_o.pdf (ES).

are also members of the SMN.²⁷⁹

Coordination between the central and regional level²⁸⁰

The Secretariat of the Joint Committee for the European Union of the National Parliament forwards the draft legislation without any filtering via email to the legislative assemblies in the Autonomous Communities to inform them and to permit them to send decisions on subsidiarity.

In turn, the latter may forward resolutions on the infringement of the subsidiarity principle to the Spanish Parliament within a period of four weeks, starting from the date of dispatch by the national parliament to the regional parliaments.

Spanish legislation does not provide specific criteria for defining how regional parliaments might contribute to the final position to be adopted by the National Parliament. It must be stressed, however, that opinions sent by the regional parliaments do not bind the National Parliament.

In practice, the fact of receiving an opinion from the regional level may trigger the appointment of a rapporteur for the dossier (if none had been appointed already). If a rapporteur has already been appointed when the National Parliament receives an opinion from the regional parliament, the document will be forwarded to the rapporteur for his/her consideration.

If the Joint Committee for the European Union drafts a reasoned opinion on the breach of the subsidiarity principle, it must include an account of the decisions on subsidiarity received from the regional parliament(s), including proper references for consultation.

Once the four-week period has passed, the National Parliament is not obliged to consider the regional opinions (according to the referred law). Neither is it obliged to respond to or comment on the regional opinions.

Assessment of the EWS by the regional parliaments²⁸¹

In general, the Spanish regional parliaments have reacted positively and proactively to the Lisbon Treaty's EWS provisions.

²⁷⁹ These seven parliaments are the Asturias Legislative Assembly, the Basque Regional Parliament, the Canary Islands Regional Assembly, the Catalan Regional Parliament, the Extremadura Regional Assembly, the Galician Regional Parliament, the Regional Assembly of Murcia and the Navarre Regional Parliament.

²⁸⁰ CoR 2010 study, pp. 77-78.

²⁸¹ The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

Generally, regional parliaments consider the four-week time frame to be very short, although some of them understand the need to allow sufficient time for the national parliament to consider regional input.

Nevertheless, a few show a level of skepticism in relation to the real impact of the Lisbon Treaty: in the end, it is up to the National Parliament to take account of the input provided by the regional level. At the same time, subsidiarity monitoring requires considerable effort on the part of the regional parliaments, while the effectiveness of that work is not evident. Some parliaments have decided to adopt a position on every proposal (even when giving consent) but it is most likely that the system will need to be revised because it is too time-consuming.

Some regional parliaments consider that it would be more encouraging to have feedback from the national level on the opinions sent.

In addition to these general concerns, the main obstacles identified by regional parliaments in relation to the EWS are:

- The complexity of the EU draft legislative acts to be analysed and the shortage of properly trained technical staff in the regional parliaments capable of monitoring subsidiarity.
- The lack of awareness of initiatives at the European level. There are no regional parliaments working on the European documents at an earlier stage, before they are officially dispatched by the National Parliament.
- The fact that all EU draft legislation is automatically forwarded without any filtering.
- The absence of genuine horizontal cooperation between regional parliaments.
- The poor cooperation between the regional parliaments and the National Parliament.
- The lack of interest in these subjects in the context of people's everyday concerns.

Suggestions to improve the EWS

Several suggestions are made by regional parliaments to improve the functioning and the efficiency of the EWS:

- Further knowledge of the European Commission's annual legislative work programme would be desirable in order to identify the areas of potential regional interest.
- A selection of EU draft legislation should be made at the national level to support the regions' workload.
- The training of staff responsible for subsidiarity monitoring should be improved.
- Closer cooperation with the National Parliament would be desirable, for instance, through the attendance of regional representatives at the meetings of the Joint Committee and the automatic forwarding of all decisions on subsidiarity and reports drawn up and/or approved together with relevant documentation.

SMN and REGPEX

Regional parliaments generally consider that the REGPEX datable is a useful tool for cooperation and collaboration between regional parliaments in the field of subsidiarity. Yet, it could be improved in order to give clear, accessible and understandable access, making it possible to understand the subsidiarity procedures followed in other regional parliaments and to exchange good practices.

2.1.8 The United Kingdom

Procedures at the central level

General background²⁸²

The National Parliament in the United Kingdom is composed of the House of Commons (the Lower House - HoC) and the House of Lords (the Upper House - HoL). The HoC is composed of 650 members elected within electoral districts (constituencies) for five-year terms through the first-past-the-post voting system. The HoL currently consists of 782 members,²⁸³ yet the number of members is not fixed. Unlike the Members of the HoC, the members of the HoL are not elected by the population; most are appointed by the Queen (Life Peers) or by virtue of their ecclesiastical role (Archbishops and Bishops). Since the 1999 reform of the HoL put an end to the right of hereditary Peers to sit and vote, the remaining traditional hereditary Peers are elected internally (Elected hereditary

²⁸² CoR 2010 study, pp. 115-116.

²⁸³ As of 31 October 2013.

Peers).²⁸⁴ The HoC was originally far less powerful than the HoL, but today its legislative powers exceed those of the Lords.

The United Kingdom also counts three devolved legislatures: the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. The legislative competences differ from one legislature to another.

Parliaments/assemblies at both national and regional levels have started to prepare the practical implementation of the EWS. Revision and adaptation of their respective Rules of Procedure, so as to develop coordination/cooperation among the devolved legislatures themselves as well as between the latter and the UK Parliament, are, however, still under discussion.

The HoL and the HoC have established parallel procedures for the subsidiarity monitoring and work independently.

Explanatory Memorandum by the Government

EU draft legislation is sent to the National Parliament by the European Commission, the Council of the EU or the European Parliament. Within ten working days of receiving EU draft legislation, the responsible Government Department submits an Explanatory Memorandum (EM) in relation thereto. This EM - which is issued for each EU draft legislative act - includes a subsidiarity assessment.

Subsidiarity scrutiny procedure in the HoC²⁸⁵

The HoC has not established any specific procedure to implement the EWS provisions. It conducts subsidiarity analyses through its existing (general) procedure for scrutinising European affairs. The implication is that it is the European Scrutiny Committee (ESC), appointed under Standing Order n. 143, which is in charge of examining any type of EU documents (legislative or other).²⁸⁶

In the past, two HoC Select Committees - the Modernisation Committee (in 2005)²⁸⁷ and the ESC (in 2008)²⁸⁸ - have proposed specific procedures to decide

²⁸⁴ See <http://www.parliament.uk/about/mps-and-lords/about-lords/lords-types/> (EN).

²⁸⁵ CoR 2010 study, pp. 116-117.

²⁸⁶ For further information on the European Scrutiny System in the House of Commons, see <http://www.parliament.uk/documents/commons-committees/european-scrutiny/ESC%20Guide%20Revised%202010.pdf> (EN).

²⁸⁷ Select Committee on Modernisation of the House of Commons on Scrutiny of European Business, Second Report of Session 2004-05, Volume I, HC 465-I, published on 22 March 2005, paragraph 119.

²⁸⁸ HC 563, Session 2007-08.

on motions for reasoned opinions on subsidiarity issues within the HoC. Already in 2005, the Select Committee on Modernisation of the HoC proposed to set up a new Joint Grand Committee.²⁸⁹ In January 2009, the ESC moreover published a First Special Report on *Subsidiarity, National Parliaments and the Lisbon Treaty*,²⁹⁰ in which it also endorsed²⁹¹ the proposals of the Select Modernisation Committee²⁹² on the practical implementation of the EWS made in its March 2005 report.

In the First Special Report, the ESC suggested that it should have responsibility for identifying those proposals which potentially breach the principle of subsidiarity. The system should work as follows:

- The ESC decides that a proposal does not comply with the principle of subsidiarity and sets out the reasons for this decision in a report.
- The chairman, or another member of the committee acting on behalf of the committee, puts a motion to the effect that ‘*in the opinion of this House, [the proposal] does not comply with the principle of subsidiarity for the reasons set out in the [First] Report of the European Scrutiny Committee*’.
- Not less than five and not more than eight sitting days after notice of the motion has been given, the government puts the motion on the Order Paper.
- The motion is put to the vote within the House. If the motion is agreed to, the speaker forwards the text of the resolution, together with a copy of the ESC’s Report, to the relevant EU institution.
- If no debate takes place, the chairman or designated member of the ESC should outline the reason for the opinion in a short speech to which a minister may reply on behalf of the government.²⁹³

The ESC acknowledged that its Standing Order as well as the HoC’s Scrutiny Reserve resolution should be redrafted.²⁹⁴ Yet, no specific procedure has been established for subsidiarity scrutiny.

²⁸⁹ House of Commons, 2nd Report, Session 2004-05, HC (2004-05) 465 - Paragraphs 61(4) & 62.

²⁹⁰ First special report, see paragraph 37.

²⁹¹ First special report, see paragraph 45: ‘We see no reason to diverge from the recommendations of the Modernisation Committee as forming the basis for consideration of how the House should give effect to the provisions on subsidiarity, should they ever be implemented.’

²⁹² The Select Committee on Modernisation of the House of Commons is appointed by the House of Commons to consider how the practices and procedures of the House should be modernised.

²⁹³ First special report, see paragraph 45 in fine.

²⁹⁴ European Scrutiny Committee - Sixth Report The Work of the Committee in 2008-09, available at <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmeuleg/267/26703.htm#note9>, see especially paragraph 47.

As of October 2013, the HoC has issued ten reasoned opinions.²⁹⁵

*The House of Lords (HoL)*²⁹⁶

Following in-depth reflection on how to adapt its procedures to the Lisbon Treaty provisions and especially the EWS,²⁹⁷ the HoL decided to modify the existing parliamentary sifting and scrutiny procedures - applying generally to all types of EU documents.²⁹⁸ Those procedures will continue to apply unless and until a subsidiarity concern is raised.

Within the HoL, the subsidiarity check is conducted by the EU Committee or one of its sub-committees (e.g. the Sub-Committee on Law and Institutions). On the basis of the advice from the Committee's clerk(s) and legal advisers, the Chairman of the EU Committee sifts through the Government Explanatory Memoranda and associated documents. The purpose of this sifting is to determine whether each document should be cleared or considered further by one of the Committee's sub-committees. The sub-committees usually meet on a weekly basis when the House is in session and consider the merits of proposals in detail.²⁹⁹ The responsible sub-committee then scrutinises the proposed EU legislation. This scrutiny includes an assessment of whether the principle of subsidiarity (and proportionality) is complied with. Within this context, a subsidiarity concern may be raised in various ways:

- in advance, through examination of the Commission's Annual Policy Strategy, Annual Legislative and Work Programme, etc.;

²⁹⁵ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1. See also <http://www.parliament.uk/business/committees/committees-a-z/commons-select/european-scrutiny-committee/scrutiny-reserve-overrides/> (EN).

²⁹⁶ CoR 2010 study, pp. 118-120.

²⁹⁷ In March 2003, the HoL European Union Committee published a report (House of Lords, Select Committee on the European Union, Session 2002-02, 11th report, 'The future of Europe: National parliaments and subsidiarity – The proposed protocols'

(<http://www.publications.parliament.uk/pa/ld200203/ldselect/ldeucom/70/70.pdf>) on the draft Protocols on national parliaments and subsidiarity prepared by working groups in the Convention on the Future of Europe. The report explained the concept of subsidiarity and examined the role that national parliaments could play in monitoring its application. In April 2005, the EU Committee moreover published a report on 'Strengthening national parliamentary scrutiny of the EU - The Constitution's subsidiarity early warning mechanism', focusing on how the EWS could work in practice in the HoL (available at <http://www.publications.parliament.uk/pa/ld200405/ldselect/ldeucom/101/101.pdf>). The UK Government gave a written response to the report in July 2005. That response was published as an annex to a follow-up report on subsidiarity that the Committee published in November 2005.

²⁹⁸ See the following document: 'How will the Lords EU Committee operate these new powers?' <http://www.parliament.uk/documents/lords-committees/eu-select/subsidiarity/use-new-powers.pdf> (EN).

²⁹⁹ Parliamentary Scrutiny of European Union Documents, Guidance for Departments, 20 April 2009: <http://europeanmemorandum.cabinetoffice.gov.uk/files/content/parliamentary-scrutiny-departments.pdf> (EN).

- during the sifting;
- in the course of the scrutiny;
- by alert from a devolved body, another national parliament or some other external quarter.

If such a subsidiarity concern is raised:

- the document could be fast-tracked through the sifting procedure, if necessary in advance of the Explanatory Memorandum;
- the Government could be asked for a prompt (full or partial) Explanatory Memorandum on the proposal at stake, including comments on compliance with the subsidiarity principle;
- appropriate members and staff could be stood by to act in recess if necessary.

A committee/sub-committee which finds a breach of subsidiarity presents a draft report, incorporating a reasoned opinion.³⁰⁰ Depending on the procedures adopted by the House, such reports might have to be agreed and published in haste. In accordance with the procedure described in the Companion to the Standing Orders 10.51 *'[t]he chairman of the committee is authorised in urgent cases to present the report of a sub-committee to the House on behalf of the committee.'*³⁰¹

As of October 2013, the HoL has issued five reasoned opinions.³⁰²

Scrutiny Reserve (for both Chambers)

Each of the two Chambers can make a Scrutiny Reserve in respect of a given proposal, signaling that the EU Committee is still conducting its scrutiny work. This may be because the Committee is conducting an inquiry, because it is

³⁰⁰ Such report is confined to the issue of subsidiarity. It indicates whether or not the document is retained under scrutiny in respect of other issues. It has a distinctive title and a succinct and formulaic opening, easily recognisable to the EU institutions, followed by explanatory text. It is likely to be shorter than usual, and based on less evidence - possibly just the Commission's and the Government's Explanatory Memorandum. It is neither 'for debate' nor 'for information'.

³⁰¹ <http://www.publications.parliament.uk/pa/ld/ldcomp/ldctso40.htm#note471> (EN). For further information, see IPEX, National Parliaments, UK House of Lords, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity - House of Lords, United Kingdom', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a8ccdd6c65765.do> (EN).

³⁰² IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 1 of the report can be found in Appendix 1.

planning to hold a session to explore the proposal in more detail, or because it is waiting for further information from the Government about how a proposal may impact the UK. The Government has committed not to agree to any proposal in the EU Council of Ministers until the EU Committees of both Houses have completed their scrutiny work.

The committee/sub-committee in charge of the subsidiarity scrutiny will maintain the Scrutiny Reserve until a government response is received. The committee/sub-committee may in any case wish to maintain the reserve pending further scrutiny on other grounds. Until the parliamentary scrutiny is complete, ministers cannot - save in exceptional circumstances - adopt a formal position on European legislation in the Council.³⁰³

Cooperation between Chambers³⁰⁴

In spite of the fact that the Select Committee on Modernisation of the HoC proposed to set up a new Joint Grand Committee³⁰⁵ in its 2005 report (see above), no such Joint Committee has been established. Instead, the HoC and the HoL work independently. In its report *Scrutiny of Subsidiarity: Follow-up report*, the HoL stated that it ‘disagree[d] with the suggestion that the two Houses must coordinate their response in individual cases. Each chamber has its own EU scrutiny committee and each chamber has the power to submit or not submit a reasoned opinion as it sees fit.’ At the same time, it ‘recognise[d] that although each chamber has its own vote it will be desirable for the House to work with the Commons on subsidiarity issues and, where possible, for the two Houses to support each other when submitting reasoned opinions.’³⁰⁶ Moreover, it stated in the abovementioned report that ‘[i]mproved communications between the HoC and the HoL would also help ensure the views of regional assemblies are presented in a timely and effective manner.’ The Local Government Association notes that ‘closer coordination between the Commons and the Lords would help local government to make representations and to give advice to parliament in a more targeted and effective way.’³⁰⁷

Cooperation with other national parliaments

The UK Parliament cooperates with other national parliaments informally through the National Parliament representatives in Brussels and through the IPEX platform.³⁰⁸

³⁰³ CoR 2010 study, p. 120.

³⁰⁴ *Ibid.*, p. 121.

³⁰⁵ House of Commons, 2nd Report, Session 2004-05, HC (2004-2005) 465 - Paragraphs 61(4) & 62.

³⁰⁶ Fifteenth report House of Lords EU Committee, Session 2005-2006, paragraphs 107 & 108.

³⁰⁷ Fifteenth report House of Lords EU Committee, Session 2005-2006, paragraph 203.

³⁰⁸ CoR 2010 study, p. 130.

Procedures at the regional level

General

The United Kingdom counts three devolved legislatures: the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. Each has legislative competence to enact laws but the extent of such competence differs from one legislature to the other.

The Scottish Parliament is competent for all policy areas not specifically reserved in Schedule 5 of the Scotland Act.³⁰⁹ The powers of the Welsh National Assembly are derived from the Government of Wales Act 2006.³¹⁰ Schedule 7 of that Act outlines 20 subject areas over which the Assembly has legislative competence.³¹¹ The competences of the Northern Ireland Assembly are enumerated in the Northern Ireland Act 1998 (as amended).³¹²

Devolved legislatures may ask the UK Parliament to issue a reasoned opinion on a specific EU proposal, but the UK Parliament is not bound by such request.

The devolved legislatures have not established specific Committees responsible for European affairs. Yet, in two assemblies - the Northern Ireland Assembly and the Welsh National Assembly - there is a Committee that is in charge, *inter alia*, of scrutinising subsidiarity. In each of the three devolved legislatures, there are staff members who deal with subsidiarity monitoring, but there is no administrative staff exclusively dedicated to this task.

Subsidiarity scrutiny procedures

The Scottish Parliament and the Welsh National Assembly have established specific procedures for subsidiarity scrutiny, while the Northern Ireland Assembly is currently in the process of establishing such procedure.

³⁰⁹ The Scotland Act 1998 is available at <http://www.legislation.gov.uk/ukpga/1998/46/contents> (EN). The main issues devolved include the following: agriculture, fisheries, food and forestry, economic development, education, research & training, environment, health, home affairs (including the Scottish legal system and policing), fire services, local government, sport and the arts (excluding broadcasting), transport (excluding safety issues and regulation), tourism, statistics and social work.

³¹⁰ This Act is available at <http://www.legislation.gov.uk/ukpga/2006/32/contents> (EN).

³¹¹ These matters include agriculture, forestry, animals, plants and rural development; ancient monuments and historic buildings; culture; economic development; education and training; environment; fire and rescue services and fire safety; food; health and health services; highways and transport; housing; local government; the Welsh National Assembly; public administration; social welfare; sport and recreation; tourism; town and country planning; water and flood defence and Welsh language.

³¹² The Northern Ireland Act 1998 is available at <http://www.legislation.gov.uk/ukpga/1998/47/contents> (EN). These matters include agriculture, education, health and social services, economic development, environment, finance and personnel (except taxation), policing and justice, culture and arts, regional development and social development. Moreover, the Assembly is responsible for approving the regional budget.

In Scotland, the Government provides forewarning as soon as practicable (within a week of receipt of the draft proposal) of all EU draft legislation of devolved relevance with subsidiarity concerns. It also provides the regional parliament with all accompanying Explanatory Memoranda on which the Scottish Government has been consulted by the UK Government. The Parliament undertakes a systematic subsidiarity check of all EU legislation affecting its legislative competences. The actual work is carried out in the Parliament's committees. When EU draft legislation is received and subsidiarity issues have been raised in the accompanying Explanatory Memorandum issued by the UK Government, the procedure is governed by Chapter 10A of Parliament's Standing Orders.³¹³ The timeframe is ultimately set by the National Parliament, which acts within the limits established by the European Commission. The Parliament formally forwards its views to the speakers of both chambers of the National Parliament for consideration.

In Wales, the Government forwards EU draft legislation and copies of the Explanatory Memoranda (of the UK Government) to the Assembly's Research Service. Assembly officials monitor all draft EU legislative proposals that apply to Wales on a systematic basis to check whether they raise any subsidiarity concerns. This process involves the following steps:

- Upon receipt, the Assembly's Research Service filters the Explanatory Memoranda from the UK Government to check whether the proposals referenced are 'legislative' or 'non-legislative' in nature and whether they encompass issues which come within the legislative competences of the Assembly.
- Those Explanatory Memoranda that relate to proposals that are 'legislative' and deal with issues of interest to the Assembly are subsequently checked in detail by officials from the Assembly's Legal Service, its Brussels Office and the Research Service to see if they raise any potential subsidiarity concerns.
- If a proposal is deemed to raise a subsidiarity concern, Assembly officials alert the Constitutional and Legislative Affairs Committee immediately. Members will subsequently be asked to consider whether or not the Committee should ask either or both Houses in the UK Parliament to issue a 'reasoned opinion' on the proposal to the European Commission.
- Those relevant proposals which are 'legislative' and relate to devolved matters but raise no subsidiarity concerns are collated in a monitoring report produced by the Research Service. The Constitutional and Legislative Affairs

³¹³ These Standing Orders are available at <http://www.scottish.parliament.uk/help/17797.aspx> (EN).

Committee takes note of the monitoring report three times per year (Autumn, Spring and Summer).

In the Northern Ireland Assembly, subsidiarity checks are currently performed on an *ad hoc* basis. However, a revision of internal procedures is currently underway in order to ensure that all Explanatory Memoranda produced by the National Government for subsidiarity issues are checked on a weekly basis. This check will be carried out by committee secretariat staff with the support of colleagues from the research and legal services. The Assembly intends to use the European Commission's annual legislative work programme as an early warning tool to identify issues where there may be subsidiarity concerns. Moreover, a selective check is conducted whenever colleagues in the other regional parliaments or the National Parliament alert the Assembly to potential subsidiarity issues. This check is carried out by committee secretariat staff.

Cooperation with the Regional Executive

Both the Scottish and the Welsh Governments forward to their respective legislative assemblies all EU draft legislation of devolved relevance with subsidiarity concerns as well as copies of the Explanatory Memoranda on which the UK Government has consulted them. This practice is based on an informal arrangement and is not underpinned legally by any cooperation agreement.

By contrast, in Northern-Ireland, the Executive does not systematically supply EU draft legislative acts, Explanatory Memoranda or subsidiarity analyses to the Assembly. In isolated and rare cases, the information has been supplied when specifically requested by a committee.

Cross-regional cooperation

No formal mechanisms exist at present to coordinate the subsidiarity monitoring work of the UK's devolved legislatures. Information is, however, regularly shared informally between officials in Wales, Scotland and Northern Ireland, including in relation to proposals which may raise subsidiarity concerns.

The Welsh National Assembly has a dedicated EU Office in Brussels (the Wales House), which it occupies together with the representations of the Welsh Government, the Welsh universities, and the Welsh Local Government Association. Through the EU Office, the Assembly has regular contacts with representatives of other regional parliaments.

Moreover, the three devolved legislatures participate in CALRE.

Both the Welsh National Assembly and the Northern Ireland Assembly are members of SMN.

Coordination between the central and regional level

No formal systematic coordination exists between the UK Parliament and the devolved legislatures.

Contact with the HoC and the HoL mainly occurs in instances where the devolved legislatures wish to ask the UK Parliament to issue a reasoned opinion on a specific EU proposal. The UK Parliament is the principal interlocutor with the European Commission.

Within the HoC, the ESC may invite devolved legislatures to comment on the draft opinion it has established.³¹⁴ The HoC will consider the devolved legislatures' subsidiarity position(s) as part of the usual process carried out by the European Scrutiny Committee. The final decision on the reasoned opinion is taken by the HoC acting on a recommendation by the European Scrutiny Committee.³¹⁵

As for the HoL, if a potential subsidiarity issue is detected, some or all of the devolved parliaments/assemblies may be alerted informally at staff level, on a case-by-case basis.³¹⁶

If one Chamber of the National Parliament agrees with the regional parliament's report, it will refer to the latter in any reasoned opinion on subsidiarity to the EU institutions. If no Chamber agrees with the report, however, the latter will not be sent to the EU institutions.

Assessment of the EWS by the regional parliaments³¹⁷

Most devolved legislatures regularly use both the REGPEX and IPEX websites to check the position of other parliaments on draft proposals, especially in relation to those proposals which may give rise to subsidiarity concerns.

³¹⁴ See p. 13 of the Report of Inquiry into Subsidiarity issued by the National Assembly for Wales in 2009, available at <http://www.assemblywales.org/cr-ld7434-e.pdf> (EN).

³¹⁵ CoR 2010 study, p. 132.

³¹⁶ Document from the House of Lords: How will the Lords EU Committee operate these new powers?, available at <http://www.parliament.uk/documents/lords-committees/eu-select/subsidiarity/use-new-powers.pdf> (EN).

³¹⁷ The information presented in this section is based on the results of a broad survey in the context of which tailored questionnaires have been communicated to all regional parliaments with legislative powers. For further information, see footnote 25 and the corresponding text.

Obstacles

Devolved legislatures consider the tight timescale as the main obstacle to an efficient contribution to the EWS. For a devolved legislature the time for analysis and decisions on subsidiarity monitoring is much less than the eight weeks afforded to the national parliaments. Considering that they have to send their opinion to the National Parliament in advance of the debate within the HoC and the HoL, they often have no more than four or five weeks. The devolved legislatures consider it extremely difficult within this timeframe to discover the issues; conduct an analysis; get an agreement of the regional parliament to issue a report, and send the report to the National Parliament.

Another important obstacle is the lack of clarity with regard to the procedures for inclusion of the views of devolved legislatures. No formal cooperation or coordination procedure exists with the National Parliament or one of its Chambers. Nor has a formal procedure for consulting the devolved legislatures been created.

Suggestions to improve the SMN

Several suggestions are made by devolved legislatures to improve the SMN and the database REGPEX:

- Increase of the linkages between REGPEX and IPEX.
- Translation of the other regional parliaments' observations.

Moreover, the Northern Ireland Assembly notes that email alerts through SMN of new observations being uploaded are very useful.

2.2 Analysis of the mechanisms put in place

As mentioned before, the Protocol has introduced the principle that 'it will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.' In light of this provision, there has been a clear trend towards stronger involvement of regional parliaments with legislative powers in the EU legislative process. Most of these regional parliaments have indeed integrated specific procedures for subsidiarity monitoring in their internal rules. As is clear from the descriptive overview above, however, the involvement in the EWS, and the procedures for conducting subsidiarity scrutiny differ widely from one parliament to another, and from one EU Member State to another.

Set forth below is a comparative assessment of the main features of how regional parliaments with legislative powers are involved in subsidiarity monitoring (Section 2.2.1). In particular, the following is examined: (A) the impact regional parliaments can have within the EWS; (B) the internal procedures established at the level of the regional parliaments for purposes of subsidiarity monitoring; (C) the relationship between regional parliaments and their executive counterparts; (D) the relationship between regional parliaments and the national parliament, and; (E) the existence of mechanisms for cross-regional cooperation, both within and without the individual EU Member State.

Section 2.2.2 subsequently examines how regional parliaments with legislative powers perceive their involvement in the EWS and identifies the main obstacles faced by these institutions.

Finally, Section 2.2.3 identifies a series of recommendations and best practices, including in relation to the role which the CoR could play - mainly through the SMN and the REGPEX platform - in assisting regional parliaments in this context.

2.2.1 Comparative Assessment

The impact of regional parliaments with legislative powers within the EWS

The extent to which regional parliaments can have an impact on the EWS varies greatly between the eight EU Member States with regions having legislative powers.

At one extreme stands the situation in Belgium, where regional parliaments are actually assimilated to ‘national parliaments’ in the sense of the Protocol, insofar as they have (exclusive or shared) legislative competences for certain domains. Thus, pursuant to the 2008 Cooperation Agreement - which has not yet entered into force but is nevertheless applied *de facto* - the regional parliaments can not only express positions on subsidiarity, but may effectively take part in the EWS voting system within their respective fields of legislative competence. *In concreto*, the two Belgian subsidiarity votes are divided between the federal and the regional levels, without there being a need for a consensus on a ‘level basis’ to make use of the subsidiarity vote. As soon as one chamber at the federal level considers a legislative proposal to be in breach of the subsidiarity principle, at least one subsidiarity vote is ‘activated’. Furthermore, if (at least) one parliament at the regional and community level has the same opinion, the second subsidiarity vote is also used. For EU legislative proposals that concern exclusively federal or regional and community competences, the competent level controls both of the two Belgian subsidiarity votes.

Two important reservations must be made, however. Firstly, the inter-parliamentary cooperation agreement has encountered a variety of legal obstacles that remain unresolved. So far, except for the Flemish Parliament,³¹⁸ none of the Belgian regional parliaments has issued any decision on subsidiarity activating their subsidiarity vote.

Secondly, Belgium remains as yet the only of the eight EU Member States concerned where the regional parliaments can take direct part in the EWS voting mechanism. In all other Member States, the two EWS votes are reserved exclusively to the national parliament itself (irrespective of the precise domain(s) affected by the EU legislative proposal).

In the other seven EU Member States with regional parliaments having legislative powers, the impact the latter can have is essentially limited to (1) the issuing of positions on subsidiarity on the one hand, and, (2) in some Member States, the possibility of triggering a subsidiarity scrutiny by the relevant national parliament.

All these regional parliaments can adopt decisions on subsidiarity issues which they can subsequently forward to the respective national parliament. These decisions are, however, not binding on the national parliaments. National parliaments may ultimately decide not to issue a reasoned opinion and consequently not to use the EWS vote. It may be observed in this context that in Finland, whenever the Åland Parliament sends a decision on subsidiarity to the *Eduskunta*'s Grand Committee, the latter is obliged to 'consider' this opinion. Again, however, this is not a 'hard' obligation in that it does not in any way imply that the Grand Committee would be bound by the position of the Åland Parliament. Yet, the Grand Committee has to start a subsidiarity check on the EU draft legislation concerned by the Åland Parliament's decision on subsidiarity.

Attention may moreover be drawn to the situation in Germany, where a number of state parliaments can have some indirect influence on the EWS vote within the *Bundesrat* (BR) through the representatives of their state government in the BR. While, as a general rule, state governments are not bound by the subsidiarity positions of their respective state parliament, in some *Länder* (e.g. Saxony), the State Government has engaged itself to take the position of the State Parliament into consideration, should the latter conclude to the existence of a subsidiarity breach. Baden-Württemberg is so far the only *Land* which has changed its constitution to formally strengthen the rights of the State Parliament

³¹⁸ On 8 May 2013, the Flemish Parliament issued a resolution holding that the proposal for a directive establishing a framework for maritime spatial planning and integrated coastal management (COM(2013) 133) infringes the subsidiarity principle.

in this context. The new Article 34a stipulates that the Parliament can issue a decision that is binding for the Government, including in its voting in the BR, if the transfer of *Länder* competences to the EU is concerned or if the EU proposal affects areas where the *Länder* have exclusive legislative competences. At the same time, the government can still deviate from the parliament's decision, if this is 'in the interest of the *Land*.'³¹⁹

In most of the eight EU Member States, regional parliaments do not directly communicate decisions on subsidiarity to the EU institutions.³²⁰ Instead, the decisions on subsidiarity adopted by the regional parliaments are collected at the national level, after which they may or may not - depending on the Member State concerned - be forwarded to the EU institutions. In Finland and Portugal, the positions of the regional parliaments are annexed to the final reasoned opinion adopted by the National Parliament and forwarded to the EU institutions. If the views of the National Parliament and the regional parliaments differ, the differences must be mentioned in the final position - which will be that of the National Parliament - sent to the EU institutions. In Spain, if the Joint Committee for the European Union drafts a reasoned opinion on the breach of the subsidiarity principle, it must refer to the opinions received from the regional parliaments. By contrast, if the Joint Committee decides not to issue a reasoned opinion itself, the opinions drafted by the regional parliaments are not forwarded to the EU institutions. In a similar vein, in the United Kingdom, if one Chamber of the National Parliament agrees with the regional parliament's report, it will refer to it in its reasoned opinion on subsidiarity to the EU institutions. If neither Chamber agrees with the report, the latter will not be sent to the EU institutions. In Belgium, the decisions on subsidiarity of all Parliaments, regional and federal, are clustered and sent to the European Commission on behalf of the Belgian Parliamentary System by the Secretariat of the Conference of Presidents of the Belgian parliamentary bodies. By contrast, in Austria, Italy and Germany - except for the Bavarian State Parliament which communicates its decisions to the European Commission - there is no automatic communication of decisions on subsidiarity of regional parliaments to the EU institutions.

In a number of EU Member States, regional parliaments can trigger a subsidiarity scrutiny by the national parliament. This is for example the case in Finland. Thus, in Finland, when the Åland Parliament sends a decision on subsidiarity to the *Eduskunta*'s Grand Committee, the latter is obliged to consider it and to start a subsidiarity scrutiny. It is, however, not bound by the

³¹⁹ For further information, see the regional Constitution of Baden-Württemberg, available at <http://www.lpb-bw.de/bwverf/bwverf.htm> (DE).

³²⁰ As a matter of fact, some German *Landtage* - as the Bavarian State Parliament - send their positions also directly to the European Commission and receive answers. See for instance <http://www.maximilianeum-online.de/de/druckversion/5828.php> (DE).

Åland Parliament's position. Similarly, in Spain, the submission of an opinion from the regional level may lead to the appointment of a subsidiarity rapporteur. If a rapporteur had already been appointed at the time the National Parliament receives an opinion from the regional parliament, the document will be forwarded to him/her for consideration. In Germany as well, EU legislative proposals can be the subject of subsidiarity scrutiny within the BR at the request of a state government.

The introduction of subsidiarity monitoring mechanisms at the level of the regional parliaments with legislative powers

Save for a number of exceptions (*inter alia* the Madeira Legislative Assembly, the Salzburg State Parliament and the Regional Council of Umbria), most regional parliaments have effectively introduced specific mechanisms for scrutinising the compliance of EU draft legislation with the principle of subsidiarity and have amended their internal rules to this end.

Numerous regional parliaments have set up a specific committee responsible for European affairs to conduct subsidiarity checks. Such committee procedure is regarded as swifter than the plenary procedure and is perceived as a useful mechanism to gain experience and develop best practices in relation to subsidiarity monitoring. European affairs committees have been set up, *inter alia*, in the Parliament of Castile-La-Mancha, in the Steiermark State Parliament and in the Sicilian Regional Assembly. In other regional parliaments (such as the Brussels-Capital Region Parliament and the Vienna State Parliament), the subsidiarity scrutiny is conducted by the standing committee that is responsible for the specific matter (e.g. agriculture and transportation) affected by the draft EU legislation. In such a scenario, it may again be possible to respond more efficiently and more swiftly than in cases where the subsidiarity scrutiny must be conducted through the plenary organ. At the same time, there is no centralisation of experience and know-how on EU and subsidiarity-related issues as is the case for regional parliaments that have established a specific EU affairs committee.

The actual decision to issue a position on subsidiarity is generally taken by the plenary assembly. Yet, in some cases, a single committee - in general the Committee for European Affairs - may take the decision itself. This is notably the case in the German *Länder* of Thuringia or Hamburg and in the Italian regions of Abruzzo and Calabria. In other cases, the decision can only be taken at committee (instead of plenary) level in cases of urgency. Such compromise solution is, for example, adopted by the Berlin City Parliament, the Bremen City Parliament and the Saxony State Parliament.

In most cases, staff members assisting the parliaments in subsidiarity monitoring are not exclusively assigned to this task, but combine it with a variety of other responsibilities. In numerous cases, regional parliaments are strongly dependent on assistance from their respective regional governments when it comes to engaging in subsidiarity monitoring (see below). Most regional parliaments stress that the human resources at their disposal are in any case insufficient and overstretched, while asserting that, due to financial constraints, they are not able to increase their staff.

In the Belgian Parliament of the Federation Wallonia-Brussels, the Rules of Procedure have recently been adapted to include provisions on subsidiarity monitoring, including through the appointment of a ‘Euro-promoter’.³²¹ This ‘Euro-promoter’ will be in charge of monitoring European affairs, in collaboration with the Parliament’s European Affairs Unit, and of drafting, within a fixed time limit, a draft opinion on, *inter alia*, the principles of subsidiarity and proportionality. The designation of one person responsible for EU affairs within the Parliament permits to concentrate the expertise and the training efforts in order to improve the quality of the subsidiarity check.

In order to prepare the subsidiarity scrutiny of EU draft legislation, regional parliaments may analyse the European Commission’s annual legislative work programme. An early analysis makes it possible to identify those EU legislative proposals that are most relevant from a subsidiarity perspective and that most affect the legislative competences of the region concerned; such practices are notably followed by the Austrian state governments. Such an early analysis is facilitated by the fact that, in Austria, for every calendar year, the responsible Federal Ministries forward information to the *Länder* about the legislative planning of the European Commission in given policy sectors. The national contact point coordinates the distribution of this information to the *Länder*. Similarly, in the Italian region of Emilia Romagna, the Legislative Assembly carries out subsidiarity checks of proposals for EU legislation which are listed at the annual European affairs session of the Assembly.³²² During this session, the European Commission’s annual legislative work programme is scrutinised, and initiatives considered to be of priority and relevance to the Region are identified. The Assembly’s European affairs session thus serves as a political filter for identifying EU initiatives that should be subject to the subsidiarity check.

In other regional parliaments, the parliament’s administration will filter EU draft

³²¹ See Article 31 of the Rules of Procedure, available at <http://www.pfwb.be/le-travail-du-parlement/doc-et-pub/reglement-du-parlement> (FR).

³²² This session is organised in April of each year. For further information, see Article 5 of the regional Act n. 16 of 28 July 2008, available at http://demetra.regione.emilia-romagna.it/stampe/LR/8/2008/LR_2008_16/LR_2008_16_v1.pdf (IT).

legislation by examining whether the EU draft legislation concerns a subject-matter that belongs to the competences of the regional parliament, prior to sending draft legislative acts to the MPs. Such procedure is notably followed by the Parliament of the Federation Wallonia-Brussels (the Belgian Constitution still uses the term ‘Parliament of the French Community’ - see above) and the Walloon Parliament in Belgium.

Several regional parliaments have moreover introduced a strict timetable for the different steps forming part of the subsidiarity scrutiny process. Such time limits were introduced e.g. by the Parliament of the German-speaking Community of Belgium or various Spanish regional parliaments (such as the Parliament of Andalusia, the Aragonese Parliament, the Parliament of Castile-La-Mancha, the Galician Regional Parliament, the Parliament of La Rioja and the Parliament of the Balearic Islands). In other regional parliaments, including various German state parliaments, such as the Baden-Württemberg State Parliament, the Bavaria Brandenburg State Parliament and the Hamburg City Parliament, a specific deadline has been attributed to one step of the procedure. The adoption of clear time limits makes it possible to accelerate the process and ensures compliance with the overall time framework of the EWS.

Coordination/cooperation with the regional government

Coordination/cooperation with the respective regional government plays an important role in the subsidiarity scrutiny process of most regional parliaments. Support from the regional government may take many forms, including the early forwarding of EU draft legislation; the filtering of relevant draft legislation, or technical support in the context of the actual subsidiarity scrutiny. In some cases, the regional parliament will simply entrust the regional government with the actual subsidiarity scrutiny as such.³²³

In certain Member States, collaboration between regional parliaments and the respective regional governments is a logical/inevitable consequence of the institutional structure of the State concerned. It is recalled, for instance, that in Germany, when state parliaments adopt decisions on subsidiarity, the latter are in principle not directly submitted to the EU institutions.³²⁴ Rather, the state parliaments’ interests are represented at the federal level by their respective governments, whose selected members or designated representatives sit in the BR. As a consequence, the impact of the state parliaments within the EWS primarily depends on their relations with their governments.

³²³ This is notably the case in Carinthia and in Salzburg. For further information, see below.

³²⁴ Nevertheless, in practice, some German *Landtage* - such as the Bavarian State Parliament - do send their positions also directly to the European Commission and receive answers. See for instance <http://www.maximilianeum-online.de/de/druckversion/5828.php> (DE).

In many cases, collaboration with the regional governments starts with the early forwarding of EU draft legislation by these governments. In Germany, for example, official documentation - including EU draft legislation - is forwarded automatically by the BR secretariat to the state governments. State governments inform their parliaments in line with their internal procedures.

In addition, some regional governments will also act as a filter, selecting EU draft legislation that might be relevant from a subsidiarity perspective. This is, for example, the case in the Austrian *Länder* of Burgenland, Steiermark, Tyrol, Upper Austria and Vorarlberg.³²⁵ In these *Länder*, the State Government filters incoming EU draft legislation on the basis of the legislative competences of the State Parliament. Moreover, the State Government informs the State Parliament of the deadline established by the Federal State for Regions to communicate their opinion. Similarly, in the German *Land* of Baden-Württemberg, the State Parliament receives briefings from the State Government on EU-matters (pre-legislative and legislative matters) which are of crucial political importance for the *Land*, and which concern the region's legislative competences or its vital interests. The early warning briefings are provided within a deadline of three weeks from the moment when the State Government itself receives the EU-documents from the BR. In a similar vein, in the City of Berlin, the Senate (State Government) informs the State Parliament without delay of all European affairs and EU draft legislation, to the extent that they involve the City of Berlin.³²⁶ By analogy, both the Scottish and the Welsh Governments forward to their legislative assemblies EU draft legislation that is of devolved relevance and that may raise subsidiarity concerns, as well as copies of the Explanatory Memoranda on which the UK Government has consulted them.

In certain regions, cooperation/collaboration with the regional government goes beyond the forwarding of draft legislation and assistance in the selection of relevant documents, and takes the form of technical support in the context of the subsidiarity scrutiny of the regional parliament. This may be particularly helpful for regional parliaments that lack the required human resources, or whose staff is not adequately trained for subsidiarity monitoring. Thus, in Lower Austria, the State Parliament may request technical advice from the State Government. In Burgenland, a staff member of the State Government administration assists the State Parliament in conducting the subsidiarity check. Similarly, in the German *Länder* of Bremen, Rhineland-Palatinate, Saarland, Saxony, Schleswig-Holstein and Thuringia, the State Governments examine EU draft legislation and transmit it to the chancellery of the respective State Parliament, adding a technical assessment of its conformity with the subsidiarity principle. As for Spain, the

³²⁵ For further information, see the references mentioned in footnotes 67-71.

³²⁶ Article 50 of the Constitution of Berlin, available at [http://www.parlament-berlin.de/pari/web/wdefault.nsf/vFiles/D14/\\$FILE/Verfassung%20von%20Berlin%20\(17.03.10\).pdf](http://www.parlament-berlin.de/pari/web/wdefault.nsf/vFiles/D14/$FILE/Verfassung%20von%20Berlin%20(17.03.10).pdf) (DE).

Regional Executive may express its opinion on subsidiarity within a certain lapse of time, *inter alia*, in the Parliament of Andalusia, the Galician Regional Parliament and the Asturias Legislative Assembly. And in the Italian Region of Emilia Romagna, discussions on subsidiarity (both at policy and at technical level) are conducted with the support of a dedicated Executive-Assembly inter-services working group.

Finally, on occasion the regional government is actually entrusted with conducting the subsidiarity scrutiny on behalf of the regional parliament. This is the case in a number of Austrian state parliaments. In Carinthia, a sub-department on European integration within the State Government's administration is responsible for scrutinising subsidiarity. Furthermore, in Salzburg, due to the limited resources and staff members available at the level of the State Parliament, all EU-related questions are handled by the State Government.

On a final note, it is observed that a number of regional parliaments cooperate closely with the region's representation to the EU in Brussels - where such representation has been set up. These may be representations/liaison offices set up by the region's executive body - e.g. the executive bodies of all the German *Länder* have their own representations to EU institutions in Brussels, which they can use to establish individual contacts with the EU institutions -, but also representations/liaison offices created by the regional parliaments themselves. Thus, as far as Germany is concerned, four State Parliaments - Bavaria, Baden-Württemberg, North Rhine-Westphalia and Hesse - have established liaison offices in Brussels. The Welsh National Assembly for its part has a dedicated EU Office in Brussels (the Wales House), which it occupies together with the representations of the Welsh Government, the Welsh universities, and the Welsh Local Government Association.

Coordination/cooperation with national parliaments

The question also arises to what extent regional parliaments cooperate with the national parliament within the Member State concerned. As explained above, the extent to which regional parliaments can have an impact on the EWS heavily depends on the extent to which national parliaments take their position into consideration when adopting reasoned opinions, or on whether or not the national parliament forwards the regional position to the EU institutions. At the same time, it must be examined to what extent regional parliaments and national parliaments engage in practical cooperation by transmitting documents, by pre-selecting/filtering documents to be subjected to a subsidiarity scrutiny, or by consulting on the actual compliance of EU draft legislation with the subsidiarity principle.

It is asserted in this context that while in most Member States EU draft legislation is forwarded electronically to the regional parliaments by the central level as soon as it is received by the national parliament, the national parliament (or, for that matter, national government) generally does not provide any additional information to the regional parliaments to support their subsidiarity scrutiny. Overall, subsidiarity checks are carried out independently by the national parliament and the different regional parliaments.

By way of exception, the Austrian system provides for four mechanisms of cooperation that can be identified as good practices. All four techniques relate to the early communication of information to the regional parliaments with a view to facilitating the identification by these regional parliaments of EU draft legislative acts that may infringe the subsidiarity principle. First, upon receiving EU draft legislation, the BR conducts a pre-examination of EU draft legislation and sends lists of selected proposals to the state parliaments. These lists are updated approximately every month and indicate the deadlines for submitting reasoned opinions applicable to each piece of EU draft legislation. Second, the BR immediately informs the state parliaments of its intentions on whether to raise a reasoned opinion or not and gives them the possibility to take a position. Third, for every calendar year, responsible Federal Ministries forward information to the *Länder* about the legislative planning of the European Commission in the given policy sector. Fourth, a national contact point has been established to coordinate the distribution of this information to the *Länder* at the executive level. More generally, this national contact point serves as a coordinator for matters concerning subsidiarity scrutiny. It facilitates the exchange and circulation of documents, information and views and in this way contributes to a better preparation of the work within the BR and in the state parliaments.

Coordination/cooperation at the cross-regional level

Finally, regional parliaments are increasingly engaged in coordination/cooperation at the cross-regional level with a view to sharing information on subsidiarity and to facilitating the subsidiarity scrutiny. Such cross-regional exchange may take place between different regions within the same country. It may also take place between regions located in different EU Member States. Both scenarios are further examined below.

Coordination/cooperation within the same country

An interesting mechanism of cross-regional cooperation has been established by the regional governments in Austria. The Austrian state governments have established a division of labour on the basis of the European Commission's

annual legislative work programme. In each case, a single state government is responsible for conducting the subsidiarity assessment of a specific EU initiative and prepares a draft position, which is subsequently put to the vote of all state governments. This division of labour enables the Austrian *Länder* to reduce the workload flowing from the subsidiarity monitoring exercise and to cope more efficiently with the considerable amount of EU draft legislation. At the same time, it is observed that this division of labour does not extend to the state parliaments, which remain free to decide whether or not to conduct a subsidiarity check of draft EU legislation.

More generally, no similar division of tasks exists in any of the other eight EU Member States at the level of the regional parliaments. Nonetheless, in each of the Member States concerned - with the exception of Finland (which counts only one regional parliament having legislative power) and the United Kingdom - formal networks/conferences have been set up bringing together representatives of the different regional parliaments. These networks and conferences may to a greater or lesser extent also deal with subsidiarity issues.

Thus, in Austria, the state parliaments cooperate through the meetings of the Presidents of the state parliaments (*Landtagspräsidentenkonferenz*) and Directors of these parliaments (*Landtagsdirektorenkonferenz*). Both meetings allow for exchanges of information between key figures in the state parliaments and can give an 'early warning' about EU legislative proposals that may be relevant for subsidiarity scrutiny. Both conferences have an important role in placing subsidiarity questions on state parliaments' agendas. Moreover, as mentioned before, there is a national contact point, whose main task is to support the regions in coordinating their views and circulating information for the purposes of national regulation and decision making.

In Germany, a network has been set up between the Chairmen of the Committees on European Affairs of all 16 German state parliaments. The aim of this network consists in the exchange of information and lessons learned on a cross-regional basis, and notably on subsidiarity issues. Moreover, the 'best practices' concerning subsidiarity monitoring are discussed once a year at the Conference of Presidents of German state parliaments.

In Italy, the regional parliaments cooperate via the Conference of Presidents of the Legislative Assemblies of the Regions and Autonomous Provinces, a body that promotes the institutional role of the assemblies of the regions and autonomous provinces, and acts as a hub for coordination and exchange of experiences regarding the legislative assemblies' areas of interest. In addition, there are several other relevant platforms for cooperation in which individual regional parliaments are involved, including the CAPIRe (*Controllo delle*

Assemblee sulle Politiche e gli Interventi Regionali) project.

In Spain, the Conference of Presidents of the Spanish Regional Assemblies (COPREPA *Conferencia de Presidentes de Parlamentos autonómicos españoles*) constitutes a useful mechanism for the exchange of information, experiences and common concerns, notably on subsidiarity. In addition, it is noted that the Parliaments of Aragon and Navarre have published a guide for drafting opinions in the context of the EWS (*Guía para la elaboración de los dictámenes autonómicos en el sistema de alerta temprana*).³²⁷

Finally, in Belgium, the regional parliaments interact via the Conference of the Presidents of the Belgian parliamentary bodies. Contrary to the aforementioned conferences/networks, this Conference extends not only to the regional parliaments within Belgium, but also includes the two Chambers of the National Parliament. The Secretariat of the Conference is notably in charge of clustering all decisions on subsidiarity issued by Belgian Parliaments and sending them to the EU institutions on behalf of the Belgian Parliamentary System.

Cooperation/coordination with other regional parliaments in Europe

Various regional parliaments cooperate on a cross-border basis with regional parliaments from other Member States through bilateral and multilateral contacts. These contacts may take the form of a network or regular meetings. They may also take the form of more occasional and informal exchanges of information.

Examples of cross-border, cross-regional cooperation that may touch upon subsidiarity issues include the network that has been established between representatives of the administrations of Austria's nine state parliaments and of all 16 state parliaments in Germany. The purpose of this network is to exchange information and experiences, notably on subsidiarity issues.

In addition, there are several examples of cooperation (formal or informal) in which a more limited number of regional parliaments are involved.

Thus, as of October 2012, there are regular meetings (once or twice a year) between Members of the German State Parliaments of Niedersachsen, Bremen, Hamburg and the Dutch Provincial Assemblies of Groningen, Friesland and Drenthe (not endowed with legislative powers). The aim is to exchange information and to discuss topics of regional interest. There appears to be no

³²⁷ This guide is available at http://www.fundacionmgimenezabad.es/images/Documentos/2011/20110128_ot_guia_elaboracin_dictmenes_es_o.pdf (ES).

specific cooperation on subsidiarity issues in this context.

Furthermore, the Austrian Tyrol State Parliament, the Italian Autonomous Province of South Tyrol and the Italian Autonomous Province of Trento cooperate in the framework of the ‘Three Provinces’ Parliament’ (*‘Dreier-Landtag’*). Thus, the three legislative assemblies hold a joint meeting every two years during which they discuss matters of common interest. At their meeting of 30 March 2011, they explicitly decided to promote cooperation between their respective European Affairs Committees.

At a bilateral level, the Thuringia State Parliament collaborates with the Parliament of the German-speaking Community of Belgium. Similarly, the representation of the Rhineland-Palatinate State Government at the Federal State and at the EU in Brussels transmits a weekly report to the Parliament of the German-speaking Community of Belgium. This report contains timely information on EU issues and on positions on subsidiarity that have been submitted.

Cross-regional contacts between different regional parliaments may also take place informally through the representative Offices in Brussels. The Welsh National Assembly, for example, indicates that through its EU Office, it has regular contacts with representatives of other regional parliaments, such as the Bavarian State Parliament. Interestingly, the Austrian Tyrol Region and the Autonomous Provinces of Trento and South-Tyrol have established a single EU Liaison Office in Brussels at executive level, which also acts as a platform for interaction between their respective parliaments.

Finally, the CoR also contributes to improving the coordination between regional parliaments, notably through its REGPEX database and by holding meetings with the regional parliaments.

2.2.2 Perception of the subsidiarity scrutiny at the level of regional parliaments with legislative powers and obstacles faced in this context

Participation in the early warning mechanism must be seen as an opportunity to help boost the complex process of European integration. It is also an opportunity to strengthen the EU’s democratic legitimacy, giving Europe a higher profile in the regions and, at the same time, bringing the needs of each region closer to European decision-making and enabling them to influence the EU decision-making process.

At the time of the entry into force of the Lisbon Treaty, the formal recognition

of the role of regional parliaments with legislative powers in the Protocol was greeted with enthusiasm by these bodies. It follows from the descriptive overview of the situation in the eight EU Member States with regions enjoying legislative powers that, since the entry into force of the Lisbon Treaty, most of these parliaments have effectively become increasingly involved in subsidiarity monitoring. Most regional parliaments have established specific procedures for subsidiarity monitoring or are currently in the process of modifying their internal Rules of Procedure to this end. Moreover, most regional parliaments have established mechanisms of cooperation at the regional, central and cross-regional levels to support their subsidiarity scrutiny. It is moreover observed that, when questioned, a number of sub-national parliaments, such as the Vienna State Parliament, have expressed satisfaction with the existing regional and national subsidiarity procedures.

At the same time, over three years on from when the EWS came into operation, the high level of interest with which the system was received by many of the regional parliaments is in danger of falling. It appears that a number of regional parliaments show signs of discouragement towards their lack of visibility within the EWS and the lack of efficiency of the system, which does not as such guarantee regional parliaments that their decisions on subsidiarity are effectively taken into consideration at national and European level.

The main concern in this respect is that it is only worthwhile for regional parliaments to invest time and resources in subsidiarity monitoring if their work can have any real impact in the context of the EWS - in other words: when their positions are taken into consideration by the national parliaments and may have an impact on the possible triggering of the yellow or orange card procedure. Against this, in most of the eight EU Member States, the national parliament is not bound to pay heed to the objections issued by the regional parliaments, even if a certain EU proposal touches upon the latter's legislative competence. Certain regional parliaments (e.g. the Bavarian State Parliament) have responded to this obstacle by sending their positions directly to the European Commission. Yet, such conduct remains exceptional and does not correspond to the EWS system established by the Treaty of Lisbon and Protocol No 2.

Even where the national authorities are willing to cooperate closely with regional parliaments for purposes of subsidiarity monitoring, there may be certain legal and constitutional obstacles. For instance, in Belgium, the seven parliaments at the national and sub-national level have drafted an inter-parliamentary cooperation agreement to organise the subsidiarity check according to the respective competence of each parliament and to directly involve the regional parliaments in the EWS voting system (by distributing the votes among the various parliaments). Due to political and constitutional

objections, however, the agreement has so far not entered into force.

In addition, several other factors have the potential of reducing the interest on the part of regional parliaments in further involvement in subsidiarity monitoring. Thus, it is sometimes pointed out by regional parliaments that subsidiarity checks do not bring any electoral benefit to the regional deputies in the countries concerned. Furthermore, in some Member States, the EU is rather well perceived, while subsidiarity monitoring is seen as a ‘counterproductive’ or EU-critical tool. The consequence is that regional parliaments do not necessarily wish to utilise every opportunity to object to an EU draft legislative act and decide not only in view of legal reasons but also with regard to political opportunity.

Against this background, it appears moreover that regional parliaments that aspire for closer involvement in the EWS face several hurdles.

One of the main obstacles faced by regional parliaments in this context is the eight-week deadline imposed on national parliaments - which inevitably implies an even shorter deadline on the part of the regional parliaments - to react to EU draft legislation. In practice, the time allotted to regional parliaments to prepare a position is even shorter than eight weeks, since they have to send it to the national parliaments, which must themselves have the opportunity to consider it before the end of the eight-week time limit. In a number of countries, this logic has been formalised through the imposition of shorter deadlines on the regional parliaments for issuing their position. In Spain, for instance, the regional parliaments may forward resolutions on the infringement of the subsidiarity principle to the Spanish Parliament only within a four-week time limit, starting from the date of dispatch of the document concerned by the national parliament to the regional parliaments. Once the four-week period has passed, the National Parliament is no longer obliged to consider the regional opinions in any way. Neither is it obliged to respond to or comment on the regional opinions. In Finland, the Åland Parliament is granted a period of six weeks to send its position to the Finnish National Parliament.

The second main obstacle that is identified by regional parliaments concerns the lack of resources and administrative capacities. Many regional parliaments only have a limited number of staff members, far below the staff level of their respective national parliaments. It is questionable whether many regional parliaments consider hiring additional staff members purely for purposes of subsidiarity monitoring. Furthermore, financial constraints may simply not permit this. As a consequence, it is not possible for these regional parliaments to properly analyse EU draft legislation from a subsidiarity angle.

On a related note, the complexity of the subsidiarity monitoring exercise and the

difficulty to train staff members in charge of the subsidiarity scrutiny are identified as an important hurdle. An efficient subsidiarity check requires that examiners go beyond a superficial assessment of legislative proposals, but instead engage in an in-depth analysis of proposals and their potential socio-economic impact. This requires a specific training and may be very time-consuming. This is all the more so in light of the different understandings of the concept of subsidiarity that may be held by different bodies: what some regional parliaments may consider as a subsidiarity problem, others may regard as a proportionality issue, or even as an actual content-related issue. A better training of staff members in charge of scrutinising subsidiarity might prove useful to improve the quality of subsidiarity scrutiny at the regional level and to avoid diverging understandings of the subsidiarity principle. It is noted in this context that the CoR has created a ‘subsidiarity assessment grid’ and made it available not only to SMN partners but to the public at large.³²⁸ This tool provides a coherent analytical frame covering the various impacts of subsidiarity to be considered when drafting opinions/decisions. It has been acknowledged in the past as a good training tool which also contributes to harmonising the approach for subsidiarity scrutinies.

Otherwise, numerous regional parliaments deplore the absence or the late availability of translations of documents from other regional parliaments within the EU. It is often argued that information from other regional parliaments ought to be translated as soon as possible and be sent to other regional parliaments in a clear and intuitive format. It is observed in this context that, the CoR has developed a standard form in English, which ought to allow all regional parliaments to understand the essence of positions expressed in various languages.³²⁹

Finally, another point raised by many regional parliaments is the lack of an efficient system for filtering EU draft legislation. It is undeniable that the amount of available information is very substantial. Often, the difficulty will be to process the large number of documents received in due course with a view to identifying what is most relevant to the regions. Many regional parliaments analyse EU draft legislative acts on a case-by-case basis only (in part because they lack the resources to conduct a systematic subsidiarity check). As a consequence, they need to dispose of an efficient and workable mechanism for selecting those acts that are of relevance to them and which may potentially infringe the subsidiarity principle. An early examination of the European Commission’s annual legislative work programme - possibly at a cross-regional

³²⁸ The subsidiarity assessment grid is available in all EU official languages at <https://portal.cor.europa.eu/subsidiarity/thesmn/Pages/default.aspx>.

³²⁹ The standard form is available at <http://portal.cor.europa.eu/subsidiarity/regpex/Pages/Early-Warning-System.aspx> (EN).

level - could help regional parliaments in identifying those EU initiatives that may be relevant from a subsidiarity perspective. Such early examination was first carried out in October 2012 by the CoR Subsidiarity Expert Group, which also includes a number of officers of regional parliaments. Such exercise could possibly be opened up to administrators of all regional parliaments and/or combined with REGPEX.

2.2.3 *Best practices and recommendations for the future*

Best practices and recommendations - general

The impact of regional parliaments with legislative powers within the EWS

Regional parliaments do not formally participate in the EWS. Instead, Article 6 of the Protocol No 2 states that *'it is for each national Parliament or each chamber of a national parliament to consult, where appropriate, regional parliaments with legislative powers'*.

In practice, the impact of regional parliaments within the EWS varies from one Member State to another. For instance, in Belgium, a specific system was introduced through a unilateral declaration³³⁰ attached to the Lisbon Treaty stipulating that the parliamentary assemblies of the Regions and the Communities should be regarded as national parliaments when an EU draft legislative proposal falls within their competences. In other EU Member States, regional parliaments participate through cooperation with the national parliament (e.g. in relation to draft EU legislation on public procurement, the position of Wales was annexed to the reasoned opinion of the HoC sent to the EU institutions³³¹), by sending their positions directly to the EU Commission in parallel to the EWS (in which case the Commission is, however, not under any legal obligation to respond to the position or to take it into account), or by publishing their position on REGPEX and having it reflected in a CoR opinion.

The system established by the Treaty of Lisbon and the Protocol No 2 thus imposes substantial limits on the extent to which regional parliaments can have an impact on the EWS and can influence the EU decision-making process. At the same time, granting every regional parliament with legislative power (even

³³⁰ Declaration by the Kingdom of Belgium on national Parliaments, C 115/355, *Official Journal of the European Union*, 9 May 2008. 'Belgium wishes to make clear that, in accordance with its constitutional law, not only the Chamber of Representatives and Senate of the Federal Parliament but also the parliamentary assemblies of the Communities and the Regions act, in terms of the competences exercised by the Union, as components of the national parliamentary system or chambers of the national Parliament.'

³³¹ For further information, see <http://www.parliament.uk/pagefiles/54364/Reasoned%20Opinion%2057.pdf> (EN).

in a Member State with numerous regions) the possibility to issue a vote in the EWS - which would in any case presuppose a reform of the EU Treaties - is not necessarily a proper mechanism to promote democratic legitimacy in the context of EU decision-making. In the extreme, it could mean that a handful of small regions would control a substantial share of the EWS votes.

Having regard to the object and purpose of the Protocol, some visibility and follow-up should nonetheless be guaranteed vis-à-vis regional opinions on the non-compliance of EU draft legislation with the subsidiarity principle. As a minimum, national parliaments ought to automatically communicate positions on subsidiarity from regional parliaments with legislative powers directly to the EU institutions (this mechanism is notably practised in Finland and Portugal).

Subsidiarity monitoring mechanisms at the level of the regional parliaments

As far as the actual subsidiarity monitoring mechanisms at the level of the regional parliaments with legislative powers are concerned, a number of best practices may be noted from the comparative analysis of the different EU Member States

First, from an internal perspective, it may be useful for regional parliaments to assign (primary) responsibility for subsidiarity monitoring to a specific Standing Committee (e.g. an 'EU affairs Committee'). Such centralisation may accelerate the process and enable the Committee to develop its experience and best practices. The actual adoption of positions on subsidiarity can still be left to the plenary assembly. By way of compromise, it could be foreseen that, at least in cases of urgency, the decision can be taken at Committee level.

The designation of one or more persons responsible for EU affairs among the MPs may similarly permit to concentrate the expertise and contribute to improving the quality and efficiency of the subsidiarity check. For instance, in the Belgian Parliament of the Federation Wallonia-Brussels (the Belgian Constitution still uses the term 'Parliament of the French Community' – see above), the new Rules of Procedure state that a 'Euro-promoter' shall be appointed by the Committee for International Relations and European Affairs among the MP in order to monitor European affairs.³³² Under certain conditions, the 'Euro-promoter' may be requested by the Committee for International Relations and European Affairs, within a fixed time limit, to formulate a draft opinion, *inter alia*, on the principles of subsidiarity and proportionality.

On a different note, the introduction of precise deadlines for the different phases

³³² As of June 2013, the Euro-promoter has not yet been designated by the Parliament.

of the subsidiarity scrutiny may accelerate the process and consequently facilitate compliance with the strict timing of the EWS.

Coordination/cooperation with the regional government

Close cooperation between the regional parliaments and their respective regional governments may bring considerable added value, in particular where these governments have more expertise and more resources to cope with subsidiarity monitoring.

Regional governments may help the parliaments in filtering EU draft legislative acts and providing guidance for the subsidiarity analysis. Moreover, they should inform the parliaments of the list of envisaged legislative initiatives according to the European Commission's annual legislative work programme.

Coordination/cooperation at the national level

Effective communication between the different regional parliaments within a Member State, and between these regional parliaments and the national parliament similarly constitutes an important element to facilitate subsidiarity checks.

From a horizontal perspective, the establishment of a national Conference of Presidents of regional parliaments improves the exchange of information and coordination between these parliaments and enhances the communication with the national parliament, especially in Member States counting a considerable number of regional parliaments. Such conferences or networks indeed exist in most of the eight EU Member States, with the exception of Finland (where such mechanism makes little sense in light of the fact that there is only a single regional parliament with legislative powers), and of the United Kingdom - where the introduction of such platform could indeed be considered.

In several Member States, the vertical exchange of information, i.e., between the national Parliament and the regional parliaments - may also be improved. Useful inspiration may be drawn from the Austrian model, where the BR conducts a pre-examination of EU draft legislation and sends lists of selected proposals to the state parliaments together with the deadlines for submitting reasoned opinions applicable to each piece of EU draft legislation. Moreover, the BR immediately informs the state parliaments of its intentions and gives them the possibility to take a position. In addition, information is provided by the responsible Federal Ministries about the legislative planning of the European Commission in the given policy sector on a yearly basis.

Furthermore, in those countries where regional parliaments have similar competences, the division of the workload related to subsidiarity monitoring among regional parliaments depending on the subject-matter of the draft EU legislation could be an efficient way to reduce the workload for each individual parliament and to speed up the process. Such division of labour would permit each region to concentrate on one subject-matter and to closely follow the work of the European Commission in this domain. Moreover, it would enhance the expertise of the region in this domain and facilitate the identification of subsidiarity infringements of EU draft legislation. The aforementioned approach would, however, be difficult to transpose to countries where the legislative competences of different regions are not symmetrical.

Coordination/cooperation at the cross-regional and European level

Cooperation between regional parliaments at the EU level also requires strengthening. Such cooperation may assist regional parliaments in detecting potentially contentious proposals and to prepare their position on subsidiarity. Furthermore, when confronted with draft EU legislation that sits uneasily with the subsidiarity principle, such cooperation may significantly increase the number of positions raised and consequently increase the chances of attaining the thresholds imposed to trigger the yellow or orange card procedures - at least inasmuch as the national parliaments take over the positions raised by regional parliaments.

At the European level, the CoR can moreover play a key role in assisting regional parliaments with regard to subsidiarity monitoring and in improving their involvement in or alongside the EWS. Below, a number of specific recommendations are identified with regard to the CoR, in particular in relation to its SMN and the REGPEX database.

Recommendations related to the role of the Committee of the Regions

General recommendations

As the EU advisory body that represents regional and local actors within the EU, the CoR has been granted an enhanced role in relation to subsidiarity monitoring by the Lisbon Treaty. The CoR notably has the right to challenge EU legislative acts before the CJEU for infringement of the principle of subsidiarity.³³³ The enhanced competences and responsibilities with regard to subsidiarity imply that the CoR establishes a continuous dialogue with national and regional

³³³ Article 8 of the Protocol. For further information, see A. Biondi, 'Subsidiarity in the Courtroom', in A. Biondi, P. Eeckhout & S. Ripley (eds.), *EU Law After Lisbon* (Oxford, Oxford University Press 2012) pp. 213-227.

parliaments.

Although the CoR is not formally part of the EWS, its institutional position implies that it supports regional parliaments.³³⁴

There are notably two areas where the support of the CoR could be of considerable added value: training and early warning.

Indeed, one of the obstacles frequently raised by regional parliaments in the context of the EWS is the lack of adequately trained staff. Specific training sessions could be organised for staff members responsible for subsidiarity scrutinies within the regional parliaments. The CoR could intervene at this stage to support regional parliaments in the training of their staff, either by organising these training sessions itself so as to improve the understanding of the subsidiarity monitoring exercise or by providing documentation and support to the regional parliaments.

Second, certain regional parliaments suggest that the CoR could help in selecting relevant EU draft legislation with regard to subsidiarity, notably by providing information on the European Commission's annual work programme and by assisting in identifying areas of potential regional interest. This idea has been recently implemented by the CoR through the adoption of a new subsidiarity strategy on 2 May 2012.³³⁵ Pursuant to this strategy, a list of five priority initiatives to be monitored in 2013 was established under the Subsidiarity Work Programme 2013.³³⁶ This list is based on input provided by the Subsidiarity Expert Group - a Group composed of officials from SMN member institutions that are local and regional subsidiarity experts - which selected EU proposals of interest from a subsidiarity perspective.³³⁷ The Subsidiarity Steering Group - a Group composed of one CoR member per political group³³⁸ - retained five initiatives to be submitted with priority to a

³³⁴ CoR, Subsidiarity Annual Report 2012, R/CdR 3141-2013, p. 1.

³³⁵ CoR, Subsidiarity monitoring: a revised strategy for the committee of the regions, R/CdR 606/2012. A summary is available at

https://portal.cor.europa.eu/subsidiarity/Publications/Documents/SMN%20Report%202011/A8782_summary_su_bsi_strategy_EN_modif1_final.pdf (EN).

³³⁶ There are four initiatives included in the EC Work Programme 2013 (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, and the Environmental climate and energy assessment framework to enable safe and secure unconventional hydrocarbon extraction) in addition to Urban Mobility. CoR, Subsidiarity Annual Report 2012, R/CdR 3141-2013, p. 5.

³³⁷ *Ibid.*, p. 3.

³³⁸ Pursuant to the New Subsidiarity Strategy for the Committee of the Regions adopted on 2 May 2012, the Subsidiarity Steering Group 'ensures the proper coordination and political follow-up of subsidiarity monitoring activities throughout the year. In particular, it is responsible for highlighting annual subsidiarity priorities and making proposals on the use of the most appropriate tools and procedures of the Subsidiarity Monitoring Network in order to support the work of CoR rapporteurs in the legislative process' (footnotes omitted). For further information, see

subsidiarity monitoring. This list constitutes the Subsidiarity Work Programme 2013.³³⁹ The CoR administration has established an internal early flagging system in order to organise the monitoring of these proposals. This system may be particularly helpful for regional parliaments in selecting EU proposals. Furthermore, the creation of a Subsidiarity Expert Group may help regional parliaments to express their positions on subsidiarity and to enhance their visibility. As stated in the summary of the new subsidiarity strategy, the Subsidiarity Expert Group may indeed ‘*provide a link to the subsidiarity debate in the Member States, strengthen the mutual comprehension and thus bring the CoR closer to its local and regional partners.*’³⁴⁰

Recommendations relating to REGPEX

A key tool developed by the CoR in order to strengthen its own positions on subsidiarity consists in the SMN. This network, composed of national, regional and local authorities from all EU Member States (except for Estonia), ‘*supports all CoR subsidiarity monitoring activities in order to provide CoR rapporteurs and members with quality input from a subsidiarity viewpoint, so that proper subsidiarity assessments can be included in CoR opinions.*’³⁴¹

Within this network, the CoR has developed a sub-network dedicated to supporting regions with legislative powers, REGPEX. At present, 42 regional parliaments endowed with legislative powers are members of REGPEX.³⁴²

On 12 December 2012 the CoR organised a meeting to present REGPEX to the regional parliaments, to gather feedback from the regional parliaments/governments and to discuss future developments.³⁴³ A subsequent meeting is planned for the beginning of 2014.

REGPEX provides a valuable source of information and exchange between regional parliaments and executives in preparing their subsidiarity assessments. The database is deemed very useful, especially for small regional parliaments which have less capacity to study and analyse EU draft legislation due to a lack

https://portal.cor.europa.eu/subsidiarity/Publications/Documents/SMN%20Report%202011/A8782_summary_suhsi_strategy_EN_modifl_final.pdf (EN).

³³⁹ As mentioned in the introduction of the Subsidiarity Work Programme, the administration only has capacity to monitor up to five EU initiatives. For further information, see

<https://portal.cor.europa.eu/subsidiarity/news/Pages/CoR-Subsidiarity-Work-Programme-2013.aspx> (EN).

³⁴⁰ The summary of the New Subsidiarity Strategy is available at

https://portal.cor.europa.eu/subsidiarity/Publications/Documents/SMN%20Report%202011/A8782_summary_suhsi_strategy_EN_modifl_final.pdf (EN).

³⁴¹ CoR, Subsidiarity Annual Report 2012, R/CdR 3141-2013, p. 4.

³⁴² http://portal.cor.europa.eu/subsidiarity/Documents/SMN%20-%20List%20of%20Network%20Partners/SMN%20-%20List%20of%20Network%20Partners%20-%20EN%20-%2010%20Jun%202013_MASTER%20LIST.pdf (EN).

³⁴³ CoR, Subsidiarity Annual Report 2012, R/CdR 3141-2013, p. 7.

of staff, as it enables them to use the analyses produced by other regional parliaments.³⁴⁴

Regional parliaments note the necessity of having an early exchange of information with a quick and simple presentation of contents, making it possible to understand the subsidiarity procedures followed in other regional parliaments and exchange of good practice. REGPEX should become an efficient tool to permit such early exchange of information, expanding its value beyond a simple collection of information on subsidiarity checks conducted in the past.

While most regional parliaments welcome REGPEX and consider its development as a positive evolution, some nonetheless consider that it could be improved to be more user-friendly and more accurate. Moreover, it is suggested that REGPEX should give early support and advice on the preparation of subsidiarity analyses of EU draft legislation, e.g. in the form of technically sound analyses, which could be presented and discussed during the parliamentary proceedings.

In general, regional parliaments consider that REGPEX should be construed more intuitively in order to help its users to identify the important information easily.

Regional parliaments suggest a number of formal modifications to improve the efficiency of the database:

- Most importantly, regional parliaments suggest that REGPEX should be adapted so as to make it possible to clearly distinguish decisions on subsidiarity published by regional parliaments from other contributions. In principle, only comments on subsidiarity are published. However, it has been asked by regional parliaments to distinguish between positive comments and actual infringements - and within the latter, to make a clear distinction between the various grounds of the breach. This is now taken into account in the standard form in English which has been developed by the CoR.³⁴⁵
- According to regional parliaments, REGPEX should also make a clearer distinction between regional parliaments and governments, even visually, possibly by dividing them into two subsections. Under the Protocol, only the former can be brought into the EWS by their national parliaments. Regional governments can contribute to the good functioning of the EWS by coordinating with the relevant regional parliament on the basis of their own

³⁴⁴ A list of contributions to REGPEX is available at <http://extranet.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx> (EN).

³⁴⁵ For further information on this standard form, see footnote 329.

procedures. Putting both regional executives and parliaments in REGPEX without specifying and distinguishing between their roles under a common EWS umbrella runs the risk of confusing users as to the roles of the two types of bodies.

- Furthermore, numerous regional parliaments suggest adding a direct link in REGPEX to the reasoned opinions issued by national parliaments on EU draft legislation. One could argue that this would constitute an unnecessary duplication with the IPEX database. Yet, such link would facilitate the work of regional parliaments to instantly access the reaction of national parliaments in relation to EU draft legislation. As a consequence, this inclusion should be supported to enhance the usefulness of REGPEX for regional parliaments.
- It is regretted that there is no database presenting all decisions on subsidiarity issued by regional parliaments. The absence of a systematic publication or communication of such decisions to EU institutions or to the CoR complicates the creation of such exhaustive database. Nevertheless, the CoR should strive to achieve this objective, notably by encouraging regional parliaments to participate in REGPEX and to publish their decisions on subsidiarity within the database.
- As to the type of documents made available on REGPEX, some regional parliaments suggest that it could be useful to exchange information on subsidiarity issues which are still at the stage of discussion. Currently, certain regional parliaments already publish draft resolutions on subsidiarity in order to swiftly inform other regional parliaments. Furthermore, it is now possible for REGPEX partners to indicate that a subsidiarity scrutiny is ongoing ('work in progress') concerning a specific EU draft legislative act.
- Another difficulty often faced by regional parliaments with regard to REGPEX indeed the translation of documents available on REGPEX. The CoR indeed provides a systematic translation only for selected 'EWS files'. Otherwise, a summary is translated into English if there is a CoR draft opinion on the initiative. Certain regional parliaments request that observations of regional parliaments should be translated in the different languages in their entirety and be made available through REGPEX to other regional parliaments. However, for budgetary reasons, it is impossible for the CoR to provide such full-length translations of all observations submitted. Instead, the CoR has chosen to develop a form in English for REGPEX partners on which they can indicate the most important information

concerning the subsidiarity decision of their regional parliament.³⁴⁶

- On a final note, regional parliaments stress the importance of the early notification of any new document uploaded on REGPEX by email alert. Such mechanism has effectively been put in place by the CoR.

³⁴⁶ See footnote 329.

3 Part 2 - Involvement of subnational authorities and other relevant stakeholders in the remaining 20 Member States

Part 2 of the report examines the 20 EU Member States in which regions have no legislative powers and which accordingly do not have ‘regional parliaments with legislative powers’ in the sense of the Protocol, which may be consulted by national parliaments in the context of the EWS for purposes of checking compliance with the subsidiarity principle. As such, regional assemblies or other regional authorities in these Member States maintain no special position within the EWS. There are, however, informal mechanisms that may be used to involve regional and/or local authorities in the work of the national parliaments and which could potentially be used to incorporate the opinions of regional and local authorities into the subsidiarity assessments made by national parliaments.

Section 3.1 provides a brief overview of the relevant mechanisms put in place for each of the 20 Member States concerned. It notably identifies the key parliamentary and administrative structures for each State, it sets out the procedure for subsidiarity monitoring at the national level, and, where relevant, it describes the (mostly informal) procedures for involving regional and local stakeholders - including assemblies and councils where present - in the subsidiarity scrutiny of EU draft legislation.

Section 3.2 analyses the degree of involvement of local and regional authorities and other relevant stakeholders in the subsidiarity monitoring procedures as well as their access to information on subsidiarity monitoring in the 20 Member States concerned. Finally, this section presents an overview of best practices and recommendations.

3.1 Description of the mechanisms put in place

3.1.1 Bulgaria

General³⁴⁷

At the national level, the legislative authority is vested in a unicameral Parliament, the National Assembly (*Narodno Sabranie*), which is composed of 240 Deputies who are directly elected every four years.³⁴⁸ The President of Bulgaria serves as Head of State and is directly elected by the people. The Prime Minister of Bulgaria serves as Head of Government and is elected by the National Assembly.³⁴⁹

The territory of the Republic of Bulgaria is divided into 264 municipalities³⁵⁰ (*obshini*) and 28 regions³⁵¹ (*oblasti*).³⁵²

The municipalities constitute the principal administrative and territorial units responsible for local self-government.³⁵³ Pursuant to Article 138 of the Constitution, '[t]he body of local self-government within a municipality shall be a municipal council elected directly by the populace for a term of four years by a procedure envisaged by the law.' The executive power is vested in the mayor, who is directly elected for a four-year term.³⁵⁴ Municipalities are legal entities³⁵⁵ that are entitled to own municipal property to be used in the interest of the territorial community.³⁵⁶ Moreover, they have their own budget³⁵⁷ and may determine the amounts of local taxes and charges under certain conditions laid down by the law, as stated in Article 141 of the Constitution. They may decide on issues of local importance with regard, *inter alia*, to education, health, social services, culture, public services, sports and leisure, water supply and sewage,

³⁴⁷For further information, see M. Brusis, 'Accommodating European Union Membership: The Regional Level in Bulgaria', in R. Scully & R. Wyn Jones, *Europe, Regions and European Regionalism* (Houndmills, Palgrave Macmillan 2012) pp. 221-238.

³⁴⁸Articles 63 and 64 of the Constitution of Bulgaria, available at <http://www.parliament.bg/en/const> (EN).

³⁴⁹Deputy Prime Ministers are nominated by the Prime Minister and are subsequently elected by the National Assembly.

³⁵⁰A list of the 264 municipalities is available at <http://www.namrb.org/?act=cms&id=132&lang=2> (EN).

³⁵¹The term *oblasti* may also be translated into English as 'provinces' or 'districts'. A map of the 28 regions is available at <http://www.mrrb.government.bg/?controller=articles&id=4239> (BU).

³⁵²Council of Europe, Congress of Local and Regional Authorities, 21st Session, CG(21)14, 'Local and regional democracy in Bulgaria', 21 September 2011, available at <https://wcd.coe.int/ViewDoc.jsp?id=1844369&Site=COE>. See also Article 135 of the Constitution of Bulgaria.

³⁵³Article 136 of the Constitution of Bulgaria. Pursuant to the Territorial Administration of the Republic of Bulgaria Act of 14 July 1995, the municipality consists of one or more settlements. For further information, see http://www.namrb.org/doc12/en/Territorial_Administration_of_the_Republic_of_Bulgaria_Act.rtf (EN).

³⁵⁴Article 139 of the Constitution of Bulgaria.

³⁵⁵Article 136 of the Constitution of Bulgaria.

³⁵⁶Article 140 of the Constitution of Bulgaria.

³⁵⁷Article 141 of the Constitution of Bulgaria.

tourism, household refuse, territorial development, building and maintenance of public buildings, and environment.³⁵⁸ Yet these functions are mainly tasks which are delegated by the National Government and are not specifically attributed. Consequently, these activities are subject to extensive oversight by the National Government.³⁵⁹

The regions constitute an intermediate level between the national and the local authorities. The Constitution defines them as an administrative territorial unit responsible for the conduct of a regional policy, the implementation of national legislation at the local level, and the harmonisation of national and local interests.³⁶⁰ Each region is headed by a governor who is appointed by the national government and is assisted by a regional administration. The governor exercises administrative control and ensures the implementation of the State's policy, the safeguarding of national interests and law and public order.³⁶¹ However, the regions have no autonomy. There is no elected assembly, council or government at the regional level.

In addition to the regions and municipalities, there are also six regional zones (NUTS level 2) that were created in 2004 by the Ministry for Regional Development and Public Works. However, these six regional zones exist merely for the purpose of regional planning and statistics. They do not have any administrative structure or financial resources.³⁶²

Procedures at the central level³⁶³

EU draft legislation is transmitted to the National Assembly by the European Commission, the European Council and the Government.³⁶⁴ At the executive level, a specific Council - the Council on European Affairs, composed of representatives of all ministries³⁶⁵ - is responsible for issues relating to the EU.

³⁵⁸For further information, see Article 17 of the Local Self-government and Local Administration Act of 17 September 1991, available at

http://www.namrb.org/doc12/en/Local_Selfgovernment_and_Local_Administration_Act.rtf (EN).

³⁵⁹Council of Europe, Congress of Local and Regional Authorities, 21st Session, CG(21)14, 'Local and regional democracy in Bulgaria', 21 September 2011, at para. 74, available at

<https://wcd.coe.int/ViewDoc.jsp?id=1844369&Site=COE>.

³⁶⁰Article 142 of the Constitution of Bulgaria.

³⁶¹Article 14 of the Constitution of Bulgaria.

³⁶²Council of Europe, Congress of Local and Regional Authorities, 21st Session, CG(21)14, 'Local and regional democracy in Bulgaria', 21 September 2011, available at

<https://wcd.coe.int/ViewDoc.jsp?id=1844369&Site=COE>.

³⁶³For further information, see <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/bgnar.do> (EN).

³⁶⁴Article 105 of the Constitution states that the Government has an obligation to inform the National Assembly on obligations of the Republic of Bulgaria resulting from its membership in the EU. Moreover, '*when participating in the drafting and adoption of EU instruments, the Council of Ministers shall inform the National Assembly in advance, and shall give detailed account for its actions.*' Constitution of Bulgaria, available at <http://www.parliament.bg/en/const> (EN).

³⁶⁵For further information, see http://www.euaffairs.government.bg/index.php?page=en_CEA (EN).

Within the National Assembly, the Committee on European Affairs and Oversight of the European Funds (CEAOEF) is the main actor regarding subsidiarity checks.

The procedure for subsidiarity scrutiny is governed by the rules of organisation and procedure of the National Assembly.³⁶⁶

Each year, the Government submits an Annual Programme for the Participation of the Republic of Bulgaria in the EU decision-making process to the National Assembly. On this basis, the CEAOEF prepares a draft Annual Working Programme of the National Assembly, which lists the EU draft legislation that is monitored by the National Assembly.³⁶⁷ After receiving EU draft legislation, the Council on European Affairs transfers the text to the President of the National Assembly along with a framework position. The President of the National Assembly forwards the proposal and the position of the Government to the standing committees, which in turn address the specific policy area of the proposal.³⁶⁸ The standing committees debate the proposal, prepare a report and submit it to the CEAOEF. The latter examines these documents and issues a final report to the President of the National Assembly. The National Assembly then makes a final decision. If it considers that the EU draft legislation infringes upon the subsidiarity principle, it sends its reasoned opinion to the Presidents of the European Parliament, the Council of the EU and the European Commission.³⁶⁹

The National Assembly is not registered as a member of the SMN.

As of October 2013, the Bulgarian National Assembly has issued three reasoned opinions.³⁷⁰

Procedures involving regional and local authorities and other relevant stakeholders

As observed in academic literature, ‘regional and local interests have so far been only weakly institutionalized in Bulgaria’s constitutional order, public administration and political process. The weakness of regional and local structures contain the role these structures play in the European constitutional

³⁶⁶Rules of organisation and procedure of the National Assembly, available at <http://www.parliament.bg/en/rulesoftheorganisations> (EN).

³⁶⁷Once adopted by the National Assembly, this list is sent to the Council of Ministers. This procedure is governed by Article 111 of the Rules of organisation and procedure of the National Assembly.

³⁶⁸Article 113 of the Rules of organisation and procedure of the National Assembly.

³⁶⁹Article 114 of the Rules of organisation and procedure of the National Assembly.

³⁷⁰IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

*debate and in the domestic implementation of EU policies.*³⁷¹

Municipalities and regions are not formally incorporated into the subsidiarity monitoring process. There are informal mechanisms, however, which permit regional and local authorities to voice their opinions to the National Assembly and the Government regarding European draft legislation in general, including (but not limited to) subsidiarity concerns.³⁷² Indeed, the National Assembly consults and invites relevant stakeholders to participate in discussions when EU draft legislation has a local or regional impact, and may notably request regional and local authorities via letter to issue their opinion on EU draft legislation.³⁷³ Moreover, the meetings of the CEAOEF are open to the public, and the CEAOEF has established a Council for Public Consultations. Public consultations³⁷⁴ are held for the purpose of determining the interests of relevant stakeholders that exist outside the National Assembly, including the National Association of Municipalities in the Republic of Bulgaria, which represents the interests of local governments and serves as their voice in defending these interests, in particular *vis-à-vis* the National Government.³⁷⁵ The Council for Public Consultation also discusses matters pertaining to the EU agenda, including EU initiatives. These mechanisms can thus be used by the National Assembly to incorporate the opinions of regional and local stakeholders concerning EU draft legislation, including those which relate to the subsidiarity principle.

One local authority is registered as a member of the SMN (Sofia City), but the Bulgarian CoR delegation does not participate in the SMN.³⁷⁶ Local and regional associations also participate in European local government associations which themselves are members of the SMN, such as the Assembly of European Regions³⁷⁷ or the Council of European Municipalities and Regions.³⁷⁸

³⁷¹M. Brusi, 'Accommodating European Union Membership: The Regional Level in Bulgaria', in R. Scully & R. Wyn Jones, *Europe, Regions and European Regionalism* (Houndmills, Palgrave Macmillan 2010) pp. 221-238, at pp. 221-222.

³⁷²These mechanisms are not specifically related to subsidiarity monitoring, but form part of the broader exercise of scrutinising EU draft legislation.

³⁷³CoR, Countries, Members without Legislative Powers, Bulgaria, Subsidiarity, available at <http://extranet.cor.europa.eu/divisionpowers/countries/MembersNLP/Bulgaria/Pages/3-Subsidiarity.aspx> (EN).

³⁷⁴For details on how public consultation works, see the 'Guide of Public Consultation in Bulgaria', available at <http://www.euaffairs.government.bg/uploads/docs/%D0%A4%D0%B0%D1%80/Guide%20Public%20Consultations%20EN.pdf> (EN).

³⁷⁵The National Association of Municipalities in the Republic of Bulgaria represents the interests of local governments and serves as their voice in defending these interests, in particular *vis-à-vis* the central government. Additional information is available at <http://www.namrb.org/?act=cms&id=117&lang=2> (EN).

³⁷⁶Additional information on the city of Sofia is available at http://www.sofia.bg/en/index_en.asp (EN).

³⁷⁷The Assembly of European Regions provides a forum for inter-regional cooperation and serves as a lobby for regional interests. It is based in Brussels. For further information, see <http://www.aer.eu/> (EN).

³⁷⁸The Council of European Municipalities and Regions is the largest organisation representing regional and local governments in Europe. It is based in Paris and in Brussels. For further information, see <http://www.ccre.org/> (EN).

3.1.2 Croatia

General

The Republic of Croatia is a unitary State.³⁷⁹ Legislative power is vested in a 151-seat unicameral³⁸⁰ Parliament known as the Assembly (*Sabor*). MPs are directly elected for a term of four years. The President of Croatia serves as Head of State and is directly elected by the people.³⁸¹

At the regional level, Croatia is divided into 21 counties (*županija*), which are defined by Article 134 of the Constitution as ‘*units of regional self-government.*’ These counties are the principal territorial subdivision within the country, and they enjoy a large degree of autonomy.³⁸² A process of decentralisation is currently underway in Croatia that is resulting in an increase in the number of administrative tasks assigned to the counties.³⁸³ County assemblies (*županijska skupština*) are composed of members who are directly elected to four year terms. The county assembly elects a county prefect who serves as the executive leader for the county (*župan*). The prefect presides over the county government and represents the county in external affairs. Regional-level competences of the administrative counties include the following: school system, health system, zoning and urban planning, economic development, traffic and traffic infrastructure, and planning and developing the network of educational, health, social and cultural institutions.³⁸⁴

At the local level there are 21 cities,³⁸⁵ 106 towns³⁸⁶ and 429 municipalities³⁸⁷ (*grad*).³⁸⁸ Municipalities and towns are ‘*units of local self-government*’ pursuant to Article 134 of the Constitution, while large cities - including the Capital City of Zagreb - may be given the status of a county by law.³⁸⁹

Cities, towns and municipalities each have their own assembly, whether a city

³⁷⁹Article 1 of the Constitution of Croatia, available at <http://www.sabor.hr/fgs.axd?id=17074> (EN).

³⁸⁰Until 28 March 2002, the Assembly was a bicameral legislature made up of the House of Representatives and the House of Counties.

³⁸¹Article 95 of the Constitution of Croatia.

³⁸²Council of European Municipalities and Regions, Local and Regional Authorities in Croatia, available at <http://www.ccre.org/en/membres/Croatie.htm> (EN).

³⁸³*Ibid.*

³⁸⁴See Article 20 of the Local and regional self-government act of 6 April 2001, available at <http://legislationline.org/documents/action/popup/id/5864> (EN).

³⁸⁵Cities are units that count more than 35,000 inhabitants.

³⁸⁶Towns are units that count more than 10,000 inhabitants and less than 35,000.

³⁸⁷Municipalities are units that count less than 10,000 inhabitants.

³⁸⁸Council of European Municipalities and Regions, Local and Regional Authorities in Croatia, available at <http://www.ccre.org/en/membres/Croatie.htm> (EN).

³⁸⁹Article 134 of the Constitution of Croatia. The Capital City of Zagreb effectively counts both as a city and as a county.

assembly (*gradska skupština*), a town council (*gradsko vijeće*) or a municipal council (*općinsko vijeće*). Members of these assemblies are directly elected for four-year terms.³⁹⁰ At the executive level, cities, towns and municipalities are headed by a mayor (*gradonačelnik*). Municipalities and towns have competences, *inter alia*, in localities and housing, regional and town planning, child care, social welfare, primary health care, education, culture, sports, consumer protection, environment, fire protection and civil protection.³⁹¹ The competences of cities include - in addition to those held by municipalities and towns - the maintenance of public roads and the issuing of building and renting permits.

Procedures at the central level

Article 144 of the Constitution of Croatia states that the Government shall report to the Parliament on EU draft legislation and that the Parliament may adopt conclusions which shall direct the actions of the Government when interacting with EU institutions.

Concurrent with the accession of Croatia to the EU on 1 July 2013, an act was adopted to organise the cooperation of the Croatian Parliament and the Government of the Republic of Croatia in European affairs.³⁹² Pursuant to this Act, the European Affairs Committee within the National Parliament is in charge of conducting parliamentary scrutiny and subsidiarity checks of EU draft legislation. It sets up an annual parliamentary Work Programme of EU draft legislation to be scrutinised. Pursuant to Article 13, paragraph 2 of the Act, *‘[i]n the case that within seven weeks from the submission of the proposal of the legislative act of the European Union by the institutions of the European Union the Committee establishes that the said proposal of the legislative act does not comply with the principle of subsidiarity, it shall send a reasoned opinion to the Speaker of the Sabor, who shall deliver it to the Prime Minister, the presidents of the European Parliament and the European Commission and to the Presidency of the Council of the European Union.’*

Any MP, parliamentary committee, parliamentary party group, the Government, or the European Affairs Committee itself may initiate the process of subsidiarity scrutiny.³⁹³

As of October 2013, Croatia’s National Parliament has not yet issued reasoned

³⁹⁰For further information, see Council of European Municipalities and Regions, Local and Regional Authorities in Croatia, available at <http://www.ccre.org/en/membres/Croatie.htm> (EN).

³⁹¹*Ibid.*

³⁹²Act on the co-operation of the Croatian Parliament and the Government of the Republic of Croatia in European affairs, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc53fe5d30c01401ad54fb622e7.do> (EN).

³⁹³For further information, see <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/hrhrv.do> (EN).

opinions.

Procedures involving regional and local authorities and other relevant stakeholders

In April 2011, the President of the Association of Municipalities of the Republic of Croatia³⁹⁴ met with the then President of the CoR (Ms Mercedes Bresso) and the Head of the Delegation of the EU in Croatia (Ambassador Paul Vandoren). The representatives of the Croatian local and regional governments deplored the excessive centralisation in Croatia, the lack of human resources and the inadequate funding of local and regional governments. Ms Bresso explained the importance of subsidiarity and of the proper preparation of local and regional authorities in order to function within the CoR.³⁹⁵

As of early 2012, the CoR has welcomed nine observers from local and regional authorities in Croatia to its plenary sessions and other meetings. Moreover, *‘[i]n cooperation with the European Commission, the CoR has also been engaged in strengthening the administrative capacities of Croatian local authorities in the framework of the Local Administration Facility Programme, notably via the organisation of seminars at local level and study visits of Croatia’s local and regional representatives in Brussels.’*³⁹⁶

Since the accession of Croatia to the EU on 1 July 2013, no formal mechanisms have been established to incorporate regional and local authorities into the subsidiarity monitoring process. Additionally, the Croatian Regions Office³⁹⁷ has not indicated any forthcoming formal or informal mechanisms for incorporating the regions into the subsidiarity monitoring process.³⁹⁸

If comparisons can be drawn between Croatia and the other EU Member States where regions do not possess legislative power, it may be expected that regional and local authorities and other relevant stakeholders will not independently

³⁹⁴The Croatian municipalities founded the Association of Municipalities of the Republic of Croatia in 2002. The organisation is founded on the principle of voluntary association and aims at strengthening the cooperation between Croatian municipalities. For further information, see <http://www.udruga-opcina.hr/eng/about-us/?ID=22> (EN).

³⁹⁵For further information, see <http://www.udruga-opcina.hr/eng/news/news.php?ID=1279> (EN).

³⁹⁶http://europa.eu/rapid/press-release_COR-13-60_en.htm (EN). The Local Administration Facility Programme supports regional and local authorities within candidate countries to prepare for the accession to the EU. For further information, see http://eeas.europa.eu/delegations/iceland/documents/press_corner/laf_leaflet_en.pdf (EN).

³⁹⁷The Croatian Regions Office in Brussels informs Croatian regions and cities on European affairs, conducts advocacy towards the European Commission and the CoR for Croatia and the represented regions. Moreover, it organises seminars, conferences and workshops. For further information, see <http://www.croatianregions.eu/en/> (EN).

³⁹⁸Croatian Regions Office, Response to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

assess draft EU legislation for potential violations of the subsidiarity principle, but may instead be informally consulted on a case-by-case basis.

Neither regional and local authorities or associations nor the Croatian CoR delegation are SMN members. Local and regional associations, however, participate in the Council of European Municipalities and Regions,³⁹⁹ which itself is a member of the SMN.

3.1.3 Cyprus

General

At the national level, the Republic of Cyprus has a unicameral legislature which is called the House of Representatives (*Vouli ton Antiprosópon*). The Parliament has 80 seats, 56 of which are assigned to directly elected Greek Cypriots. The remaining 24 seats are nominally reserved (but currently vacant) for the Turkish Cypriot community, which has abstained from participating in parliamentary elections since 1963.⁴⁰⁰ The President of Cyprus serves as both Head of State and Head of Government, and is directly elected by the people every five years.⁴⁰¹

At the regional level, Cyprus is composed of six administrative districts.⁴⁰² These districts are run by a district office, which belongs to the civil service and does not constitute an elected regional authority. Each district office is headed by a district officer that is a senior civil servant appointed by the Government as its local representative. The district offices are accountable to the Ministry of Internal Affairs.

At the local level, there are two types of local authorities: the municipalities (*dimoi*),⁴⁰³ which constitute the local structure in urban areas and tourist centres (there are 33 municipalities in Cyprus), and the communities (*koinotites*),⁴⁰⁴

³⁹⁹For further information, see footnote 378.

⁴⁰⁰Inter-Parliamentary Union website, available at http://www.ipu.org/parline-e/reports/2081_A.htm (EN). See also the website of the Parliament, available at <http://www.parliament.cy/easyconsole.cfm/id/142> (EN).

⁴⁰¹Article 43 of the Constitution of Cyprus, available at [http://www.law.gov.cy/Law/lawoffice.nsf/All/D258BC27BC074E14C22575CB004421DD/\\$file/Constitution1960.doc](http://www.law.gov.cy/Law/lawoffice.nsf/All/D258BC27BC074E14C22575CB004421DD/$file/Constitution1960.doc) (EN).

⁴⁰²CoR, *Division of Powers between the European Union, the Member States and Regional and Local Authorities* (drafted by EIPA and the European Center for the Regions, CoR publications 2012), available at http://cor.europa.eu/en/documentation/studies/Documents/division_of_powers/division_of_powers.pdf (EN), p. 107. The six districts are Famagusta, Kerynia, Larnaca, Limassol, Nicosia, and Paphos.

⁴⁰³Union of Cyprus Municipalities, Local Authorities, available at <http://www.ucm.org.cy/Webcontent.aspx?Code=EN.ABOUT.LocalAuthorities&Language=English> (EN).

⁴⁰⁴Union of Cyprus Communities, available at <http://www.ekk.org.cy/english/index.shtm> (EN).

which are located in rural areas (there are 492 communities in Cyprus).⁴⁰⁵

The Municipal Act No. 111/85 of 18 October 1985⁴⁰⁶ governs the functioning of municipalities. Mayors are directly elected by the citizens of municipalities for a period of five years and constitute the executive authorities. Municipal councils - the policy-making bodies - are also elected for a five-year term. Their competences include, *inter alia*, construction, waste, environment, public health, development, and the maintenance of streets and municipal gardens. The communities are governed by the Communities Act N. 86 (I)/99 of 1999.⁴⁰⁷ Both the president of the community and the members of the community council are directly elected for a five-year period. Communities administer local affairs in competence areas similar to those of the municipalities.

Procedures at the central level

Upon reception of EU draft legislation sent by the EU institutions to the Parliament, the European Affairs Service (EAS) of the Parliament forwards initiatives that are deemed important (based on their potential impact on Cyprus) and that may breach the subsidiarity principle to the House Standing Committee on Foreign and European Affairs (HSCFEA) and to sectoral committees with competences in subject areas relevant to the EU draft legislation.⁴⁰⁸ The drafts are accompanied by information on the subsidiarity principle, an explanatory note and a report prepared by the EAS containing its recommendation.⁴⁰⁹

The HSCFEA decides whether the proposal will be reviewed by itself and/or by the competent sectoral committee, after which the proposal is examined in one or more meetings (of the HSCFEA and/or the competent sectoral committee). It is at this stage that the Government is invited to present its position, and any interested party - including regional and local authorities - may be invited to participate in the meeting of the HSCFEA.⁴¹⁰ Once the subsidiarity check is finalised, the HSCFEA adopts a report. If this report concludes that the subsidiarity principle has been breached, a reasoned opinion is adopted and

⁴⁰⁵These figures are quoted in G. Coucounis, 'Local government in Cyprus', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 91-110, at p. 96.

⁴⁰⁶An unofficial translation in English of this Act is available at <http://www.ucm.org.cy/DocumentStream.aspx?ObjectID=966> (EN). The Greek version is available at http://www.ucm.org.cy/downloads/nomos_dimon.pdf (GR).

⁴⁰⁷This Act is only available in Greek at http://www.ucm.org.cy/downloads/nomos_koinotiton.pdf (GR).

⁴⁰⁸House of Representatives, Response to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

⁴⁰⁹IPEX, National Parliaments, Cyprus House of Representatives, 'Scrutiny of documents from the European Union and monitoring compliance with the principle of subsidiarity', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013ac08161117376.do> (EN).

⁴¹⁰*Ibid.*

forwarded by the President of the House of Representatives together with a cover letter to the EU institutions.⁴¹¹

The House of Representatives is not a member of the SMN.

As of October 2013, the House of Representatives has issued five reasoned opinions.⁴¹²

Procedures involving regional and local authorities and other relevant stakeholders

Within Cyprus, the districts and municipalities are not formally involved in the subsidiarity monitoring process and do not independently carry out assessments of EU draft legislation regarding potential violations of the subsidiarity principle.

Regional and local authorities may nonetheless be informally consulted regarding EU draft legislation in general (but not specifically concerning subsidiarity) at scheduled meetings of the HSCFEA or the relevant sectoral committee.⁴¹³ However, the reasoned opinions published so far by the House of Representatives of Cyprus do not explicitly mention the consultation of regional and local authorities.⁴¹⁴

There is one association of local authorities that is a registered member of the SMN (the Union of Cyprus Municipalities). This association established an office in Brussels in July 2005, and serves notably to actively support the participation of municipalities in the CoR.⁴¹⁵ Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁴¹⁶ or the Council of European Municipalities and Regions.⁴¹⁷ The Cypriot CoR delegation is not a member of the SMN.

⁴¹¹*Ibid.*

⁴¹²IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁴¹³See above.

⁴¹⁴See Appendix 2.

⁴¹⁵G. Coucounis, 'Local government in Cyprus', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 91-110, at p. 108.

⁴¹⁶For further information, see footnote 377.

⁴¹⁷For further information, see footnote 378.

3.1.4 Czech Republic

General

The Czech Republic is a unitary State. The bicameral National Parliament (*Parlament České republiky*) is composed of the Chamber of Deputies (*Poslanecká sněmovna*), which has 200 members elected for a term of four years, and the Senate (*Senát*), which has 81 members elected for a term of six years.⁴¹⁸ Pursuant to the Constitution, the President is the Head of State while the Prime Minister is the Head of Government.⁴¹⁹

The Czech Republic is divided into various regions and municipalities, all of which exercise independent and delegated competences. In areas of independent competence, they have the autonomous power to act; when exercising delegated competences, they act as deconcentrated units of the State administration.⁴²⁰ Regional authorities are responsible for regulating the exercising of delegated competences by municipalities.

There are 13 regions (*kraje*) and one capital city (*hlavní město*) with regional status (Prague) in the Czech Republic.⁴²¹ Each region is administered by a regional assembly (*zastupitelstvo kraje*), which acts as the region's deliberative body⁴²² and whose members are directly elected for four-year terms. The assembly elects a president from among its members to serve as its representative at the local and national levels. A regional committee (*rada kraje*) serves as the executive body and is composed of the president, vice-president and additional members selected by and from the assembly. By way of exception, Prague - which has the double status of region and municipality - is administered by a City Council and a Mayor. Regional competences include, *inter alia*, road networks, social services, environment, transport, regional development and health.⁴²³

⁴¹⁸Article 16 of the Constitution of the Czech Republic, available at <http://www.psp.cz/cgi-bin/eng/docs/laws/1993/1.html> (EN).

⁴¹⁹Articles 54-56 and 67-68 of the Constitution of the Czech Republic.

⁴²⁰'However, the extension of those delegated competences differs according to the type of municipality.' For further information, see S. Kadečka, 'Local government in the Czech Republic', G. Coucounis, 'Local government in Cyprus', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 111-133.

⁴²¹A map locating the 13 regions is available at the website of the Association of Regions of the Czech Republic, available at http://www.asociacekraju.cz/vismo5/dokumenty2.asp?id_org=450022&id=151529&p1=32275 (EN and CS).

⁴²²Council of European Municipalities and Regions, Local and Regional Authorities in the Czech Republic, available at <http://www.ccre.org/en/membres/R%C3%A9publique%20tch%C3%A8que.htm> (EN) and Association of Regions of the Czech Republic, available at

http://www.asociacekraju.cz/vismo5/dokumenty2.asp?id_org=450022&id=151529&p1=32275 (EN).

⁴²³*Ibid.*

At the local level there are 6,249 municipalities (*obec*).⁴²⁴ Each municipality has a municipal council (*zastupitelstvo obce*) that acts as deliberative assembly and which is composed of members that are directly elected to four-year terms. The municipal council elects members from within its ranks to serve on the municipal committee (*rada obce*), which acts as the executive body at the local level. The committee is led by a mayor (known as a *starosta* for small municipalities or towns, or a *primátor* for large towns or cities) who is elected by the municipal council to a four-year term. Local competences include municipal budgets, local development, agriculture and forest maintenance, water supply and sewage, household refuse, primary education, housing, social services, spatial planning, cooperation with other municipalities and regions and public transport.⁴²⁵

Procedures at the central level

Pursuant to the Constitution, the Government must inform the Parliament on European matters.⁴²⁶ The Chambers of the Parliament have not established a single common body to deal with EU matters. As a consequence, each of the Chambers has independently defined the procedures for monitoring EU draft legislation in their rules of procedure.⁴²⁷ Both Chambers are entitled to give their opinion to the Government.

In the Senate, draft legislation is received by the Senate's EU Affairs Unit, which provides a weekly overview of EU draft legislation that is sent to all senators and interested recipients. The Head of the EU Affairs Unit, the advisor to the Committee on European Affairs and the Chairman of this Committee discuss these proposals, and the Chairman provides the Committee with a recommendation on whether to start the subsidiarity scrutiny or not. The decision to start the procedure has to be made by a majority of the members of the Committee. Opinions regarding potential breaches are debated within the Committee on European Affairs along with the view of the Government (when it is invited to participate). Following this debate, the Committee adopts a recommendation, which is submitted to the plenary session of the Senate. Once it is adopted by the plenary, it stands as the official position of the Senate and is

⁴²⁴Union of towns and municipalities of the Czech Republic, Self-governments in the Czech Republic, available at <http://www.smocr.cz/en/important-info/structure-of-territorial-self-government.aspx> (EN).

⁴²⁵Council of European Municipalities and Regions, Local and Regional Authorities in the Czech Republic, available at <http://www.ccre.org/en/membres/R%C3%A9publique%20tch%C3%A8que.htm> (EN).

⁴²⁶Article 10b of the Constitution of the Czech Republic.

⁴²⁷Rules of Procedure of the Chamber of Deputies, Part Fifteen A, available at <http://www.psp.cz/cgi-bin/eng/docs/laws/1995/90.html#s15a> (EN); Standing rules of the Senate, Section 119, available at <http://www.senat.cz/informace/zakon106/zakony/zak107-eng.php> (EN).

communicated to the Government and EU institutions.⁴²⁸

Following the accession of the Czech Republic to the EU, the Chamber of Deputies established the Committee for European Affairs as a standing committee in May 2004.⁴²⁹ A list of EU draft legislation is sent to the members of the Committee for European Affairs, who subsequently determine which proposals shall be further scrutinised. Generally, the Government is obliged to present its opinion on each legislative proposal within a period of ten days. During the scrutiny process, relevant ministries may be called upon for their expert opinions. If a reasoned opinion is adopted after being presented to the plenary, it is formally sent to the Government, the President of the Senate and the Presidents of the EU institutions.⁴³⁰

Neither the House of Representatives nor the Senate are SMN members.

As of October 2013, the Chamber of Deputies and the Senate have each issued three reasoned opinions.⁴³¹

Procedures involving regional and local authorities and other relevant stakeholders

Within the Czech Republic, the regions and municipalities do not independently assess EU draft legislation for potential violations of the subsidiarity principle.⁴³² Furthermore, no formal mechanisms exist to incorporate the opinions of regional and local authorities.

However, during the debates at the Committee level within the two Chambers of the National Parliament, representatives of regional and local bodies can nonetheless express their positions relating to any EU draft legislation, including those which relate to subsidiarity concerns.⁴³³ Moreover, the Association of Regions of the Czech Republic (ARCR), which acts as a forum for regional

⁴²⁸For further information, see IPEX, Czech Senate, ‘Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity’, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a699f56a34540.do> (EN).

⁴²⁹IPEX, Czech Chamber of Deputies, available at <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/czpos.do> (EN).

⁴³⁰IPEX, Czech Chamber of Deputies, ‘Scrutiny of documents for compliance with the principle of subsidiarity’, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013aabec945969a9.do> (EN).

⁴³¹IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁴³²Chamber of Deputies and Senate, Response to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

⁴³³Information and data collected for the CoR by EIPA, 2011.

cooperation, may make use of the existing means for participation to express the voice of the regions on various issues, including on how EU legislation affects the regions.⁴³⁴ However, reasoned opinions published so far by the Czech Parliament do not explicitly mention the consultation of regional and local authorities or additional stakeholders.⁴³⁵

There is one local authority that is a registered member of the SMN (Zlín City). Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁴³⁶ or the Council of European Municipalities and Regions.⁴³⁷ The Czech CoR delegation is not a member of the SMN.

3.1.5 Denmark

General

The Kingdom of Denmark is a unitary constitutional monarchy. It has a unicameral Parliament (*Folketing*), which is composed of 179 MPs elected once every four years. 175 MPs are elected in Denmark, with two elected in Greenland and two in the Faroe Islands.⁴³⁸

According to the Constitution, the legislative power lies with the monarch and the Parliament jointly, while the executive power lies with the monarch.⁴³⁹ However, *‘[i]n practice, the Government and Parliament define Acts. The Queen only signs them. The Queen has to implement the Acts - she has the executive power. Today, this simply means that she only formally appoints the Ministers of a Government. In practice, it is the Ministers and their Ministries*

⁴³⁴ Additional information on ARCR is available at http://www.asociacekraju.cz/vismo5/dokumenty2.asp?id_org=450022&id=151529 (EN).

⁴³⁵ See Appendix 2.

⁴³⁶ For further information, see footnote 377.

⁴³⁷ For further information, see footnote 378.

⁴³⁸ For further information, see the Fact sheet on the Danish Parliament, available at http://www.thedanishparliament.dk/Publications/~media/Pdf_materiale/Pdf_publicationer/English/ld_folketinget_uk_05.pdf.ashx (EN). Faroe Islands and Greenland are part of the Kingdom of Denmark but they enjoy far-reaching home rule. Greenland's and Faroe Islands' competences of self-government have been extended respectively by the Greenland Self-Rule Act and the Home Rule Act of the Faroe Islands. They each have a Parliament that exercises legislative powers. *‘They hold competence in all matters except foreign and security policy, monetary systems, police and justice, and constitutional matters, which are regulated as a part of Denmark. Furthermore, there is an extensive educational cooperation between Denmark and Greenland and Faroe Island, as they do not have any institutions of higher education.’* For further information, see CoR, Countries, Members without Legislative Powers, Denmark, Division of Powers, available at <http://extranet.cor.europa.eu/divisionpowers/countries/MembersNLP/Denmark/Pages/default.aspx> (EN) and <http://denmark.dk/en/society/greenland-and-the-faroese/> (EN).

⁴³⁹ Section 3 of the Constitution of Denmark, available at http://www.thedanishparliament.dk/Publications/~media/Pdf_materiale/Pdf_publicationer/English/My%20Constitutional%20Act_version10.pdf.ashx (EN).

*that subsequently make sure the laws are complied with.*⁴⁴⁰ The monarch serves as Head of State and the Prime Minister serves as Head of Government. The Danish Government does not need to have a majority in the Parliament, rather it must not have a majority against it within the Parliament. This mechanism is known as negative parliamentarianism.⁴⁴¹

There are no guarantees of local self-government in the Danish Constitution, except for Section 82 of the Constitution, which indicates that '*[m]unicipalities' right to manage their affairs autonomously under the supervision of the State is regulated by an Act.*'⁴⁴² Pursuant to the Danish local government reform of 2007⁴⁴³, which reorganised the territorial divisions established in 1970 and implemented a new distribution of tasks between municipalities and regions, the territory is subdivided into five regions⁴⁴⁴ (*regioner*) and 98 municipalities⁴⁴⁵ (*kommuner*). The former 14 counties (*amter*) were replaced by five regions and the municipalities were reduced from 271 to 98.⁴⁴⁶

The regions are administered by regional councils (*regionsråd*) composed of 41 members who are directly elected to four-year terms. The regional councils elect their presidents from within their ranks. Regional councils do not possess legislative powers,⁴⁴⁷ but have administrative competences in health care, hospitals, health insurance, mental health treatment, social services, regional development, business promotion, tourism, nature and environment, employment, culture, transport and social pollution.

Municipalities are administered by municipal councils composed of nine to 31 members who are directly elected to four-year terms.⁴⁴⁸ Each municipal council elects a mayor who heads the municipal administration. Municipalities have administrative competences relating to primary education, child care, care for

⁴⁴⁰Explanations following Section 3 of the Constitution of Denmark, available at <http://www.thedanishparliament.dk/Publications/My%20Constitutional%20Act%20with%20explanations/Chapter%201.aspx> (EN).

⁴⁴¹Fact sheet on the Danish Parliament, available at http://www.thedanishparliament.dk/Publications/~media/Pdf_materiale/Pdf_publicationer/English/ld_folketinget_uk_05.pdf.ashx (EN).

⁴⁴²The legal framework of the municipalities consists in several acts, including the Local Government Act (Act No. 615 of 18 January 1995) and the Local and Regional Government Election Act (Act No. 140 of 8 March 1989).

⁴⁴³The local government reform was enacted through 50 acts which organise the division and distribution of tasks and are included in the Agreement on a Structural Reform. For further information, see <http://www.regioner.dk/~media/Filer/Danish%20Regions/The%20Local%20Government%20Reform%20in%20Brief.ashx> (EN).

⁴⁴⁴For further information, see Danish Regions, available at <http://www.regioner.dk/in+english> (EN).

⁴⁴⁵For further information, see Local Government Denmark, available at <http://www.kl.dk/English/> (EN).

⁴⁴⁶Danske Regioner, Regional Denmark, available at <http://www.regioner.dk/in+english/regional+denmark> (EN).

⁴⁴⁷Danish Senior EU Advisor, Response to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

⁴⁴⁸*Ibid.*

the elderly, integration of refugees and immigrants, environmental protection, assistance to the unemployed, economic development and culture and sports.⁴⁴⁹

Procedures at the central level⁴⁵⁰

In Denmark, the main actors involved in the subsidiarity check at the national level include the Parliament's European Affairs Committee⁴⁵¹ (EAC) and sectoral committees, as well as the Government.

At the beginning of each year, the EAC selects roughly five to ten proposals from the European Commission's Annual Work Programme. The list of pre-selected proposals is forwarded to the Government. In the course of the year, the EAC may - on a case-by-case basis - select additional EU proposals based on new information and subsidiarity lists from other national parliaments.

Upon receiving EU draft legislation, the EAC forwards proposals to the appropriate sectoral committee(s) (based on the subject matter of the proposals). The respective sectoral committees have five weeks to issue preliminary recommendations to the EAC regarding non-compliance with the subsidiarity principle. After receiving preliminary recommendations, the EAC has the remaining time prior to the eight-week deadline to adopt its reasoned opinion and send it to the Government, the European Commission, the Council and the European Parliament. In the event that the opinions of the sectoral committee and the EAC differ, joint meetings are to be held to discuss the differences.⁴⁵²

In addition to the subsidiarity checks performed by the Danish Parliament, the Government conducts independent subsidiarity checks on all EU draft legislation. Based on its own evaluation, the Government issues a memorandum containing an assessment on the compliance with the subsidiarity principle and on the expected impact of the proposed legislation on Denmark. This memorandum has to be forwarded to the EAC and relevant sectoral committees within four weeks after the proposal has been received by the Government in Danish - and within a period of only three weeks if the proposal belongs to the

⁴⁴⁹Council of European Municipalities and Regions, Local and Regional Authorities in Denmark, available at <http://www.ccre.org/en/membres/Danemark.htm> (EN). For further information, see http://www.kl.dk/ImageVault/Images/id_38221/ImageVaultHandler.aspx (EN).

⁴⁵⁰Information presented here regarding the subsidiarity monitoring process by the National Assembly was confirmed by a Senior EU Adviser for the Danish Parliament.

⁴⁵¹Folketinget, *The European Affairs Committee of the Danish Parliament*, p. 21, available at http://www.thedanishparliament.dk/Publications/~media/Pdf_materiale/Pdf_publicationer/English/euo_europau_dvalg_jan2012_uk_web.pdf.ashx (EN).

⁴⁵²For further information, see IPEX, National Parliaments, Danish Parliament, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013aabe6290669a7.do> (EN) and European Affairs Committee, Report No. 2, 'Considerations of EU matters by the Folketing in relation to subsidiarity checks', available at <http://euo.dk/upload/application/pdf/be607a32/naerhedsENberet.pdf> (EN).

list of proposals pre-selected by the Danish Parliament.⁴⁵³

As of October 2013, the Danish Parliament has issued eight reasoned opinions.⁴⁵⁴

Procedures involving regional and local authorities and other relevant stakeholders

In Denmark, regions and municipalities do not independently assess EU draft legislation for potential violations of the subsidiarity principle. Furthermore, no formal mechanisms exist to incorporate the opinions of regional and local authorities into the subsidiarity scrutiny.

Informally, the organisation of the ‘Danish Regions’ (*Danske Regioner*)⁴⁵⁵ - which represents the interests of the five regions in Denmark at both the national and international level - is frequently consulted by the National Parliament when EU draft legislation is deemed relevant to regional interests.⁴⁵⁶ However, this consultation does not specifically concern subsidiarity issues. The organisation of the ‘Danish Regions’ is run by a board of politicians elected from the five regions and has an administrative staff of 170 persons. It acts as the voice of the regions vis-à-vis the National Government and the EU.

Furthermore, regions and municipalities are also able to express their opinions informally on EU draft legislation (including on non-compliance with the subsidiarity principle) by participating in the meetings of the 34 EU Special Committees set up under the auspices of the sectoral ministries. These are composed of civil servants from relevant ministries and governmental agencies. On an ad hoc basis, interest groups may be invited to participate in these meetings. These EU Special Committees ‘*form the core of the internally decentralized Danish EU coordination, as it is here that by far the most time is spent on EU coordination.*’⁴⁵⁷ They analyse EU draft legislation and prepare Danish governmental positions on these proposals.

Finally, the *Folketing* may request that regional or local authorities issue opinions on potential violations of the subsidiarity principle. Two out of the

⁴⁵³*Ibid.*

⁴⁵⁴IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁴⁵⁵<http://www.regioner.dk/In+English.aspx> (EN).

⁴⁵⁶Danish Senior EU Advisor, Response to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

⁴⁵⁷P. Nedergaard, ‘EU coordination processes in Denmark: Change in order to preserve’, in L. Miles & A. Wivel (eds.), *Denmark and the European Union* (London, Routledge forthcoming in 2014) p. 208.

eight reasoned opinions published so far by the Danish Parliament state that it would be better to address the scope of the proposed EU legislation at central, regional or local levels; however, none of the reasoned opinions published so far explicitly mentions the consultation of regional and local authorities.⁴⁵⁸

When the *Folketing*'s EU Secretariat enters the reasoned opinion in its records, the information is made available to the public on the Danish Parliament's website.⁴⁵⁹ The two associations which represent, respectively, regional authorities and local authorities are registered members of the SMN ('Danish Regions' and 'Local Government Denmark',⁴⁶⁰). Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁴⁶¹ or the Council of European Municipalities and Regions.⁴⁶² The Danish CoR delegation is not a member of the SMN.

3.1.6 Estonia

General

The Republic of Estonia is a unitary State. Legislative power is vested in a unicameral Parliament (*Riigikogu*) composed of 101 MPs who are directly elected every four years.⁴⁶³ The President serves as Head of State. He or she is elected by the Parliament for a five-year term and notably represents the Republic in international relations.⁴⁶⁴ The Prime Minister serves as Head of Government, and is nominated by the President and approved by the Parliament.⁴⁶⁵

There are no regions in Estonia that are endowed with some form of political self-government, though the country is divided into 15 counties⁴⁶⁶ (*maakonnad*) which serve as administrative units of the national Government, i.e. as departments of the Ministry of Internal Affairs. The county governments

⁴⁵⁸ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN).

⁴⁵⁹ Danish Parliament, 'Consideration of EU matters in the Folketing - a summary', available at <http://www.eu-oplysningsingen.dk/upload/application/pdf/7943011a/Ref.pdf> (EN).

⁴⁶⁰ 'Local Government Denmark' represents municipalities and, 'provides services to members in a number of fields: information, trouble-shooting, networking, training and education.' For further information, see Local Government Denmark, *The Danish local Government System*, p. 11, available at http://www.kl.dk/ImageVault/Images/id_38221/ImageVaultHandler.aspx (EN) and more generally <http://www.kl.dk/English/Local-Government-Denmark/> (EN).

⁴⁶¹ For further information, see footnote 377.

⁴⁶² For further information, see footnote 378.

⁴⁶³ Article 60 of the Constitution of Estonia, available at <http://www.president.ee/en/republic-of-estonia/the-constitution/index.html> (EN).

⁴⁶⁴ Articles 77-79 of the Constitution of Estonia.

⁴⁶⁵ Articles 86 and 89 of the Constitution of Estonia.

⁴⁶⁶ A list of counties is available at http://cdsp.sciences-po.fr/fichiers_elections25_ANG/ESTONIA_ANG.pdf (EN).

(*maavalitsus*) thus act as state administration agencies. They are each led by a governor who represents the national Government at the regional level. Governors are appointed by the Government for a five-year term.⁴⁶⁷

As to the local level, Article 154(1) of the Constitution states that ‘[a]ll local issues shall be resolved and managed by local governments, which shall operate independently pursuant to law.’ Each county is divided into municipalities (*omavalitsus*). There are two types of municipalities, i.e. the cities (*linn*) and the rural municipalities (*vald*).⁴⁶⁸ Out of a total of 226 municipalities in Estonia, 33 are urban and 193 are rural.⁴⁶⁹ Municipal councils (*volikogu*) composed of directly elected members are the deliberative bodies of the municipalities.⁴⁷⁰ The local governments (*valitsus*) act as the municipalities’ executive bodies. They are composed of the mayor and of members appointed by the mayor with the council’s approval. The mayors (*vallavanem* in rural municipalities and *linnapea* in cities) are appointed for four-year terms by the municipal councils. Local competences include, *inter alia*, education, social welfare, health services, culture, leisure and sports, social housing, urban and rural planning, tourism, transport, water supply, sewage, public lighting and central heating, environment, waste collections and disposal, road and cemetery maintenance and local taxes.⁴⁷¹ Two associations represent the common interests of local authorities in Estonia: the Association of Estonian Cities⁴⁷² and the Association of Municipalities of Estonia.⁴⁷³

Procedures at the central level

Participation of the Parliament in EU affairs is regulated by the Parliament’s Rules of Procedure and Internal Rules Act.⁴⁷⁴ Pursuant to a series of amendments to the previous document that were adopted in 2004, the main coordinator of EU affairs within the Parliament is the European Union Affairs Committee (EUAC).⁴⁷⁵

⁴⁶⁷Assembly of the Regions, Estonia, available at http://www.aer.eu/fileadmin/user_upload/MainIssues/Regional_Democracy/AER_Regionalism_Report/Report_by_country/ESTONIA_2010.pdf (EN).

⁴⁶⁸Article 155 of the Constitution of Estonia. There are no other status distinctions between the two types of municipalities.

⁴⁶⁹Council of European Municipalities and Regions, Local Authorities in Estonia, available at <http://www.ccre.org/en/membres/Estonie.htm> (EN).

⁴⁷⁰Article 156 of the Constitution of Estonia and Council of European Municipalities and Regions, Local Authorities in Estonia, available at <http://www.ccre.org/en/membres/Estonie.htm> (EN).

⁴⁷¹Council of European Municipalities and Regions, Local Authorities in Estonia, available at <http://www.ccre.org/en/membres/Estonie.htm> (EN).

⁴⁷²For further information, see <http://www.ell.ee/862> (EN).

⁴⁷³For further information, see <http://www.emovl.ee/est/?show=article&group=3&language=EST> (ET).

⁴⁷⁴Rules of Procedure and Internal Rules Act, available at http://www.riigikogu.ee/?rep_id=799356 (EN).

⁴⁷⁵The Parliament of Estonia, Riigikogu and the European Union, available at <http://www.riigikogu.ee/index.php?id=34592> (EN).

Upon receiving EU draft legislation, the Government discusses the proposal before sending it to the Board of the Parliament⁴⁷⁶ together with an Explanatory Memorandum containing, *inter alia*, an analysis of the compliance of the EU draft legislation with the subsidiarity principle.⁴⁷⁷ The Board forwards the documents to the EUAC - or the Foreign Affairs Committee (FAC) if the draft concerns the common foreign and security policy of the EU - and designates one or more specialised standing committees to provide an opinion on the draft legislation. The specialised standing committee must submit a draft opinion to the EUAC or the FAC within the timeframe specified by the Board.⁴⁷⁸ The EUAC analyses the documents and decides whether or not to issue a draft resolution containing a reasoned opinion. If in the affirmative, the draft resolution is subject to a debate in accordance with the procedure laid down in paragraph 1526 of the Rules of Procedure and Internal Rules Act. If the draft resolution is adopted, the President of the Parliament forwards the reasoned opinion to the relevant EU institutions.

The Parliament does not participate in the SMN.

As of October 2013, the Estonian Parliament has issued one reasoned opinion.⁴⁷⁹

Procedures involving regional and local authorities and other relevant stakeholders

Given that there are no regional authorities in Estonia endowed with some degree of self-government, there are no procedures established at the regional level to carry out assessments of EU draft legislation regarding potential violations of the subsidiarity principle.⁴⁸⁰

Moreover, the Parliament has not established any formal mechanisms for purposes of consulting local bodies in the context of the EWS.

There are, however, various informal channels for consultation and participation extended to a variety of stakeholders - including local authorities - and civil society organisations. Thus, pursuant to paragraph 36(2) of the Rules of Procedure and Internal Rules Act, *'[r]epresentatives of state agencies and other persons may participate in committee sittings when invited by the chairman of*

⁴⁷⁶Pursuant to Paragraph 12 of the Rules of Procedure and Internal Rules Act, '[t]he Board of the Riigikogu consists of the President and Vice-Presidents of the Riigikogu.'

⁴⁷⁷Paragraph 1522 of the Rules of Procedure and Internal Rules Act.

⁴⁷⁸Paragraph 1523 of the Rules of Procedure and Internal Rules Act.

⁴⁷⁹IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁴⁸⁰Information and data collected for the CoR by EIPA, 2011.

the committee.' It is observed that these informal mechanisms are of a general nature and are not specifically aimed at the screening of EU draft legislation (and, *a fortiori*, not specifically related to subsidiarity monitoring).

There are no local authorities that participate in the SMN. However, local associations⁴⁸¹ do participate in European local government associations, such as the Council of European Municipalities and Regions.⁴⁸² The Estonian CoR delegation is not a member of the SMN.

3.1.7 France

General

The French Republic is a unitary State in which the legislative power is vested in a bicameral legislature comprised of the National Assembly (*Assemblée Nationale*) and the Senate (*Sénat*). The National Assembly is composed of 577 directly elected Deputies.⁴⁸³ The Senate is composed of 348 Senators who are elected by indirect suffrage.⁴⁸⁴ As stated in Article 24(4) of the French Constitution, '*[t]he Senate shall ensure the representation of the territorial communities of the Republic.*' Senators are elected in each department⁴⁸⁵ by an electoral college, which is mainly composed of delegates from municipal councils.⁴⁸⁶ The President serves as Head of State and is directly elected by the people.⁴⁸⁷ The Prime Minister serves as Head of Government and is appointed by the President.⁴⁸⁸

France is composed of 27 regions, 22 of which are located in metropolitan France with the remaining five overseas.⁴⁸⁹ Each region, with the exception of Corsica,⁴⁹⁰ is administered by a regional council, which acts as a deliberative body and is composed of members elected every six years.⁴⁹¹ Regional councils

⁴⁸¹The Association of Estonian Cities is a member of the International Union of Local Authorities, the Council of European Municipalities and Regions, the Congress of Local and Regional Authorities of the Council of Europe, the Baltic Sea States Sub-Regional Cooperation and the Joint Consultative Committee of the CoR. For further information, see <http://www.ell.ee/862> (EN).

⁴⁸²For further information, see footnote 378.

⁴⁸³Article 24(3) of the French Constitution, available at <http://www.assemblee-nationale.fr/english/8ab.asp> (EN).

⁴⁸⁴Article 24(4) of the French Constitution.

⁴⁸⁵See below.

⁴⁸⁶For further information, see http://www.senat.fr/lng/en/senators/the_senatorial_elections.html (EN).

⁴⁸⁷Articles 6 and 7 of the French Constitution.

⁴⁸⁸Articles 8 and 21 of the French Constitution.

⁴⁸⁹For a list of the French Regions, see <http://www.insee.fr/fr/methodes/nomenclatures/cog/region.asp> (FR).

⁴⁹⁰Corsica is afforded the special status of a self-governing authority with specific institutions (the Territorial Assembly and the Executive Council).

⁴⁹¹See European Elections Database, Administrative Divisions, available at http://www.nsd.uib.no/european_election_database/country/france/administrative_divisions.html (EN) and Council of European Municipalities and Regions, Regional and Local Authorities in France, available at <http://www.ccre.org/en/membres/France.htm> (EN).

elect a president from among their members to serve as the executive at the regional level.⁴⁹² Regional councils do not have legislative powers.⁴⁹³ However, Regions have administrative powers, *inter alia*, in the fields of transport, infrastructure, economic development, tourism, education (secondary schools), universities and research, environment and training.⁴⁹⁴ Moreover, periodic transfers of competences from the State to the regions - notably in the areas of regional railways and cultural monuments - have progressively strengthened the role of regions in France.⁴⁹⁵

At the intermediary level, France is subdivided into 101 departments (*départements*), five of which are located overseas.⁴⁹⁶ Departments are each governed by a general council (*Conseil général*), which, like the regional council, is elected every six years. The president of the general council - elected by and from within the general council - holds the executive power within the department. The prefect represents the National Government within the department and maintains the status of administrative police authority.⁴⁹⁷ Similar to the regional level, departments do not possess legislative powers⁴⁹⁸ but have progressively been granted powers transferred from the State, *inter alia* in relation to social assistance and national roads.

At the local level, France has 36,681 municipalities.⁴⁹⁹ Municipal councils are directly elected to six-year terms and are headed by a mayor. The mayor is elected by the council from within its ranks. Although Article 72 of the French Constitution states that local communities ‘*shall have the power to make*

⁴⁹²Council of European Municipalities and Regions. Regional and Local Authorities in France, available at <http://www.ccre.org/en/membres/France.htm> (EN).

⁴⁹³See e.g. CoR, *Division of Powers between the European Union, the Member States and Regional and Local Authorities* (drafted by EIPA and the European Center for the Regions, CoR publications, 2012), available at http://cor.europa.eu/en/documentation/studies/Documents/division_of_powers/division_of_powers.pdf (EN), p. 275. See also R. Hertzog, ‘Local Government in France’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 203-231, at p. 220.

⁴⁹⁴Council of European Municipalities and Regions, Regional and Local Authorities in France, available at <http://www.ccre.org/en/membres/France.htm> (EN).

⁴⁹⁵For further information, see J. Loughlin, ‘France: From the “one and indivisible republic” to the decentralized unitary state’, in J. Loughlin, J. Kincaid & W. Swenden, *Routledge Handbook of Regionalism and Federalism* (London, Routledge 2013) pp. 341-350.

⁴⁹⁶Institut national de la statistique et des études économiques, available at <http://insee.fr/fr/methodes/nomenclatures/cog/documentation.asp> (FR).

⁴⁹⁷Council of European Municipalities and Regions, Regional and Local Authorities in France, available at <http://www.ccre.org/en/membres/France.htm> (EN). Until 1982, the prefect of a department exercised the executive power within that department. This competence is nowadays exercised by the president of the general council. The office of a department prefect (*préfecture départementale*) administers a territory that is identical to that of the department.

⁴⁹⁸CoR, *Division of Powers between the European Union, the Member States and Regional and Local Authorities* (drafted by EIPA and the European Center for the Regions, CoR publications 2012), available at http://cor.europa.eu/en/documentation/studies/Documents/division_of_powers/division_of_powers.pdf (EN), p. 275.

⁴⁹⁹Institut national de la statistique et des études économiques, available at <http://insee.fr/fr/methodes/nomenclatures/cog/documentation.asp> (FR).

regulations for matters coming within their jurisdiction', they only have a few normative powers in practice, particularly in the areas of town planning and administrative police (i.e. the power of the mayor to regulate on safety issues).⁵⁰⁰ Municipalities have administrative competences in the following areas: social work, education, local public order, urban planning, economic development, housing, health and culture.⁵⁰¹

Procedures at the central level

The Government transfers all EU draft legislation to the National Assembly and the Senate.⁵⁰² In order to ensure that the subsidiarity principle is upheld, Article 88(6) of the Constitution states that *'[t]he National Assembly or the Senate may issue a reasoned opinion as to the conformity of a draft proposal for a European Act with the principle of subsidiarity.'*

Within the National Assembly, any deputy may submit a proposal of a reasoned opinion. The proposal is forwarded to the European Affairs Commission (EAC), which has a period of 15 days to examine the EU draft legislation. Alternatively, the EAC may also decide on its own to start the subsidiarity check. The relevant permanent committee then has a period of 15 days to scrutinise the text adopted by the EAC (if the EAC does not issue a draft reasoned opinion, the initial proposal submitted by the individual member(s) of the National Assembly is examined). If no ruling is made within one month, the reasoned opinion is seen as tacitly approved. The Conference of Presidents⁵⁰³ may decide within another period of 15 days to place the issue on the National Assembly's agenda; otherwise, the opinion adopted by the committees is taken as final.⁵⁰⁴ Pursuant to Article 88(6) of the French Constitution, once the National Assembly has approved it, the *'opinion shall be addressed by the President of the House involved to the Presidents of the European Parliament, the Council of the European Union and the European Commission. The Government shall be*

⁵⁰⁰R. Hertzog, 'Local Government in France', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 203-231, at p. 211.

⁵⁰¹Council of European Municipalities and Regions, Local and Regional Authorities in France, available at <http://www.ccre.org/en/membres/France.htm> (EN).

⁵⁰²Article 88(4) of the French Constitution.

⁵⁰³*'The conference of Presidents consists of the President of the National Assembly, the six vice-presidents, the committee presidents, the chairman of the Finance Committee, the president of the European Affairs Committee and the presidents of the political groups. The government is generally represented by a minister responsible for parliamentary liaison.'* For further information, see <http://www.assemblee-nationale.fr/english/#work> (EN).

⁵⁰⁴For further information, see the official website of the French National Assembly, *Les résolutions portant sur les projets ou propositions d'actes de l'UE et celles portant avis sur la conformité d'un acte législatif européen au principe de subsidiarité*, available at <http://www.assemblee-nationale.fr/connaissance/resolutions-europe.asp> (FR) and IPEX, National Parliaments, French National Assembly, 'Accomplissement du contrôle de subsidiarité. Assemblée nationale de la République française (articles 151-2 à 151-10 du Règlement de l'Assemblée nationale)', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc535f09fa60135f2475cae0200.do> (FR).

informed of said opinion.'

Within the Senate, all EU draft legislation is scrutinised by the Subsidiarity Working Group of the Senate's European Affairs Committee (SEAC) within a period of approximately 14 days. If it is thought that the EU draft legislation may infringe upon the subsidiarity principle, a rapporteur is nominated to further analyse the text. The rapporteur subsequently presents the results of the examination within a period of one or two weeks and may - if he/she concludes that there is a breach of the subsidiarity principle - present a draft reasoned opinion that is subject to a vote within the SEAC. Any Senator may also propose a draft reasoned opinion to the SEAC, which is similarly subject to a vote within the SEAC. If the SEAC adopts the draft, it transmits the full report to the relevant standing committee. The standing committee has approximately one month to review the opinion issued by the SEAC. If it adopts the opinion, it is forwarded by the President of the Senate to the EU institutions. If the standing committee fails to act within one month, the draft opinion becomes the definitive opinion of the Senate and is similarly sent on to the European institutions.⁵⁰⁵

The French Senate is a registered member of the SMN.

As of October 2013, the French Senate has issued 16 reasoned opinions regarding the violation of the subsidiarity principle, and the National Assembly has issued two reasoned opinions.⁵⁰⁶

Procedures involving regional and local authorities and other relevant stakeholders

There are no legal mechanisms in place that grant regions, departments or municipalities the right to independently assess draft EU initiatives for potential violations of the subsidiarity principle.⁵⁰⁷ Moreover, there are no formal mechanisms for incorporating the positions which may be taken by these authorities into the subsidiarity monitoring process.⁵⁰⁸

⁵⁰⁵ Article 73 octies of the Rules of Procedure of the French Senate, available at http://www.senat.fr/reglement/reglement_mono.html#toc188 (FR) and IPEX, National Parliaments, French Senate, 'Monitoring compliance with the principle of subsidiarity. Senate of the French Republic', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a91c7c44e5bdc.do> (EN).

⁵⁰⁶ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁵⁰⁷ Information and data collected for the CoR by EIPA, 2011.

⁵⁰⁸ As acknowledged by the Senate's Commission of European Affairs, while the Senate represents local authorities, according to the Constitution, no formal mechanisms exist for co-operation. Senate-Commission of European Affairs, Response to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

It is nonetheless recalled that the Senate members are indirectly elected by representatives of the three levels of decentralised authorities. Senators are indeed primarily elected by representatives from municipal and regional councils and are thus presumed to represent and uphold the corresponding local and regional interests at the national level - including in the context of the subsidiarity monitoring of EU draft legislation.⁵⁰⁹ Furthermore, it is noted that the Senate regularly holds meetings with officials from regions, departments and municipalities.⁵¹⁰ This provides an informal forum for local officials to express their concerns, *inter alia* regarding EU draft legislation (including on possible infringements of the subsidiarity principle).

Five French regional or local authorities, or associations thereof, are registered members of the SMN (Association of Mayors and Elected Representatives of *Lozère*,⁵¹¹ French Regions Association,⁵¹² *Auvergne* Regional Council, Dunkirk Urban Community, and *Eure* General Council). French local and regional associations also participate in European local government associations, such as the Conference of Atlantic Arc Cities⁵¹³, the Assembly of European Regions⁵¹⁴ or the Council of European Municipalities and Regions.⁵¹⁵ The French CoR delegation is not a member of the SMN.

3.1.8 Greece

General

The Republic of Greece is a unitary State in which the legislative power is vested in a unicameral legislature, the Hellenic Parliament (*Vouli ton Ellinon*) and the President.⁵¹⁶ The Parliament is composed of 300 MPs who are directly elected by the people every four years.⁵¹⁷ The President of Greece serves as Head of State and is elected to office by the Parliament every five years.⁵¹⁸ He exercises the executive power together with the Government.⁵¹⁹ The Prime

⁵⁰⁹For further information, see French Senate, The Senatorial Elections, available at http://www.senat.fr/lng/en/senators/the_senatorial_elections.html (EN).

⁵¹⁰French Senate, A Special Role in Parliament, available at http://www.senat.fr/lng/en/the_senates_role/a_special_role_in_parliament.html (EN).

⁵¹¹Additional information available at <http://www.amf.asso.fr/> (FR).

⁵¹²Additional information available at <http://www.arf.asso.fr/> (FR).

⁵¹³The Conference of Atlantic Arc Cities is an organisation that serves as a mechanism for interaction between local and transnational entities. It is based in Rennes. Further information is available at <http://www.atlanticcities.eu/index.php?lang=en> (EN).

⁵¹⁴For further information, see footnote 377.

⁵¹⁵For further information, see footnote 378.

⁵¹⁶Article 26(1) of the Constitution of Greece, available at <http://www.hri.org/docs/syntagma/> (EN).

⁵¹⁷Articles 51 and 53 of the Constitution of Greece. See also the Hellenic Parliament, Current Composition, available at <http://www.hellenicparliament.gr/en/Organosi-kai-Leitourgia/Olomeleia/Synthesi-IG-Periodou/> (EN).

⁵¹⁸Article 30 of the Constitution of Greece.

⁵¹⁹Article 26(2) of the Constitution of Greece.

Minister serves as Head of Government and is appointed by the President.⁵²⁰ As from 1 January 2011, in accordance with the *Kallikratis* Program,⁵²¹ the entire system of administrative divisions in Greece has been reformed. Currently, the Hellenic Republic is subdivided into seven decentralised administrations (*apokentromeni dioikisi*), 13 regions⁵²² (*perifereies*) and 325 municipalities (*dimoi*).⁵²³

The decentralised administrations form part of the State administration and are headed by a secretary-general appointed by the National Government. They are mainly responsible for forest administration, regional planning and water management.

At the regional level, a regional council (*peripheriako simvoulio*) acts as the decision-making body. Its members are directly elected for a period of five years. The executive committee (*ektelestiki epitropi periferias*) exercises the executive power and monitors the implementation of regional policy. It is composed of the head of the region and the deputy heads.⁵²⁴ The head of the region (*perifereiarchis*) is directly elected by universal suffrage for a five-year period. He presides over the regional council and the executive committee, and he represents the region externally. Regions are endowed with a degree of self-governance and are notably competent in regional development planning and ‘green’ development.⁵²⁵

At the local level, municipal councils are composed of members who are directly elected to four-year terms. Each council is led by a directly elected mayor. Local competences include, *inter alia*, urban planning, social welfare,

⁵²⁰ Article 37 of the Constitution of Greece.

⁵²¹ The *Kallikratis* Program (Act 3852/2010) altered the territorial divisions in Greece by replacing the pre-existing prefectures with regions, merging municipalities and increasing the administrative competences at the local level of government. For further information, see: Committee of the Regions, *Division of Powers between the European Union, the Member States and Regional and Local Authorities*, drafted by EIPA and available at www.cor.europa.eu/divisionpowers (EN).

⁵²² A list of these regions is available at <http://cgi.di.uoa.gr/~pms509/projects/description.pdf> (EN).

⁵²³ For further information on the *Kallikratis* Program, and more generally on the regional and local authorities in Greece, see N.-K. HLEPAS, ‘Local government in Greece’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 257-281.

⁵²⁴ ‘The Deputy Heads of the Region who assist the Head of the Region are either elected or appointed by the Head of the Region. The number of Deputy Heads of the Region elected depends on the number of the regional units; they do not occupy any regional councillor position. In addition, the Head of the Region by his decision may appoint up to three deputy Heads, vested with specific powers. The deputy Heads of the Region perform sectoral duties as may be assigned to them by a decision of the Head of the Region, with the exception of issues related to cash payment orders.’ See Council of Europe, *Structure and Operation of Local and Regional Democracy: Greece, Situation in 2012*, available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2242294&SecMode=1&DocId=1988386&Usage=2> (EN), p. 17.

⁵²⁵ Council of European Municipalities and Regions, *Local and Regional Authorities in Greece*, available at <http://www.ccre.org/en/membres/Gr%C3%A8ce.htm> (EN).

agriculture, healthcare and education.⁵²⁶

Procedures at the central level

In order to organise the subsidiarity scrutiny, the Parliament amended its Standing Orders in 2001 and in 2010.⁵²⁷ A Committee on European Affairs (CEA) has been established within the Parliament. Pursuant to Article 41B of the Standing Orders, the Government forwards EU draft legislation to the Speaker of the Parliament as soon as it is communicated by the EU institutions. The Speaker refers the documents to the competent standing committee and/or to the CEA.⁵²⁸ After receiving draft legislation, the competent standing committee and/or the CEA review(s) the proposal for potential breaches of the subsidiarity principle and issues a reasoned opinion if it concludes that there is an infringement. The latter is forwarded to the appropriate Minister(s) and EU institutions. If requested by the Speaker of the Hellenic Parliament or competent committees, the reasoned opinion may be debated at the plenary.⁵²⁹

The Hellenic Parliament is a registered member of the SMN.

As of October 2013, Greece has issued three reasoned opinions.⁵³⁰

Procedures involving regional and local authorities and other relevant stakeholders

There are no legal mechanisms which provide for an independent assessment of draft EU initiatives for potential violations of the subsidiarity principle by decentralised administrations, regions or municipalities.⁵³¹

Furthermore, the Hellenic Parliament is not formally required to consult the decentralised administrations, regions or municipalities when conducting subsidiarity checks. Depending on the specific regulations under examination, the Parliament may use informal consultations to consider the opinions of other

⁵²⁶*Ibid.*

⁵²⁷See in particular Article 41B of the Standing Orders for the Hellenic Republic, available at <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/Standing%20Orders.docx> (EN). This Article specifies Article 70(8) of the Constitution, according to which ‘*the Standing Orders of the Parliament provide the way in which the Parliament is briefed by the Government and debates on issues regarding legislative regulation, in the context of the European Union.*’

⁵²⁸IPEX, National Parliaments, Hellenic Parliament, ‘Scrutiny of EU documents & monitoring compliance with the subsidiarity principle’, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a87af32db5427.do> (EN).

⁵²⁹*Ibid.*

⁵³⁰IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁵³¹Information and data collected for the CoR by EIPA, 2011.

institutions, including NGOs, academics and professional associations. However, these consultations are not specifically focused on subsidiarity and its regional and local dimensions.⁵³²

The weekly activities of the EAC and of special standing committees are accessible to the public on the Hellenic Parliament's website in addition to monthly bulletins noting the activities of all committees.⁵³³

One regional association (the Association of Prefectural Authorities of Greece⁵³⁴) and one local authority (the *Patras Municipality*⁵³⁵) are registered members of the SMN. Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁵³⁶ or the Council of European Municipalities and Regions.⁵³⁷ The Greek CoR delegation is not a member of the SMN.

3.1.9 Hungary

General

The Republic of Hungary is a unitary State in which the legislative power is vested in a unicameral legislature called the National Assembly (*Országgyűlés*). The National Assembly is composed of 386 MPs who are elected to four-year terms.⁵³⁸ The President serves as Head of State and is elected to a five-year term by the National Assembly.⁵³⁹ The Prime Minister serves as Head of Government and is elected by the National Assembly upon the recommendation of the President of the Republic.⁵⁴⁰

Hungary is divided into 20 administrative regions, which consist of 19 counties

⁵³²*Ibid.*

⁵³³See the website of the Hellenic Parliament, available at <http://www.hellenicparliament.gr/en/Koinovouleftikes-Epitropes/ektheseis-drastiriotes> (EN).

⁵³⁴The Association of Prefectural Authorities of Greece (ENAE) represents the regions in Greece (they were previously called 'prefectures') and serves multiple functions, including expressing the views of the regions on bills that affect them, representing regions in multiple institutions and organisations, and coordinating the regions in combating climate change. More information is available at <http://www.enpe.gr/enpe/taitotita.aspx> (EL).

⁵³⁵For further information, see <http://www.e-patras.gr/web/guest/municipality> (EL).

⁵³⁶For further information, see footnote 377.

⁵³⁷For further information, see footnote 378.

⁵³⁸Article 4 of the Fundamental Law of Hungary, available at <http://www.kormany.hu/download/4/c3/30000/THE%20FUNDAMENTAL%20LAW%20OF%20HUNGARY.pdf> (EN) and Website of the National Assembly, available at http://www.parlament.hu/fotitkar/angol/general_info.htm (EN).

⁵³⁹Articles 9(1) and 10(1) of the Fundamental Law of Hungary.

⁵⁴⁰Articles 16(1) and 16(3) of the Fundamental Law of Hungary.

(*megyék*) and the capital city, Budapest.⁵⁴¹ The county councils, i.e. the counties' deliberative assemblies, are directly elected for four-year terms. A county chair - the executive branch - is elected by and from among the members of the county council and serves a four-year term. Counties have administrative competences in secondary schools, cultural infrastructure, maintenance of retirement homes and hospitals, land development and tourism.⁵⁴²

Thirty years after the abolition of the system of administrative districts, District offices were reintroduced as of 1 January 2013. There are 175 district offices outside Budapest and 23 in the capital. District offices carry out administrative tasks at the intermediate level, i.e. between regional and local level.⁵⁴³

At the local level, there are 3,175 municipalities (*települések*), including 2,824 villages (*községek*), 304 towns (*városok*), 23 towns with county rank (*megyei jogú városok*), 23 capital districts (*fővárosi kerületek*) and the city of Budapest.⁵⁴⁴ Within these municipalities, the body of representatives (*képviselő-testület*) serves as the deliberative body. Its members are elected to four-year terms. Executive authority rests with the mayor (*polgármester*), who is similarly elected to a four-year term by direct universal suffrage. Moreover, a notary (*jegyző*) is appointed by the body of representatives to serve as the head of the local administration for an undetermined period of time.⁵⁴⁵ Local authorities have administrative competences in the following areas: local development, urban planning, protection of the environment, housing, public transport, social services, primary schools, maintenance of roads, water resources, fire services and culture.

Procedures at the central level⁵⁴⁶

In Hungary, the subsidiarity monitoring procedure is regulated by the Standing Orders of the Parliament.⁵⁴⁷ In accordance with Article 134/D of the Standing Orders, the European Union Committee (EUC) of the Hungarian National

⁵⁴¹Council of European Municipalities and Regions, Local and Regional Authorities in Hungary, available at <http://www.ccre.org/en/membres/Hongrie.htm> (EN).

⁵⁴²*Ibid.*

⁵⁴³For further information, see <http://www.kormany.hu/en/ministry-of-public-administration-and-justice/news/administrative-district-offices-formed> (EN).

⁵⁴⁴Table 2 on types and numbers of local authorities (Source: Gazetteer of the Republic of Hungary. Hungarian Central Statistical Office, Budapest, 2009) presented in Z. Szenté, 'Local government in Hungary', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 283-307, at p. 288.

⁵⁴⁵*Ibid.*

⁵⁴⁶Reviewed by a representative for the Committee on European Affairs.

⁵⁴⁷Resolution 46/1994 (IX.30.) OGY on the standing orders of the Parliament of the Republic of Hungary, available at <http://www.parlament.hu/hazszabaly/resolution.htm> (EN). For further information, see http://www.parlament.hu/internet/plsql/ogy_biz.keret_frissit?p_szerv=&p_ckl=39&p_biz=A340&p_fomenu=11&p_almenu=1&p_rec=&p_nyelv=EN (EN).

Assembly is entitled to carry out subsidiarity checks.⁵⁴⁸ If the EUC determines there is a breach of the principle of subsidiarity, a final decision is taken by the plenary within fifteen days from the adoption of the EUC's motion.

The Speaker of the National Assembly transmits the opinion to the European Parliament, the Council and the European Commission.⁵⁴⁹

The National Assembly is not a member of the SMN.

As of October 2013, the Hungarian National Parliament has issued one reasoned opinion.⁵⁵⁰

Procedures involving regional and local authorities and other relevant stakeholders

There are no legal mechanisms which provide for an independent assessment of draft EU initiatives for potential violations of the subsidiarity principle by regional and/or local authorities. Furthermore, no formal channels of consultation have been put in place within the National Assembly in relation to regional and local authorities.

As the National Parliament has not yet issued any reasoned opinions, the extent to which it will informally consult regional or local authorities in the scrutiny process is unknown.

The minutes from EUC meetings and summary statements regarding the meetings are made available on the Committee's webpage.⁵⁵¹

In the end, as one author observes, *'EU-related affairs are not on the agenda in local government decision-making. There is neither closer attention to governance at the European level nor an effective policy change, as the accession process did not require any institutional change or other adaptation*

⁵⁴⁸Information and data collected for the CoR by EIPA, 2011.

⁵⁴⁹IPEX, National Parliaments, Hungarian National Assembly, 'Monitoring compliance with the principle of subsidiarity. Hungarian National Assembly, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a741259494b83.do> (EN).

⁵⁵⁰IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2. Recently, the Tobacco Products Directive [COM (2012) 788] was put on the agenda of the Committee (on 18 February 2013) with a view to examining the application of the subsidiarity principle by virtue of Protocol No. 2 as well as Article 134/D of the Standing Orders of the Hungarian National Assembly. The opinion of the Committee was adopted in the framework of the political dialogue in accordance of Article 134/G of the Standing Orders on 25 February 2013.

⁵⁵¹Information and data collected for the CoR by EIPA, 2011.

*on the part of local authorities.*⁵⁵²

One local authority is a registered member of the SMN (Budapest City⁵⁵³). Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁵⁵⁴ or the Council of European Municipalities and Regions.⁵⁵⁵ The Hungarian CoR delegation is not a member of the SMN.

3.1.10 Ireland

General

The Republic of Ireland is a unitary State. The legislative power is exclusively vested in the National Parliament (*Oireachtas*), which consists of two Houses: the House of Representatives (*Dáil Éireann*) and the Senate (*Seanad Éireann*).⁵⁵⁶ The House of Representatives is composed of 166 directly elected MPs.⁵⁵⁷ The Senate is composed of 60 members, 11 of which are nominated by the Prime Minister, with six elected by two universities⁵⁵⁸ and 43 nominated by 5 panels representing vocational interests.⁵⁵⁹ The President serves as Head of State and is directly elected every seven years for a maximum of two terms.⁵⁶⁰ The Prime Minister (*Taoiseach*) serves as Head of Government, and is nominated by the House of Representatives and appointed by the President. The Prime Minister nominates a cabinet to form the Government, which in turn is approved by the President.⁵⁶¹

At the regional level, Ireland is divided into two regional assemblies⁵⁶² - the Southern and Eastern Region and the Border Midland and Western Region - which are further subdivided into eight regional authorities.⁵⁶³

⁵⁵²Z. Szente, 'Local government in Hungary', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 283-307, at p. 306.

⁵⁵³For further information, see <http://budapest.hu/sites/english/Lapok/default.aspx> (EN).

⁵⁵⁴For further information, see footnote 377.

⁵⁵⁵For further information, see footnote 378.

⁵⁵⁶Article 15 of the Constitution of Ireland, available at <http://www.irishstatutebook.ie/en/constitution/index.html> (EN).

⁵⁵⁷For further information, see <http://www.oireachtas.ie/parliament/about/dail/> (EN).

⁵⁵⁸Three members are elected by the National University of Ireland and three are elected by the University of Dublin (Trinity College).

⁵⁵⁹For further information, see <http://www.oireachtas.ie/parliament/about/seanad/> (EN).

⁵⁶⁰Article 12 of the Constitution of Ireland.

⁵⁶¹Article 13 of the Constitution of Ireland.

⁵⁶²See the Irish Regions Office, Regional assemblies, available at http://www.iro.ie/regional_assemblies.html (EN).

⁵⁶³The Southern and Eastern Region comprises the following 5 regional authority areas: Dublin, Mid-East, Mid-West, South-East and South-West. The Border Midland and Western Region in turn comprises the following 3 regional authority areas: West, Midlands and Border. A map of regional authorities is available at the Irish Regions Office, Regional authorities, available at http://www.iro.ie/regional_authorities.html (EN).

The two regional assemblies are composed of elected representatives who are selected from the regional authorities by local authorities, and are led by a chairperson who is elected from within the regional assembly.⁵⁶⁴ Their key objective is to manage and monitor the progress of the Regional Operational Programs under the structural funds. Other responsibilities include promoting coordination in the provision of public services, monitoring the impact of EU funding, and making public bodies aware of the regional implications of their policies and plans.⁵⁶⁵

The regional authorities were established in 1991 by the Local Government Act⁵⁶⁶ and came into existence in 1994. They are composed of members who have been nominated by the county and city councils within a given region, and are led by a chairperson who is elected from within the regional authority. They coordinate public service provision and monitor the delivery of EU Structural Fund assistance to the regions.⁵⁶⁷

At the intermediate level, Ireland is composed of 29 counties and five cities, which are the primary units of local government. City councils and county councils are directly elected to five-year terms.⁵⁶⁸ The city manager or county manager leads the administration and oversees executive functions, while a chairperson or mayor serves as the ceremonial head of the local authority. The chairperson or mayor is elected yearly by and from among the members of the city or county council. Cities and counties have competences in the following fields: urban planning, road infrastructures, water supply and treatment, waste management and environment, housing, fire services and civil defence, libraries, local arts, culture and leisure facilities, and coordination of public services.⁵⁶⁹

At the local level, there are also five boroughs and 80 towns which do not actually cover the entire territory of Ireland.⁵⁷⁰ Borough and town councils are directly elected to five-year terms. A mayor is elected yearly by the council from among its members and chairs the council, while a borough clerk or town clerk, i.e. a civil servant, is responsible for the administration. Boroughs and towns

⁵⁶⁴Council of European Municipalities and Regions, Local and Regional Authorities in Ireland, available at <http://www.ccre.org/en/membres/Irlande.htm> (EN).

⁵⁶⁵The Irish Regions Office, Regional assemblies, available at http://www.iro.ie/regional_assemblies.html (EN).

⁵⁶⁶For further information, see the Local Government Act of 1991, available at <http://www.achtanna.ie/en.act.1991.0011.1.html#en.act.1991.0011> (EN).

⁵⁶⁷See the Irish Regions Office, Regional authorities, available at http://iro.ie/regional_authorities.html (EN) and the Council of European Municipalities and Regions, Local and Regional Authorities in Ireland, available at <http://www.ccre.org/en/membres/Irlande.htm> (EN).

⁵⁶⁸There is at least one council in each county, while the Dublin County has three councils on top of a city council. Council of Municipalities and Regions, Local and Regional Authorities in Ireland, available at <http://www.ccre.org/en/membres/Irlande.htm> (EN).

⁵⁶⁹*Ibid.*

⁵⁷⁰‘Only 80 towns in total have their own town or borough council, which account for about 14% of the national population.’ *Ibid.*

have local competences in the following areas: road construction and maintenance, housing, leisure facilities and urban planning.⁵⁷¹

Procedures at the central level

The Senate and the House of Representatives have set up a Joint Committee on European Scrutiny (JCES) to perform subsidiarity checks on EU draft legislation.⁵⁷²

Pursuant to the European Union (Scrutiny) Act, 2002,⁵⁷³ the Government Departments must submit EU draft legislation to the National Parliament together with an information note within four weeks of receiving draft legislation from the EU.⁵⁷⁴

Once it has examined these documents, the JCES has three options with regard to the subsidiarity scrutiny: it can examine the EU draft legislation itself, it can request the relevant sectoral committee to provide its observations (on the basis of which the JCES will subsequently prepare the scrutiny report), or it can ask the relevant sectoral committee to undertake the scrutiny and to prepare the report.

If the JCES chooses to examine the draft itself, it can use desk research to examine subsidiarity compliance. More often than not, however, it will decide to hold public hearings with the Government and with relevant stakeholders.⁵⁷⁵

If the subsidiarity principle is deemed to have been violated, the JCES sends a reasoned opinion to the two Houses of the National Parliament. Each Chamber will then consider the opinion, and, if at least one of them agrees with the JCES, a reasoned opinion is issued to the Presidents of the European Commission, the Council and the European Parliament.⁵⁷⁶

Neither of the Houses of Parliament are SMN members.

⁵⁷¹*Ibid.*

⁵⁷²The National Parliament, Joint Committee on European Scrutiny, Orders of Reference, available at http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-EUScrutiny/Orders_of_Reference/document1.htm (EN).

⁵⁷³European Scrutiny Act of 2002, available at <http://www.irishstatutebook.ie/pdf/2002/en.act.2002.0025.pdf> (EN).

⁵⁷⁴*Ibid.* A description of the process of scrutiny is available at the website of the National Parliament, available at http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-EUScrutiny/Process_EUScrutiny.htm (EN).

⁵⁷⁵*Ibid.*

⁵⁷⁶*Ibid.* See also IPEX, National Parliaments, Irish House of Oireachtas, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity. Houses of the Oireachtas, Ireland', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013ada9e7f1100a0.do> (EN).

As of October 2013, two reasoned opinions have been issued by the Houses of the National Parliament.⁵⁷⁷

Procedures involving regional and local authorities and other relevant stakeholders

There are no formal mechanisms for incorporating the opinions of regional and local authorities in the context of the National Parliament's subsidiarity monitoring exercise.

More generally, as one author describes while placing it within the context of EU environment law: '*Despite the fact that most EU environmental legislation is implemented by local authorities, they have very little contacts with the EU and there appears to be no formal mechanism to properly appraise them of their legal obligations under EU law.*'⁵⁷⁸

However, regional and local authorities may use informal channels to communicate their views to the National Parliament, including those on subsidiarity issues. The JCES has notably agreed '*that the Irish delegation to the CoR would act as a consultation point with respect to the local government level.*'⁵⁷⁹ Accordingly, the JCES consults the Irish delegation to the CoR when it considers that EU draft legislation may infringe upon the subsidiarity principle.⁵⁸⁰ In addition, the Brussels-based Irish Regions Office (IRO) may assist them '*in influencing the development of this legislation before having to implement it.*'⁵⁸¹

Ireland does not have any regional and local authorities or associations that are registered members of the SMN. Local and regional associations, however, participate in European local government associations, such as the Assembly of European Regions,⁵⁸² the Conference of Atlantic Arc Cities⁵⁸³ and the Council

⁵⁷⁷IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁵⁷⁸Y. Scannell, 'Local government in Ireland', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 309-337, at p. 336.

⁵⁷⁹CoR, Division of Powers, Countries, Members without Legislative Powers, Ireland, Subsidiarity, available at <http://extranet.cor.europa.eu/divisionpowers/countries/MembersNLP/Ireland/Pages/3-Subsidiarity.aspx> (EN).

⁵⁸⁰COSAC, Parliamentary Information, Subsidiarity Control in National Parliaments, Country Specific Information, Ireland, available at <http://www.cosac.eu/subs-ireland/> (EN).

⁵⁸¹For further information, see the website of the Irish Regions Office, available at http://www.iro.ie/about_us.html (EN). Due to the growing impact of EU legislation on regional and local authorities, the Irish Regions Office assists regional and local authorities in influencing legislation before it is implemented, and also provides information regarding legislation to regional and local authorities.

⁵⁸²For further information, see footnote 377.

⁵⁸³For further information, see footnote 513.

of European Municipalities and Regions.⁵⁸⁴ Moreover, the Irish CoR delegation is a member of the SMN.⁵⁸⁵

3.1.11 Latvia

General

The Republic of Latvia is a unitary State in which the legislative power is vested in a unicameral Parliament (*Saeima*), which is composed of 100 members who are directly elected every four years.⁵⁸⁶ The President serves as Head of State and is elected by the Parliament every four years.⁵⁸⁷ The Prime Minister serves as Head of Government and is nominated by the President.⁵⁸⁸

In 2004, Latvia designated six statistical regions within its territory in order to meet the EU classification requirements of territorial units.⁵⁸⁹ However, because these regions were established exclusively for statistical purposes, they are not in the strictest sense administrative regions.

At the local level, Latvia is divided into 110 municipalities (*novadi*) and 9 cities (*pilsētas*). Local councils (*dome*) are directly elected to four-year terms. Each council elects its chairman (*priekšdēdētājs*) from among its members to four-year terms. The competences of the local councils are either autonomous, delegated by the State or ‘voluntary’.⁵⁹⁰ The autonomous competences include

⁵⁸⁴For further information, see footnote 378.

⁵⁸⁵For further information, see the Irish Regions Office, Irish Delegation to the CoR, available at <http://www.iro.ie/delegation.html> (EN).

⁵⁸⁶Articles 5-10 of the Constitution of Latvia, available at <http://www.saeima.lv/en/legislation/constitution> (EN).

⁵⁸⁷Articles 35-36 of the Constitution of Latvia.

⁵⁸⁸Articles 55-56 of the Constitution of Latvia.

⁵⁸⁹Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:154:0001:0001:EN:PDF> (EN). Additional information on the regions in Latvia is available at <http://www.csb.gov.lv/dokumenti/par-statistikajiem-regioniem-28607.html> (LV).

⁵⁹⁰The Local Authorities Act of 19 May 1994 states that ‘*in the interests of their residents, local authorities may voluntarily carry out initiatives with respect to any matter, if this is not within the competence of the Saeima (the Parliament), the Cabinet of Ministers (the Government), the ministries, other state administrative institutions, the courts or other local governments, and as long as such activities are not prohibited by the Law.*’ As to the concept of local government, the Local Authorities Act states that ‘*[a] territorial local authority is a local administration which, through bodies of representatives elected by citizens - city or novads council - and authorities and institutions established by them, ensures the performance of the functions prescribed by law, as well as the performance of tasks assigned by government according to the procedures specified by law, and local government voluntary initiatives, observing the interests of the State and of the residents of the said administrative territory.*’ For further information, see I. Vilka, ‘Local government in Latvia’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 365-387; Union of Local and Regional Governments in Latvia, ‘Local and Regional Governments in Latvia’, 2004, p. 10, available at http://www.lps.lv/images/resources/file/ENG/LPSbroshura_2004.pdf (EN) and Council of European Municipalities and Regions, *Latvian Association of Local and Regional Governments*, available at <http://www.ccre.org/en/membres/Lettonie.htm> (EN).

water and heating supply, waste management, public services and infrastructure, public management of forests and water, primary and secondary education, culture, public health, social services, child welfare, social housing, licensing for commercial activities, public order and civil protection, urban development, collection of statistical information, transport, and on-going training for teachers.⁵⁹¹ ‘Voluntary’ tasks concern, for instance, municipal police or tourism development initiatives.

Procedures at the central level

The subsidiarity check within the Parliament is governed by the Rules of Procedure of the Parliament,⁵⁹² the regulation of the Cabinet of Ministers No. 96 of 3 February 2009 as well as certain general provisions in the Latvian Constitution.⁵⁹³ Monitoring at the national level is carried out by the Parliament’s European Affairs Committee (EAC).⁵⁹⁴ Once the EAC receives EU draft legislation by the European Commission, it contacts the competent ministry and committees within the Parliament to obtain their opinions on potential breaches of the subsidiarity principle. After receiving these opinions, the EAC discusses the compatibility of the proposal with the subsidiarity principle and issues a reasoned opinion - without involvement of the plenary.

Reasoned opinions are forwarded to the European Commission, the European Parliament and the Council.⁵⁹⁵

The Parliament is not a member of the SMN.

As of October 2013, the Parliament has issued two reasoned opinions.⁵⁹⁶

Procedures involving regional and local authorities and other relevant stakeholders

There are no formal mechanisms for incorporating the opinions of regional

⁵⁹¹Council of European Municipalities and Regions, Latvian Association of Local and Regional Governments, available at <http://www.ccre.org/en/membres/Lettonie.htm> (EN).

⁵⁹²The Rules of Procedure of the *Saeima* Parliament are available at <http://www.saeima.lv/en/legislation/rules-of-procedure> (EN).

⁵⁹³IPEX, National Parliaments, Saeima Parliament of Latvia, available at <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/lvsae.do> (EN).

⁵⁹⁴IPEX, National Parliaments, Saeima Parliament of Latvia, ‘Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity - Saeima of the Republic of Latvia’, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a8c564cec56cf.do> (EN).

⁵⁹⁵*Ibid.*

⁵⁹⁶IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

associations or local authorities in the context of the Parliament's subsidiarity monitoring exercise. The Parliament has no obligation to consult them in the views it expresses to the EU institutions.⁵⁹⁷

Nonetheless, informal mechanisms exist which enable local authorities to voice their opinions on EU draft legislation - including in relation to possible infringements of the subsidiarity principle. If the EAC finds that EU draft legislation affects the local level, it can indeed send a letter inviting the local authorities to submit their views on the EU draft legislation.⁵⁹⁸

Moreover, the Latvian Association of Local and Regional Governments (LALRG)⁵⁹⁹ coordinates activities with the European Affairs Committee of the Parliament of Latvia. In the words of a Senior Advisor of LALRG: *'Representatives of the LALRG participate in the EU hearings [...]. The LALRG participates in the drafting of national positions before the decision is made in the Cabinet of Ministers and afterwards in the parliamentary commission. Likewise, the LALRG informs national authorities on the opinions of the Committee of the Regions.'*⁶⁰⁰ As one author observes, *'[i]n order to be able to influence EU legislation, which concerns both local and regional government interests, in September 2005 the Representation Office of the Latvian Association of Local and Regional Governments in Brussels was set up. The main objective of LALRG representation is to ensure compliance with the interests of Latvian local and regional governments in the process of elaborating EU legislation.'*⁶⁰¹

At the same time, it is observed that the two reasoned opinions⁶⁰² published so far by the Parliament do not explicitly mention or take into account the impact of EU draft legislation on regional and local stakeholders. They also do not explicitly mention the consultation of regional and local stakeholders.⁶⁰³

Information on subsidiarity monitoring performed at the national level is

⁵⁹⁷Information and data collected for the CoR by EIPA, 2011.

⁵⁹⁸*Ibid.*

⁵⁹⁹The LALRG serves three main purposes: to represent the common interests of local government, to solve problems at the local level (including training, consultation and information services) and to protect the interests of local authorities. The LALRG also serves as a representative of local and regional authorities at the national level. Additional information is available at http://www.lps.lv/About_LALRG/ (EN, LV, FR).

⁶⁰⁰This information is based on the response given by a Senior Advisor of LALRG to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

⁶⁰¹I. Vilka, 'Local government in Latvia', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 365-387, at p. 386.

⁶⁰²See Appendix 2.

⁶⁰³The focus on subsidiarity breaches at the national level is confirmed by the response given by a Senior Advisor of LALRG to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

published by the Parliamentary Public Affairs Department through a press release.⁶⁰⁴

LALRG is a member of the SMN. Local and regional associations also participate in European local government associations such as the Council of European Municipalities and Regions.⁶⁰⁵ The Latvian CoR delegation is not a member of the SMN.

3.1.12 Lithuania

General

The Republic of Lithuania is a unitary State in which the legislative power is vested in a unicameral Parliament (*Seimas*).⁶⁰⁶ The Parliament has 141 members who are directly elected to four-year terms.⁶⁰⁷ The President serves as Head of State and is directly elected to five-year terms.⁶⁰⁸ The Prime Minister serves as Head of Government and is appointed by the President with the assent of the Parliament.⁶⁰⁹

There are no regional authorities in Lithuania. Up until 2010, Lithuania was divided into ten counties (*apskritis*), each named after their principal city.⁶¹⁰ Counties were led by governors appointed by the central Government in Vilnius. County councils were composed of the governor, the deputy governor and the mayors of all the municipalities covered by the county. The primary objective of the counties was to ensure that the municipalities acted in accordance with the Constitution and the laws of Lithuania.⁶¹¹ In 2010, however, the county administrations were dissolved, and counties now exist merely as NUTS 3 territorial units (for statistical purposes).⁶¹²

At the local level, Lithuania is subdivided into 60 municipalities (*savivaldybės*).

⁶⁰⁴IPEX, National Parliaments, Saeima Parliament of Latvia, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity - Saeima of the Republic of Latvia', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a8c564cec56cf.do> (EN).

⁶⁰⁵For further information, see footnote 378.

⁶⁰⁶See the website of the *Seimas* of the Republic of Lithuania, available at http://www3.lrs.lt/pls/inter/w2008_home.home?p_kalb_id=2 (EN).

⁶⁰⁷Article 55 of the Constitution of Lithuania, available at <http://www3.lrs.lt/home/Konstitucija/Constitution.htm> (EN).

⁶⁰⁸Articles 77-78 of the Constitution of Lithuania.

⁶⁰⁹Articles 91-92 of the Constitution of Lithuania.

⁶¹⁰A list of the counties is available at

<http://web.stat.gov.lt/en/pages/view/?id=1828&PHPSESSID=twmjcuixideyz> (EN).

⁶¹¹D. Šaparnienė & A. Lazauskienė, 'Local government in Lithuania', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 389-410, at p. 406.

⁶¹²*Ibid.*, pp. 390-391.

Local councils, the members of which are directly elected every four years, act as deliberative and decision-making bodies. They elect the mayors who chair the council and appoint the directors of the local administration. Municipalities hold competences relating, *inter alia*, to the following fields: pre-school, primary and secondary education, civil protection, environment, sanitation, housing, transport, labour market measure and promotion, primary health care, public services and municipal property maintenance, spatial planning, local development, sports and tourism.⁶¹³

Procedures at the central level

The procedure for subsidiarity monitoring is laid down in Chapter XXVIII of the Parliament's Statute.⁶¹⁴ The Government immediately informs the *Seimas* about EU draft legislation and prepares an analysis on whether the EU draft legislation complies with the subsidiarity principle.⁶¹⁵ Within the Parliament, overall responsibility for subsidiarity monitoring rests, on the one hand, with the Committee on European Affairs (CEA), and on the other, with the Committee on Foreign Affairs (CFA) (for certain specified matters, e.g. CFSP and EU enlargement).⁶¹⁶ At the discretion of the CEA and CFA, EU draft legislation is forwarded to the relevant sectoral committee, which prepares conclusions on a possible subsidiarity breach. Pursuant to Article 180(6)§3 of the Parliament's Statute, '*[t]he Committee on European Affairs or, within its remit, the Committee on Foreign Affairs shall, on its own (its chair's) initiative and upon receiving the request of the Speaker of the Seimas, the conclusions of the specialised committee [...], the appeal of the political group, the Government's opinion, [...], consider the issue of compliance of the draft legislative act with the principle of subsidiarity at the Committee meeting usually within one week.*' The CEA or CFA drafts an opinion which is considered by the plenary under the procedure of exceptional urgency. The opinion is then forwarded to the Government and to the Presidents of the European Parliament, the Council of the European Union and the European Commission.⁶¹⁷

The Parliament is not a member of the SMN.

As of October 2013, the Lithuanian National Parliament has produced nine

⁶¹³Council of Municipalities and Regions, Local Authorities in Lithuania, available at <http://www.ccre.org/en/membres/Lituanie.htm> (EN).

⁶¹⁴*Seimas* of the Republic of Lithuania Statute, available at http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_e?p_id=454069 (EN), Chapter XXVIII, Article 180(6).

⁶¹⁵Articles 180(3) and 180(7) of the *Seimas* of the Republic of Lithuania Statute.

⁶¹⁶Article 180(2) of the *Seimas* of the Republic of Lithuania Statute.

⁶¹⁷For further information, see IPEX, National Parliaments, *Seimas* of the Republic of Lithuania, Monitoring of the Subsidiarity Principle, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbce53dbcb6ed013e173177e839c7.do> (EN).

reasoned opinions.⁶¹⁸

Procedures involving regional and local authorities and other relevant stakeholders

Local authorities are not formally involved in the subsidiarity monitoring process. Moreover, there are no pre-established procedures for consultations of regional and/or local stakeholders by the Parliament or other informal participation.

The reasoned opinions published so far by the *Seimas* do not explicitly mention the consultation of regional and local authorities or other stakeholders.⁶¹⁹

The resolutions of the Lithuanian Parliament regarding violations of the subsidiarity principle are explained and published in press releases and in the official gazette *Valstybės žinios*, thereby making the information accessible to the public.⁶²⁰

It is noted that the Association of Lithuanian Municipalities has a permanent representation in Brussels which *‘provides an opportunity to inform the municipalities quickly and “from the inside” on EU development plans and their consequences upon Lithuanian self-government; it also allows them to influence decisions made in EU institutions in the spheres that will be important to local self-government.’*⁶²¹

Two representatives of local authorities participate in the SMN (Radviliškis District Municipality⁶²² and the Lithuanian Association of Local Authorities⁶²³). Local and regional associations also participate in European local government associations, such as the Council of European Municipalities and Regions.⁶²⁴ The Lithuanian CoR delegation is not a member of the SMN.

⁶¹⁸IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁶¹⁹*Ibid.*

⁶²⁰IPEX, National Parliaments, Seimas of the Republic of Lithuania, Monitoring of the Subsidiarity Principle, available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc53dbcb6ed013e173177e839c7.do> (EN).

⁶²¹D. Šaparnienė & A. Lazauskienė, ‘Local government in Lithuania’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 389-410, at p. 409.

⁶²²Additional information available at <http://www.radviliskis.lt/content/view/290/1/> (EN).

⁶²³The Lithuanian Association of Local Authorities represents the interests of local authorities in national institutions and in international organisations of local authorities. Additional information is available at <http://www.lsa.lt/en/> (EN).

⁶²⁴For further information, see footnote 378.

3.1.13 Luxembourg

General

The Grand Duchy of Luxembourg is a unitary State in which the legislative power is vested in a unicameral Parliament known as the Chamber of Deputies (*Chambre des Députés du Grand-Duché de Luxembourg*). The Chamber of Deputies is composed of 60 MPs who are directly elected for a five-year term.⁶²⁵ The Head of State is the Grand Duke; this position is filled through hereditary succession.⁶²⁶ The Prime Minister is the Head of Government and is nominated by the legislature and appointed by the Grand Duke.⁶²⁷

There are no genuine intermediate political structures between the State and the municipality level. The State is divided into three districts and 12 cantons,⁶²⁸ though these entities serve merely as territorial subdivisions with administrative functions and do not comprise elected political structures.⁶²⁹ For each district, a district commissioner is appointed by the Grand Duke. The district commissioner acts under the authority of the Ministry of Internal Affairs and supervises the application of national legislation by the municipalities.⁶³⁰ The three districts are subdivided into 12 cantons, which do not have an administrative structure of their own. The cantons serve as territorial units that delimit electoral constituencies and administrative boroughs.⁶³¹

At the local level, the territory of the Grand Duchy of Luxembourg is divided into 116 communes (*Gemeng*). Pursuant to Article 197 of the Constitution, ‘*the municipalities form autonomous authorities, on a territorial basis, possessing legal personality and administrating their patrimony and own interests.*’ Municipal councils (*Gemengerot*) act as deliberative bodies at the local level. They are composed of councillors that are directly elected for six-year terms. The college of the mayor and the aldermen (*Schäfferot*) is the executive body of

⁶²⁵ Articles 51 and 56 of the Constitution of Luxembourg, available at <http://www.servat.unibe.ch/icl/lu00000.html> (EN).

⁶²⁶ Articles 3 and 33 of the Constitution of Luxembourg.

⁶²⁷ Articles 76-77 of the Constitution of Luxembourg and the website of the Government of the Grand Duchy of Luxembourg, Procedures of Government formation, available at <http://www.gouvernement.lu/gouvernement/organisation/forma.html> (FR).

⁶²⁸ A list of districts and cantons is available at <http://www.luxembourg.public.lu/fr/tourisme/cartes/cantons-disctricts/index.html> (FR).

⁶²⁹ J.-M. Goerens, ‘Local government in Luxembourg’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 411-433, at p. 411.

⁶³⁰ For further information, see <http://www.luxembourg.public.lu/fr/politique/territoire/districts/index.html> (FR).

⁶³¹ For further information, see <http://www.luxembourg.public.lu/fr/politique/territoire/districts/index.html> (FR).

the municipality. Both the mayor (*Buergermeeschter*) and the aldermen⁶³² (*Schäffe*) are appointed - by the Grand-Duke in municipalities carrying the title of 'city' and by the Home Secretary in other municipalities - from among the municipal council members. The local level has administrative competences in relation to local land development, social assistance, culture and sports, pre-school and primary education, environment, water management and sanitation, waste management, funerals, regulatory and police force, fire and rescue services, road maintenance and traffic management.⁶³³

Procedures at the central level

The Parliament's subsidiarity monitoring procedure is laid down in Article 168 of the Rules of Procedure of the Chamber of Deputies.⁶³⁴ Pursuant to Article 168(4), the President of the Chamber of Deputies, on recommendation of the Commission of European and Foreign Affairs, Defence, Cooperation and Immigration (*Commission des Affaires étrangères et européennes, de la Défense, de la Coopération et de l'Immigration-CAEEDCI*) decides which EU draft legislation must be subject to a detailed assessment at committee level.⁶³⁵ The relevant sectoral committee subsequently reviews the documents and decides within a four-week period (starting from the transmission of the EU draft legislation to the Parliament) whether to draft a reasoned opinion or not. If so decided, the draft reasoned opinion will be submitted to voting (by simple majority) within the Chamber of Deputies. If the plenary is not in session, the Parliament's Conference of Presidents⁶³⁶ decides by majority vote whether or not the reasoned opinion should be sent. The reasoned opinion is communicated to the Presidents of the European Commission, the Council and the European Parliament, as well as to the Luxembourg Government.

⁶³²In principle, there are two aldermen in each municipality, but this figure may be as many as six depending on the size of the municipal population. These aldermen have designated roles within the college. For further information, see

http://www.legilux.public.lu/leg/textescoordonnes/compilation/code_administratif/VOL_8/ORGANISATION/XT_ORGANIQ.pdf (FR).

⁶³³Council of European Municipalities and Regions, Local Authorities in Luxembourg, available at <http://www.ccre.org/en/membres/Luxembourg.htm> (EN). See also J.-M. Goerens, 'Local government in Luxembourg', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 411-433, at pp. 414-415.

⁶³⁴<http://www.chd.lu/wps/portal/public/LUEDansLeTravailDesCommissions> (FR).

⁶³⁵The Rules of Procedure of the Chamber of Deputies (*Règlement de la Chambre*) are available at <http://www.chd.lu/wps/wcm/connect/03d3a2804344ff9181b58dc6c93b4d35/R%C3%83%C2%A8glement+CHD-juillet+2013.doc?MOD=AJPERES> (FR). See also IPEX, National Parliaments, Luxembourg Chamber of Deputies, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity. Chamber of Deputies, Luxembourg', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a40f863ef2ef9.do> (EN).

⁶³⁶The Conference of Presidents is composed of the President of the Chamber of Deputies as well as the president of each political group and of each technical group (or their delegated representatives). See: <http://www.chd.lu/wps/portal/public/LaConferenceDesPresidents> (FR).

The Parliament is not a member of the SMN.

As of October 2013, the Parliament has issued 14 reasoned opinions.⁶³⁷

Procedures involving regional and local authorities and other relevant stakeholders

There are no formal mechanisms for incorporating the opinions of regional and local stakeholders into the Parliament's subsidiarity monitoring procedure.⁶³⁸

The Parliament's Rules of Procedure merely state in general terms that every political or technical group as well as members of all political persuasions are encouraged to present their views during the scrutiny process.⁶³⁹

An important role is played by the Union of Luxembourg Towns and Municipalities - SYVICOL (*Syndicat des Villes et Communes Luxembourgeoises*). SYVICOL is recognised by the National Government as the representative of local governments. It negotiates on matters of common interest and represents municipalities in the European and international entities aiming to protect the interests of local authorities.⁶⁴⁰ In relation to the transposition of the EU 'Waste Directive' (Directive 2008/98/EC) into Luxembourg law, SYVICOL in 2011 expressed regret that it had not been consulted by the government prior to the adoption of the Directive three years earlier.⁶⁴¹

Luxembourg does not have any regional and local authorities or associations that are members of the SMN. The Luxembourg CoR delegation is, however, a member of the SMN. Moreover, local and regional associations participate in European local government associations, such as the Council of European

⁶³⁷IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁶³⁸Information and data collected for the CoR by EIPA, 2011.

⁶³⁹Article 168(5) of the Rules of Procedure of the Chamber of Deputies (*Règlement de la Chambre*), available at <http://www.chd.lu/wps/wcm/connect/03d3a2804344ff9181b58dc6c93b4d35/R%C3%83%C2%A8glement+CHD-juillet+2013.doc?MOD=AJPERES> (FR).

⁶⁴⁰Statutes of the Union of Luxembourg Towns and Municipalities, available at <http://www.syvicol.lu/qui-sommes-nous/statuts> (FR).

⁶⁴¹It reminded the Government that '*governments of other Member States have the habit of consulting their territorial authorities when the EU foresees to legislate in domains that touch upon sub-national competences. The SYVICOL wishes that the representatives of the Luxembourg government participating in the elaboration of these texts would integrate this working method*' (our translations). See Chambre des Députés du Grand-Duché de Luxembourg, Dossier No. 6288 - Projet de loi relative à la gestion des déchets, Avis du Syndicat des Villes et Communes Luxembourgeoises (SYVICOL), 21 octobre 2011 (available at <http://www.chd.lu/wps/portal/public/Archives> (FR)): '*Les gouvernements d'autres Etats membres ont l'habitude de se concerter avec leurs collectivités territoriales lorsque l'Union européenne prévoit de légiférer dans des domaines qui relèvent de la compétence des niveaux infra-étatiques. Le SYVICOL souhaiterait que les représentants gouvernementaux luxembourgeois qui participent à l'élaboration de ces textes, s'approprient cette méthode de travail.*'

Municipalities and Regions.⁶⁴²

3.1.14 Malta

General

The Republic of Malta is a unitary State. Pursuant to Article 51 of the Constitution of Malta, the Parliament of Malta consists of the President and a House of Representatives (*Kamra tad-Deputati*).⁶⁴³ The House of Representatives is composed of 65 MPs who are elected to five-year terms.⁶⁴⁴ The President serves as Head of State and is elected by the House of Representatives for a five-year term.⁶⁴⁵ The Prime Minister serves as Head of Government and is appointed by the President from among the MPs.⁶⁴⁶

Until recently, there existed no degree of regional self-government in Malta. The country was divided into regions and districts that existed exclusively for statistical purposes.⁶⁴⁷ Following a reform of the Local Councils Act in 2009, however, five regional committees have now been established, each of which corresponds to one of five distinct Regions.⁶⁴⁸ These regional committees constitute a new level of government operating between the State level and the local level. Their responsibilities are devolved to the regional committees by the Minister responsible for Local Government. Furthermore, the local councils of the region may, upon unanimous agreement, authorise the regional committee to exercise powers initially attributed to the local councils. As such, regional committees have been authorised to deal, *inter alia*, with local enforcement, street lighting, the organisation of cultural activities and the promotion of the environment.⁶⁴⁹ An executive secretary is appointed in each regional committee to administer the committee, and a president is selected by the local councillors

⁶⁴²For further information, see footnote 378.

⁶⁴³Article 51 of the Constitution of Malta, available at

<http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8566&l=1> (EN).

⁶⁴⁴However, pursuant to Article 52 of the Constitution, additional seats may be allocated to ensure that the party that gains an absolute majority of votes in the election also obtains a majority of MPs. Currently, there are 69 MPs. For further information, see the General Elections Act, available at

<http://www.parlament.mt/file.aspx?f=13575> (EN) and <http://www.parlament.mt/compositionofparliament> (EN).

⁶⁴⁵Article 48 of the Constitution of Malta.

⁶⁴⁶Article 80 of the Constitution of Malta.

⁶⁴⁷K. Aquilina & I. Calleja, 'Local government in Malta', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 435-458, at p. 438.

⁶⁴⁸See Article 37A of the Local Councils Act, available at

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8833&l=1> (EN). The five regions are the Region Gozo, the Northern Region, the Central Region, the Southeast Region and the Southern Region.

⁶⁴⁹For further information, see the Local Enforcement System, available at <https://les.gov.mt/descriptionles.aspx> (EN) and CoR, Countries, Members without legislative powers, Malta, Division of powers, available at <http://extranet.cor.europa.eu/divisionpowers/countries/MembersNLP/Malta/Pages/default.aspx> (EN).

within the region to head the region.⁶⁵⁰

At the local level, there are 68 local councils (*kunsill lokali*) in Malta.⁶⁵¹ In accordance with Article 115A of the Constitution,⁶⁵² they constitute the local authority's deliberative assembly and are composed of directly elected councillors serving four-year terms. The local councillor who receives the highest number of votes within the party that obtained the absolute majority in the local election serves as mayor (*sindku*).⁶⁵³ An executive secretary (*segretarju eżekuttiv*) is appointed by the local council to serve as the executive, administrative and financial head of the local council.⁶⁵⁴ The local authorities have competences in the following areas: maintenance of public areas, maintenance of road infrastructure, public libraries, waste collection and management of developed properties.⁶⁵⁵

Finally, it is noted that the 2009 reform created a new level of government, namely the administrative committees. Such administrative committees were set up in 16 hamlets that had specific needs or which were distant from the centre of the local circumscription. They take over the administration of their hamlet from the local council to which they are accountable. They are composed of five directly elected members.⁶⁵⁶

Procedures at the central level

Pursuant to Article 120 F.5 of the House of Representatives' Standing Orders, responsibility to scrutinise EU draft legislation (on its own initiative) rests with

⁶⁵⁰CoR, Maltese Regions: Getting into Shape, available at <http://cor.europa.eu/en/news/regional/Pages/8e50ce38-8d30-431b-874c-4d2fe8afc22d.aspx> (EN).

⁶⁵¹A list of the municipalities is available at the website of the Local Councils' Association, available at <http://www.lca.org.mt/userfiles/image/MaltaMapLC.jpg> (EN).

⁶⁵²Pursuant to Article 115A of the Constitution, '[t]he State shall adopt a system of local government whereby the territory of Malta shall be divided into such number of localities as may by law be from time to time determined, each locality to be administered by a Local Council elected by the residents of the locality and established and operating in terms of such law as may from time to time be in force.' See also Article 3 of the Local Councils Act, which states that '[t]he Council shall be a statutory local government authority having a distinct legal personality and capable of entering into contracts, of suing and being sued, and of doing all such things and entering into such transactions as are incidental or conducive to the exercise and performance of its functions as are allowed under this Act.' The Local Councils Act is available at <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8833&l=1> (EN).

⁶⁵³If no political party obtains an absolute majority of votes, the specific rules detailed in the seventh schedule of the Local Councils Act apply. For further information, see The Local Councils Act, available at <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8833&l=1> (EN).

⁶⁵⁴Council of European Municipalities and Regions, Local Authorities in Malta, available at <http://www.ccre.org/en/membres/Malte.htm> (EN).

⁶⁵⁵*Ibid.*

⁶⁵⁶For further information, see K. Aquilina & I. Calleja, 'Local government in Malta', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 435-458, at p. 438.

the Committee on Foreign and European Affairs (CFEA).⁶⁵⁷ In order to organise its work, the CFEA has set up a number of Working Groups within its remit. Working Group I is responsible for an initial filtering of legislation that may warrant further study. EU draft legislation that requires more detailed examination is then forwarded to Working Group II, III, or IV, or to the Standing Committee on Social Affairs (depending on the subject matter of the draft legislation).⁶⁵⁸

If, following additional scrutiny, the draft is considered to breach the subsidiarity principle, an opinion is issued to all Members of Parliament. The CFEA is responsible for drafting an opinion that is sent to the Speaker of the House. The Standing Committee on House Business is responsible for approving reasoned opinions.⁶⁵⁹ Approved reasoned opinions are transmitted to the Presidents of the European Commission, the Council and the European Parliament.⁶⁶⁰

The House of Representatives is not a member of the SMN.

As of October 2013, the Maltese House of Representatives has issued seven reasoned opinions.⁶⁶¹

Procedures involving regional and local authorities and other relevant stakeholders

Regions and municipalities do not carry out assessments of EU draft legislation regarding potential violations of the subsidiarity principle.

No formal or informal mechanisms exist for incorporating the opinions of regional and local stakeholders into the subsidiarity monitoring process.

Furthermore, the reasoned opinions issued so far by the Maltese House of Representatives do not explicitly mention the consultation of regional and local

⁶⁵⁷ Article 120 F.5 of the Standing Orders for the House of Representatives, available at <http://www.parlament.mt/file.aspx?f=42686> (EN).

⁶⁵⁸ For further information, see Parliament of Malta, Foreign and European Affairs Committee, available at <http://www.parlament.mt/foreignandeuropeanaffairscommittee?l=1> (EN).

⁶⁵⁹ The Standing Committee on House Business is comprised of the Speaker of the House, two members appointed by the PM and two members appointed by the Opposition. The Standing Committee is responsible for considering all matters and procedures of business that take place in the house and for reporting its opinion. Additional information is available at <http://www.parlament.mt/housebusinesscommittee> (EN).

⁶⁶⁰ IPEX, National Parliaments, Maltese House of Representatives, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity', available at <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/mtkam.do> (EN).

⁶⁶¹ IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

authorities or other stakeholders.⁶⁶²

Malta does not have any regional or local authorities or associations that are members of the SMN. Local and regional associations however participate in European local government associations, such as the Council of European Municipalities and Regions.⁶⁶³ Moreover, the Maltese CoR delegation is a member of the SMN.⁶⁶⁴

3.1.15 *The Netherlands*

General

The Kingdom of the Netherlands is a decentralised, unitary State. The legislative power is vested in a bicameral Parliament called the ‘States General’ (*Staten Generaal*), which is composed of the Upper Chamber⁶⁶⁵ or Senate (*Eerste Kamer*) and the Lower Chamber⁶⁶⁶ or House of Representatives (*Tweede Kamer*). The Upper Chamber is composed of 75 MPs who are indirectly elected through appointment by Provincial Councils.⁶⁶⁷ The Lower Chamber is composed of 150 MPs who are directly elected.⁶⁶⁸ MPs in both Chambers serve four-year terms.⁶⁶⁹ The (hereditary) monarch serves as the official Head of State.⁶⁷⁰ The Head of Government is the Prime Minister, who is nominated by the Second Chamber and appointed by the monarch.

At the regional level, the Netherlands is divided into 12 provinces (*provincies*).⁶⁷¹ Each province has a deliberative body, i.e. a provincial council (*provinciale staten*)⁶⁷² composed of members who are directly elected for a period of four years.⁶⁷³ The provincial councils do not have full legislative powers, but can pass by-laws in the areas of regional planning, social housing,

⁶⁶²See Appendix 2.

⁶⁶³For further information, see footnote 378.

⁶⁶⁴Additional information is available at <http://cor.europa.eu/en/regions/malta/Pages/national-delegation.aspx> (EN).

⁶⁶⁵For further information, see http://www.eerstekamer.nl/begrip/english_2 (EN).

⁶⁶⁶For further information, see <http://www.houseofrepresentatives.nl/> (EN).

⁶⁶⁷Articles 51(3) and 55 of the Constitution of the Netherlands, available at <http://www.rijksoverheid.nl/documenten-en-publicaties/brochures/2008/10/20/the-constitution-of-the-kingdom-of-the-netherlands-2008.html> (EN).

⁶⁶⁸Articles 51(2) and 54 of the Constitution of the Netherlands.

⁶⁶⁹Article 52(1) of the Constitution of the Netherlands.

⁶⁷⁰Article 24 of the Constitution of the Netherlands.

⁶⁷¹For further information, see the Association of the Provinces of the Netherlands’ website (*Interprovinciaal Overleg*), available at www.ipo.nl (NL) and <http://www.amsterdam.info/netherlands/provinces/> (EN).

⁶⁷²The translation of the Constitution of the Netherlands refers to ‘provincial councils’ in Articles 125 ff. However, other sources refer to ‘provincial states’ (see notably the Council of European Municipalities and Regions, Local and Regional Authorities in the Netherlands, available at <http://www.ccre.org/en/membres/Pays-Bas.htm> (EN)) or provincial assemblies (see notably <http://www.amsterdam.info/netherlands/provinces/>).

⁶⁷³Article 129 of the Constitution of the Netherlands.

environment, culture, leisure and sports, public transport, road maintenance and traffic, energy, tourism and regional broadcasting.⁶⁷⁴ The provincial executive boards (*gedeputeerde staten*) act as the executive bodies of the provinces. They are composed of the King's/Queen's Commissioner (*Commissaris van de Koning(in)*) and three to nine members designated by the provincial councils. The King's/Queen's Commissioner is appointed by the National Government for a six-year term on the proposal of the provincial councils.⁶⁷⁵

At the local level, the Netherlands is subdivided into 408 municipalities (*gemeenten*).⁶⁷⁶ Municipal councils (*gemeenteraden*) act as the municipalities' deliberative bodies.⁶⁷⁷ Their members are directly elected⁶⁷⁸ every four years. The college of mayor and aldermen (*College van burgemeester en wethouders*) acts as the municipality's executive.⁶⁷⁹ Mayors (*burgemeesters*) are proposed by the King's/Queen's Commissioner and are appointed by the Crown (the monarch and ministers) for a mandate of six years.⁶⁸⁰ Aldermen are elected from within the municipal councils every four years. Local authorities have competences in the following areas: urban planning, housing, tourism, civil engineering, transport, health, primary education, employment, child care, social services, law and order, and culture and sports.⁶⁸¹

Procedures at the central level

Until 2009, subsidiarity checks were conducted by the Joint Subsidiarity Committee of both Chambers of Parliament. In 2009, this Committee stopped operating when the Upper Chamber adopted a new EU procedure.⁶⁸² The Lower Chamber subsequently established its own procedure for detecting breaches of the subsidiarity principle in EU draft legislation.

⁶⁷⁴ Council of European Municipalities and Regions, Local and Regional Authorities in the Netherlands, available at <http://www.ccre.org/en/membres/Pays-Bas.htm> (EN).

⁶⁷⁵ For further information, see the Province Act (*Provinciewet*), available at http://wetten.overheid.nl/BWBR0005645/geldigheidsdatum_22-08-2013 (NL).

⁶⁷⁶ Association of Dutch municipalities (*Vereniging van Nederlandse Gemeenten*), available at <http://www.vng.nl/onderwerpenindex/bestuur/herindeling/nieuws/408-gemeenten-op-1-januari-2013> (NL).

⁶⁷⁷ For further information, see the website of the Dutch Government, Dutch Municipalities and Cities, available at <http://www.government.nl/issues/municipalities-and-cities/municipal-government> (EN).

⁶⁷⁸ Article 129 of the Constitution of the Netherlands.

⁶⁷⁹ Council of European Municipalities and Regions, Local and Regional Authorities in the Netherlands, available at <http://www.ccre.org/en/membres/Pays-Bas.htm> (EN).

⁶⁸⁰ Dutch Government, Dutch Municipalities and Cities, available at <http://www.government.nl/issues/municipalities-and-cities/municipal-government> (EN).

⁶⁸¹ Council of European Municipalities and Regions, Local and Regional Authorities in the Netherlands, available at <http://www.ccre.org/en/membres/Pays-Bas.htm> (EN). For further information, see the Municipality Act (*Gemeentewet*), available at http://wetten.overheid.nl/BWBR0005416/geldigheidsdatum_22-08-2013 (NL) and I. Van Haaren-Dresens, 'Local government in the Netherlands', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 459-483.

⁶⁸² See http://www.eerstekamer.nl/eu/begrip/english_3 (EN).

Within the Upper Chamber, subsidiarity checks are conducted by the different standing committees depending on the subject matter of the draft EU legislation. Each committee⁶⁸³ selects the EU draft legislation that will be scrutinised on the basis of the Annual Work Programme of the European Commission and on the basis of a weekly overview of EU draft legislation sent by the EU institutions, which is conducted by the staff of the Upper Chamber.⁶⁸⁴ If a breach is determined to have occurred, the competent standing committee will attempt to coordinate with the competent standing committee of the Lower Chamber to determine if a joint letter may be sent.⁶⁸⁵ When a reasoned opinion is drafted, it must be approved by the plenary prior to being sent to the Presidents of the European Commission, the Council and the European Parliament.⁶⁸⁶

The subsidiarity scrutiny procedure of the Lower Chamber is laid down in a procedural arrangement attached to the Chamber's rules of procedure.⁶⁸⁷ Subsidiarity checks are carried out by standing committees and the plenary.⁶⁸⁸ Similar to the procedure in the Upper Chamber, a selection of EU draft legislation is made on the basis of the Annual Work Programme of the European Commission by the standing committees of the Lower Chamber.⁶⁸⁹ Once EU draft legislation is sent to the Lower Chamber, it is channelled to the relevant standing committee, which can decide to start the subsidiarity scrutiny. If the relevant standing committee determines that a breach has occurred, it establishes a draft opinion that is then sent on to the standing committee on European Affairs. After reviewing the draft opinion, the standing committee on European Affairs forwards the opinion to the plenary of the House for a vote. If the plenary approves the reasoned opinion by majority, it is forwarded to the Presidents of the European Commission, the Council, and the European

⁶⁸³ *'The procedure for dealing with European proposals in the Senate is organised as far as possible in keeping with the procedure for dealing with draft national legislation.'* *Ibid.* The standing committee on European Affairs consequently lost its 'gatekeeper' function, and relevant sectoral committees are responsible for the subsidiarity scrutiny of EU draft legislation in their subject matter.

⁶⁸⁴ EU draft legislation that has been prioritised by the Upper Chamber among the European Commission working programme is automatically placed on the agenda of the standing committees for discussion. For the proposals selected by a standing committee, the staff prepares a summary of the EU draft legislation and puts the item on the agenda of the committee that selected the proposal.

⁶⁸⁵ Note: when a joint letter is sent to the EU institutions, this counts as two votes in the context of the EWS.

⁶⁸⁶ IPEX, National Parliaments, Dutch Senate, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity', available at http://www.eerstekamer.nl/eu/brief2/20121019/table_setting_out_the_stages_in/document.

⁶⁸⁷ Procedural arrangement on treatment by the House of legislative proposals of the European Union in the framework of the Parliamentary Reservation and in the framework of the scrutiny on the aspects of European legal basis, subsidiarity and proportionality.

⁶⁸⁸ For further information, see the Lower Chamber website, available at <http://www.houseofrepresentatives.nl> (EN) and IPEX, National Parliaments, Dutch House of Representatives, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity by the Dutch House of Representatives', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc53af8a96e013b4cc91f0332be.do> (EN).

⁶⁸⁹ If during the course of the year EU draft legislation is sent that is not included on the list, a standing committee may decide to scrutinise the proposal after notification is given to the standing committee on European affairs.

Parliament.⁶⁹⁰

While each Chamber has established its own subsidiarity monitoring procedure, dialogue takes place between the committees on both sides of the States General prior to agreeing whether or not to send a letter to the EU institutions. If both Chambers agree, a joint letter is sent to the European Commission.

Neither the Upper Chamber nor the Lower Chamber are SMN members.

As of October 2013, the Upper Chamber has issued 15 reasoned opinions and the Lower Chamber has issued 17 reasoned opinions, 12 of which were joint letters of the two Chambers.⁶⁹¹

Procedures involving regional and local authorities and other relevant stakeholders

No formal mechanisms exist for incorporating the opinions of regional and local authorities and additional stakeholders into the analysis of EU draft legislation for potential violations of the subsidiarity principle. Furthermore, there are no explicit references to informal consultations in the procedures for subsidiarity monitoring or in the reasoned opinions issued by the two Chambers of the States General.⁶⁹²

Both the Lower Chamber⁶⁹³ and the Upper Chamber⁶⁹⁴ publish the results of their scrutiny process on their official websites.

Two regional authorities (the Flevoland Provincial Government⁶⁹⁵ and the Overijssel Province⁶⁹⁶) and one local authority (the Twente Network City⁶⁹⁷) are members of the SMN. Moreover, the two associations which respectively represent provincial and municipal authorities are also members of the SMN (the Association of the Provinces of the Netherlands (*Inter Provinciaal Overlegorgaan* - IPO⁶⁹⁸) and the Association of Dutch Municipalities

⁶⁹⁰*Ibid.*

⁶⁹¹IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁶⁹²*Ibid.*

⁶⁹³See the website of the Lower Chamber, available at <http://www.tweedekamer.nl/> (NL).

⁶⁹⁴The Europapoort website is available at <http://www.eerstekamer.nl/eu/> (NL).

⁶⁹⁵Additional information is available at <http://www.flevoland.nl/english/flevoland-a-european-prov/> (EN).

⁶⁹⁶Additional information is available at <http://www.overijssel.nl/> (NL).

⁶⁹⁷The Twente Network City is a joint venture between fourteen municipalities engaged in activities that address issues such as public health and transportation. Additional information is available at <http://www.regiotwente.nl/algemene-informatie/english-summary> (EN).

⁶⁹⁸The Association of Provinces of the Netherlands serves as a liaison for the provinces with the Government, Parliament, ministries and the EU. Additional information is available at <http://www.ipo.nl/over-het-ipo> (NL).

(*Vereniging van Nederlandse Gemeenten - VNG*⁶⁹⁹). Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁷⁰⁰ or the Council of European Municipalities and Regions.⁷⁰¹ The Dutch CoR delegation is not a member of the SMN.

3.1.16 Poland

General

The Republic of Poland is a unitary State⁷⁰² in which the legislative power is vested in a bicameral Parliament, which consists of a Lower House (*Sejm*), composed of 460 Deputies and a Senate (*Senat*) composed of 100 Senators. Members of both houses are directly elected to four-year terms.⁷⁰³ The President serves as Head of State and is directly elected to a five-year term.⁷⁰⁴ The Prime Minister serves as Head of Government, and is nominated by the President and appointed by the House.⁷⁰⁵

Pursuant to an administrative reform that came into effect in 1999, Poland is divided into 16 regions (*voivodeship-województwo*) that replaced the former 49 (smaller) *voivodeships* managed by the National Government. Regional councils (*sejmik województwa*) are directly elected to four-year terms. A marshal (*marszałek*) is elected by the council to a four-year term and represents its interests at both the national and international level. A regional executive board (*zarząd województwa*), composed of the marshal and of members elected by the council, implements decisions made by the regional council. Furthermore, a governor (*wojewoda*), appointed by the Prime Minister, represents the Government at the regional level. Regions have administrative competences in relation to economic development, higher education, environment, employment, social policy and regional road management.⁷⁰⁶

At the intermediate level, the country is divided into 379 counties (*powiaty*), including 65 cities with county status.⁷⁰⁷ Counties have an elected council (*rada powiatu*) which acts as their deliberative assembly. The council is composed of

⁶⁹⁹The Association of Dutch Municipalities facilitates coordination between municipalities, promotes the exchange of information and experiences and provides a platform for opinion sharing. Additional information available at <http://www.vng.nl/vereniging/wat-doet-de-vng/de-vng-voor-en-door-alle-gemeenten> (NL).

⁷⁰⁰For further information, see footnote 377.

⁷⁰¹For further information, see footnote 378.

⁷⁰²Article 3 of the Constitution of Poland, available at <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm> (EN).

⁷⁰³Articles 95-97 of the Constitution of Poland.

⁷⁰⁴Articles 126-127 of the Constitution of Poland.

⁷⁰⁵Articles 146-154 of the Constitution of Poland.

⁷⁰⁶Council of Municipalities and Regions, Local and Regional Authorities in Poland, available at <http://www.ccre.org/en/membres/Pologne.htm> (EN).

⁷⁰⁷These 65 cities exercise the same competences as counties.

councillors that are directly elected to four-year terms. County heads (*starosta*) are selected by the council for a four-year term. The executive board (*zarząd powiatu*), composed of the head of the county and members elected by and from the county council, is responsible for implementing the council's decisions. County competences relate to road building and maintenance, secondary education, civil protection, environment, employment and health.⁷⁰⁸

At the local level, Poland is divided into 2,479 municipalities (*gminy*).⁷⁰⁹ Municipal councils (*rada gminy*) are directly elected every four years. A directly elected mayor (*wójt* in rural municipalities, *burmistrz* in urban municipalities and *prezydent miasta* in cities of more than 100,000 inhabitants) serves as the executive head for each municipality. Local competences cover public transport, social services, housing, environment, culture, and pre-school and primary education.⁷¹⁰

Procedures at the central level

Cooperation of the Government with the two Chambers of Parliament in EU matters is governed by the Act of 8 October 2010 (the Cooperation Act).⁷¹¹ The Government provides both the Lower House and the Senate with its opinion on EU draft legislation within two weeks of receiving EU draft legislation.

Both the Lower House and the Senate have appointed their respective European Union Affairs Committees (EUAC) as the body competent to act on their behalf in all EU matters.

In the Senate, the Marshal (Presiding Officer) refers EU draft legislation to the EUAC. The Presidium of the EUAC - composed of the chair of the Committee and two deputies - determines whether the EUAC or the relevant sectoral committee will review the draft legislation. If the EUAC or the sectoral committee determines that a breach has occurred, it establishes a draft Senate resolution, which is subsequently put to vote in the plenary. If adopted, the reasoned opinion is forwarded to the European Commission, the Council and the

⁷⁰⁸ *Ibid.*

⁷⁰⁹ *Ibid.* For a list of the provinces, see <http://www.polandexplorer.com/provinces-of-poland/> (EN).

⁷¹⁰ *Ibid.* For further information, see M. Kulesza & D. Szescilo, 'Local government in Poland', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 485-504.

⁷¹¹ This Act is available at

<http://isap.sejm.gov.pl/Download.jsessionid=926C899E2FC4D66659664DA8AE4F158B?id=WDU20102131395&type=2> (PL). A summary of the Cooperation Act as well as the document itself are available at http://www.parl2011.pl/prezydencja.nsf/lexi/en_Sejm_Senate_EU (EN).

European Parliament.⁷¹²

The subsidiarity scrutiny procedure of the Lower House is similar to that of the Senate. Upon receiving draft legislation, only draft legislation that has been motioned for discussion in the EUAC by the Lower House's Bureau of Research is scrutinised. Having received the position of the Government and the Lower House's Bureau of Research along with relevant external opinions in certain cases, the EUAC determines whether a breach has occurred. A draft opinion is first voted upon by the EUAC before being put to the vote in the plenary. When a reasoned opinion is adopted, it is forwarded to the Presidents of the European Commission, the Council and the European Parliament.⁷¹³

Neither the Lower House nor the Senate are SMN members.

As of October 2013, the Lower House and the Senate had adopted 12 reasoned opinions each.⁷¹⁴ Six proposals were subject to reasoned opinions issued by both Chambers of the Parliament.

Procedures involving regional and local authorities and other relevant stakeholders

There are no legal mechanisms explicitly granting regions, counties and municipalities the right to independently assess draft EU initiatives for potential violations of the subsidiarity principle. Moreover, there are no formal mechanisms for involving these authorities in the Parliament's subsidiarity monitoring procedure.⁷¹⁵

The only route for regional or local consultative bodies and interested stakeholders to take part in the Parliament's subsidiarity scrutiny is to participate in meetings of the Committee on European Affairs of the Lower House or the Senate. However, none of the reasoned opinions published so far by the Lower House or the Senate explicitly mentions the use of public consultation.⁷¹⁶

⁷¹²For further information, see IPEX, National Parliaments, Polish Senate, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity. Senate of the Republic of Poland', available at

<http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a646ceafc4244.do> (EN).

⁷¹³IPEX, National Parliaments, Polish *Sejm*, 'Subsidiarity Scrutiny in the *Sejm*', available at

http://libr.sejm.gov.pl/oide/images/files/badanie_pomocniczosci/subsidiarity_sejm_table_en.pdf (EN).

⁷¹⁴IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁷¹⁵Reviewed and confirmed by representatives of the EUAC for both the Senate and the *Sejm*.

⁷¹⁶See Appendix 2.

Six regional and local authorities are members of the SMN (Łódź City⁷¹⁷, Łódź Region Marshal's office⁷¹⁸, Wielkopolska Region Marshal's office⁷¹⁹, Pomeranian Regional Parliament⁷²⁰, Masovian Region Marshal's office⁷²¹ and the Silesian Region Government⁷²²). Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁷²³ or the Council of European Municipalities and Regions.⁷²⁴ The Polish CoR delegation is not a member of the SMN.

3.1.17 Romania

General

The Republic of Romania is a unitary State⁷²⁵ in which the legislative power is vested in a bicameral legislature consisting of the Chamber of Deputies (*Camera Deputaților*) and the Senate (*Senatul*).⁷²⁶ The Chamber of Deputies is made up of 412 deputies elected to four-year terms. The Senate is composed of 176 Senators who are elected to four-year terms.⁷²⁷ The President of Romania is directly elected and serves as Head of State.⁷²⁸ The Prime Minister is nominated by the Parliament and appointed by the President.⁷²⁹

At the regional level, Romania has 42 counties (*judete*)⁷³⁰ including the Municipality of Bucharest.⁷³¹ Each county has a county council (*consiliul judetean*) that is directly elected⁷³² to a four-year term. Pursuant to Article 122(1) of the Constitution, '*[t]he County Council is the public administration authority coordinating the activity of commune and town councils, with a view*

⁷¹⁷ Additional information is available at <http://en.uml.lodz.pl/> (EN).

⁷¹⁸ Additional information is available at http://www.bruksela.lodzkie.pl/index.php?option=com_k2&view=item&layout=item&id=347&Itemid=125 (EN).

⁷¹⁹ Additional information is available at <http://www.wielkopolska-region.pl/?lang=en> (EN).

⁷²⁰ Additional information is available at http://www.kujawsko-pomorskie.pl/index.php?option=com_content&task=view&id=3839&Itemid=98 (EN).

⁷²¹ Additional information is available at <http://www.mazovia.pl/en/the-office-of-the-marshall-general-information/> (EN).

⁷²² Additional information is available at <http://www.slaskie.pl/en/> (EN).

⁷²³ For further information, see footnote 377.

⁷²⁴ For further information, see footnote 378.

⁷²⁵ Article 1(1) of the Constitution of Romania, available at <http://www.cdep.ro/pls/dic/site.page?id=371> (EN).

⁷²⁶ Article 61(2) of the Constitution of Romania.

⁷²⁷ Inter-Parliamentary Union, Chamber of Deputies, available at http://www.ipu.org/parline-e/reports/2261_B.htm (EN) and Senate, available at http://www.ipu.org/parline-e/reports/2262_A.htm (EN).

⁷²⁸ Articles 80 and 81 of the Constitution of Romania.

⁷²⁹ Article 103 of the Constitution of Romania.

⁷³⁰ A list of the counties is available at http://ec.europa.eu/echo/civil_protection/civil/vademecum/ro/2-ro-1.html (EN).

⁷³¹ CoR, President & Members, National Delegation, Romania, available at <http://cor.europa.eu/en/about/nationaldelegations/Pages/romania.aspx> (EN).

⁷³² Article 122(2) of the Constitution of Romania.

to carrying out the public services of county interest. The council is led by a president (*presedinte*) who is also directly elected to a four-year term. Each county moreover has a prefect (*prefect*) that is appointed by the National Government,⁷³³ whose responsibility consists of ensuring the legality of administrative acts adopted by the council and ensuring that the National Government's policies are implemented at the regional level. County competences relate to regional development, economic development, environmental development, social development, management of public services, urban planning and landscaping, water supply, sewage, transport and transport infrastructure, public health, social assistance, education, and cooperation between local and national authorities.⁷³⁴

At the local level there are 2,861 municipalities (*comune*), 217 towns (*orase*) and 103 cities (*municipii*). Local councils (*consiliul local*) are directly elected to four-year terms.⁷³⁵ A mayor (*primarul*) serves as the executive at the local level and is also directly elected to a four-year term. In accordance with Article 121 of the Constitution, '*[t]he local Councils and Mayors shall act as autonomous administrative authorities and manage public affairs in communes and towns.*' Local competences relate to housing, local police, urban planning, waste management, public health, transport infrastructure and urban transport planning, water supply and sewage system, district heating, pre-school, primary school, secondary school, vocational training and technical training, local heritage administration, and the administration of parks and open green public areas.⁷³⁶

Procedures at the central level

The Chamber of Deputies and the Senate carry out separate subsidiarity checks of EU draft legislation.

Once EU draft legislation is sent to the Chamber of Deputies,⁷³⁷ the Chamber's Directorate for Community Law (DCL) notifies the Standing Bureau. The Standing Bureau forwards the EU draft legislation to the relevant standing committee(s) recommended by the DCL and the Chamber's European Affairs Committee (EAC) within seven days of receipt. The standing committee(s)

⁷³³Article 123 of the Constitution of Romania.

⁷³⁴Council of European Municipalities and Regions, Local and Regional Authorities in Romania, available at <http://www.ccre.org/en/membres/Roumanie.htm> (EN).

⁷³⁵*Ibid.*

⁷³⁶*Ibid.*

⁷³⁷The procedure of subsidiarity check within the Chamber of Deputies is governed by a *decision on working procedure and decision making mechanism for the exercise of parliamentary scrutiny over the draft EU legislative acts*, adopted on 19 April 2011 and available at http://www.cdep.ro/pdfs/HC_11_2011.pdf (EN). See also the website of the Chamber of Deputies, Directorate for Community Law, available at <http://www.cdep.ro/pls/dic/site.page?den=dip-dreptc2> (EN).

subsequently conduct(s) the subsidiarity check of the EU draft legislation. If a breach is found, the committee(s) draw(s) up a draft reasoned opinion and notify(ies) the DCL. The draft opinion is forwarded to the EAC, which debates the issue. The draft opinion is then transmitted to the Standing Bureau of the Chamber of Deputies and to the DCL. If the draft reasoned opinion finds a violation of the subsidiarity principle, the Standing Bureau decides either to send the reasoned opinion to the plenary for a vote or to empower the Speaker to sign it at will and then transmit the reasoned opinion to the Romanian Government and the EU institutions.⁷³⁸ If the reasoned opinion obtains a majority of votes of deputies present at the plenary meeting, the reasoned opinion is similarly adopted and sent to the Government and EU institutions.

The Senate has its own EAC and Standing Bureau, and follows a path similar to that of the Chamber of Deputies in scrutinising draft EU legislation.⁷³⁹ Upon recommendation of the European Affairs Division, the Standing Bureau decides which committee will carry out the scrutiny process. The President of the Senate informs the competent committee in order to start the subsidiarity scrutiny. During the scrutiny process, the EAC provides the relevant committees with its opinion regarding draft legislation. Draft opinions are debated and voted on by the Senate at a plenary meeting. Approved reasoned opinions are forwarded by the President of the Senate to the European Commission, the Council and the European Parliament.⁷⁴⁰

As of October 2013, the Chamber of Deputies has issued five reasoned opinions and the Senate has issued three reasoned opinions.⁷⁴¹ The Chamber of Deputies is not a member of the SMN.

Procedures involving regional and local authorities and other relevant stakeholders

There are no established procedures for monitoring breaches of subsidiarity in EU draft legislation at the regional or local level.⁷⁴² Moreover, there are no

⁷³⁸IPEX, National Parliaments, Romanian Chamber of Deputies, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a3fec2af92d96.do> (EN). See also the *decision on working procedure and decision making mechanism for the exercise of parliamentary scrutiny over the draft EU legislative acts*, adopted on 19 April 2011 and available at http://www.cdep.ro/pdfs/HC_11_2011.pdf (EN).

⁷³⁹See the Romanian Senate's website, available at <http://www.senat.ro/Start.aspx> (RO).

⁷⁴⁰IPEX, National Parliaments, Romanian Senate, 'Scrutiny of documents coming from the European Union and monitoring compliance with the principle of subsidiarity', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013ab7241e6b70b9.do> (EN).

⁷⁴¹IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁷⁴²Information and data collected for the CoR by EIPA, 2011.

specific mechanisms that involve regional and local authorities in the subsidiarity monitoring procedure.

Informally, however, the National Union of County Councils of Romania, which represents the counties' interests, conducts a consultation procedure with the counties.⁷⁴³ Moreover, the National Government consults and informs county councils directly and via the National Union. These mechanisms are not specifically related to EU matters, however.

Reasoned opinions adopted by the Senate or the Chamber of Deputies are made available on their respective webpages and are published in the *Official Journal of Romania Part I*.⁷⁴⁴

Six regional and local authorities and associations are members of the SMN (Hunedoara City,⁷⁴⁵ Galati County Council,⁷⁴⁶ Harghita County Council,⁷⁴⁷ Association of Romanian Municipalities,⁷⁴⁸ Association of Romanian Cities,⁷⁴⁹ and the National Union of County Councils⁷⁵⁰). Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁷⁵¹ or the Council of European Municipalities and Regions.⁷⁵² Moreover, the Romanian CoR delegation is a member of the SMN.⁷⁵³

3.1.18 Slovakia

General

The Slovak Republic is a unitary State in which the legislative power is vested in a unicameral legislature called the National Council (*Národná Rada Slovenskej republiky*).⁷⁵⁴ The National Council is composed of 150 MPs who are

⁷⁴³Information and data collected for the CoR by EIPA, 2011.

⁷⁴⁴*Ibid.* See also *The Official Journal of Romania Part I*, available at http://www.monitoruloficial.ro/EN/article--Official_Journal_of_Romania_Part_I--62.html (EN).

⁷⁴⁵Additional information is available at <http://www.deva.ro/> (RO).

⁷⁴⁶Additional information is available at <http://www.primaria.galati.ro/> (RO).

⁷⁴⁷Additional information is available at <http://www.judetulharghita.ro/index.php?lang=en> (EN).

⁷⁴⁸The Association of Romanian Municipalities carries the mission of representing the interests of its members both at the local and international level. Additional information is available at <http://www.amr.ro/desprenoi.viziune.amr?l=en> (EN).

⁷⁴⁹Additional information is available at <http://www.aor.ro/> (RO).

⁷⁵⁰The National Union of County Councils of Romania represents the interests of the county councils in relation to the Parliament and Government. Additional information is available at <http://www.uncjr.ro/> (RO).

⁷⁵¹For further information, see footnote 377.

⁷⁵²For further information, see footnote 378.

⁷⁵³Additional information is available at <http://cor.europa.eu/en/about/nationaldelegations/Pages/romania.aspx> (EN).

⁷⁵⁴Article 72 of the Constitution of the Slovak Republic, available at http://www.ilo.org/wcmsp5/groups/public/--ed_protect/--protrav/--ilo_aids/documents/legaldocument/wcms_128037.pdf (EN).

directly elected to four-year terms.⁷⁵⁵ The President serves as Head of State and is directly elected to five-year terms.⁷⁵⁶ The Prime Minister is appointed by the President.⁷⁵⁷

Slovakia is subdivided into eight self-governing regions (*samosprávne kraje*).⁷⁵⁸ Regional councils (*zastupiteľstvo samosprávneho kraja*) are deliberative bodies that are composed of members directly elected to four-year terms.⁷⁵⁹ Each council is led by a president (*predseda*) who is directly elected to a four-year term and serves as the executive head of the region.⁷⁶⁰ The regional competences include the following: regional road networks, land development, regional development, secondary education, hospitals, social services, culture, participation in civil defence, and licenses for pharmacies and private physicians.⁷⁶¹

At the local level, there are 2,792 municipalities (*obce*) and 138 cities (*mestá*). Local councils (*obecné zastupiteľstvo* in municipalities and *mestské zastupiteľstvo* in cities) are deliberative assemblies whose members are directly elected to four-year terms.⁷⁶² The mayor (*starosta* in municipalities and *primátor* in cities) is directly elected to four-year terms and heads the municipality's/city's executive.⁷⁶³ A local board (*obecná rada* in municipalities and *mestská rada* in cities) serves as the consultative body for the mayor; members are elected by and from the local council. Local competences relate to the following areas: road maintenance, public transport, environment, water supply, sewage and municipal waste, local development, housing, pre-school and primary school, social assistance, health, culture and sport, and participation in regional planning.⁷⁶⁴

Procedures at the central level

The Slovak Constitutional Act No. 397/2004 Coll.⁷⁶⁵ organises the cooperation between the National Council and the Government in EU affairs. In accordance

⁷⁵⁵Articles 73-74 of the Constitution of the Slovak Republic.

⁷⁵⁶Article 101 of the Constitution of the Slovak Republic.

⁷⁵⁷Article 110 of the Constitution of the Slovak Republic.

⁷⁵⁸A list of the eight regions is available at <http://www.slovakia.org/regions.htm> (EN).

⁷⁵⁹Article 69(5) of the Constitution of the Slovak Republic.

⁷⁶⁰Article 69(6) of the Constitution of the Slovak Republic.

⁷⁶¹Council of European Municipalities and Regions, Local and Regional Authorities in Slovakia, available at <http://www.ccre.org/en/membres/Slovaquie.htm> (EN). For further information on self-governing regions, see J. Buček, 'Building of regional self-government in Slovakia: the first decade', 63 *Geographical Journal* (2011) pp. 3-27, available at <http://www.sav.sk/journals/uploads/02201358GC-11-1-Bucek.pdf> (EN).

⁷⁶²Article 69(2) of the Constitution of the Slovak Republic.

⁷⁶³Article 69(3) of the Constitution of the Slovak Republic.

⁷⁶⁴*Ibid.*

⁷⁶⁵Constitutional Act No. 397/2004 Coll. on the cooperation between the National Council of the Slovak Republic and the Government of the Slovak Republic in EU affairs, available at http://www.nrsr.sk/web/Static/sk-SK/NRSR/Doc/zd_zalezitosti-eu.pdf (EN).

with Article 1 of this Act, the Government transfers EU draft legislation to the National Council.

The procedure for subsidiarity monitoring is organised by the Rules of Procedure of the National Council.⁷⁶⁶ Within the National Council, the Committee on European Affairs (CEA) is responsible for conducting the subsidiarity check of EU draft legislation.⁷⁶⁷ Within three weeks of the transmission of the EU draft legislation, the Government forwards a preliminary opinion to the CEA that includes, *inter alia*, an assessment on the compliance of the draft with the subsidiarity principle.⁷⁶⁸

Among the EU draft legislation sent to the CEA, the latter determines which proposals require scrutiny for breaches of the subsidiarity principle. It may ask specialised committees to issue a general opinion on the proposal (the specialised committee analyses the EU draft legislation from a general perspective - not solely in regards to its compliance with the subsidiarity principle). The CEA may decide to adopt a reasoned opinion on its own initiative or upon the request of a specialised committee.⁷⁶⁹

The National Council is not a member of the SMN.

As of October 2013, the National Council of the Slovak Republic has adopted three reasoned opinions.⁷⁷⁰

Procedures involving regional and local authorities and other relevant stakeholders

Regional and local stakeholders do not produce subsidiarity assessments of EU draft legislation.⁷⁷¹

There are no formal mechanisms in place in Slovakia to integrate the views of regional and local authorities into the National Council's subsidiarity monitoring process. Regional or local authorities or other stakeholders may, however, be informally involved in the scrutiny of EU draft legislation by the CEA, thus

⁷⁶⁶The Rules of Procedure of the National Council are available at http://www.nrsr.sk/web/Static/en-US/NRSR/Dokumenty/rules_of_procedure.pdf (EN).

⁷⁶⁷Article 58a(3) of the Rules of Procedure of the National Council.

⁷⁶⁸Article 58a(8) of the Rules of Procedure of the National Council.

⁷⁶⁹It is the CEA that adopts reasoned opinions, and not the National Council. IPEX, National Parliaments, National Council of the Slovak Republic, available at <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/skrad.do> (EN).

⁷⁷⁰IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁷⁷¹Information and data collected for the CoR by EIPA, 2011.

enabling them to share their views, including in relation to possible breaches of the subsidiarity principle.⁷⁷²

As noted by an author, ‘*the main channel to influence legislative changes and developments on the national but also international level is via voluntary associations, namely the Association of municipalities (ZMOS), the Association of lord-mayors and the Association of heads of regional self-governments. These bodies are consulted by the central government or the National Council, as a rule, for all proposals influencing self-government rights, tasks and responsibilities.*’⁷⁷³

None of the opinions issued to date by the National Council makes explicit reference to the consultation of regional or local authorities.⁷⁷⁴

Reasoned opinions adopted by the CEA are made available on the National Council’s webpage.⁷⁷⁵

Two regional authorities are members of the SMN (the *Košice* Autonomous Region Government⁷⁷⁶ and the *Nitra* Self Governing Region⁷⁷⁷). Local and regional associations also participate in European local government associations, such as the Assembly of European Regions⁷⁷⁸ or the Council of European Municipalities and Regions.⁷⁷⁹ The Slovak CoR delegation is not a member of the SMN.

3.1.19 Slovenia

General

The Republic of Slovenia is a unitary State. It has a bicameral legislature composed of the National Assembly (*Državni Zbor*) and the National Council (*Državni Svet*). The National Assembly comprises 90 deputies who are directly

⁷⁷²Correspondence with a representative from the National Council of the Slovak Republic.

⁷⁷³M. Buček & J. Nemeč, ‘Local government in Slovakia’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 555-576, p. 573. For further information on ZMOS, see <http://www.zmos.sk/> (SK); on the Union of towns and cities, see <http://www.unia-miest.sk/en/index.asp> (EN); and more generally on inter-municipal cooperation, see http://www.municipal-cooperation.org/images/6/65/Presentation_Bratislava_Workshop_Slovakia_2008.pdf (EN).

⁷⁷⁴The reasoned opinions have been mentioned above.

⁷⁷⁵Information and data collected for the CoR by EIPA, 2011.

⁷⁷⁶Additional information is available at <http://www.kosice-region.sk/> (SK).

⁷⁷⁷Additional information is available at <http://www.unsk.sk/showdoc.do?docid=1480> (SK).

⁷⁷⁸For further information, see footnote 377.

⁷⁷⁹For further information, see footnote 378.

elected to four-year terms.⁷⁸⁰ The National Council has 40 members who are elected to five-year terms.⁷⁸¹ Legislative power is mainly vested in the National Assembly,⁷⁸² which is the ‘*supreme representative and legislative institution, exercising legislative and electoral powers as well as control over the Executive and the Judiciary.*’⁷⁸³ The National Council has limited advisory and control powers, and acts as the representative body for social, economic, professional and local interests.⁷⁸⁴ The President serves as Head of State and is directly elected to five-year terms.⁷⁸⁵ After consultation with the leaders of parliamentary groups, the President proposes a candidate for the position of Prime Minister, who is elected by the National Assembly and serves as Head of Government.⁷⁸⁶

At the regional level, Slovenia consists of 62 administrative units (*upravne enote*),⁷⁸⁷ which are territorial sub-units of government administration. The administrative units are named after their capital, and are led by a head of the unit (*načelnik upravne enote*) who is appointed by the Minister of Public Administration.

At the local level, Slovenia is subdivided into 211 municipalities (*občin*),⁷⁸⁸ 11 of which are urban municipalities.⁷⁸⁹ Pursuant to article 139 of the Constitution, ‘*[m]unicipalities are self-governing local communities.*’ Each municipality has a municipal council (*obcinski svet*) that is directly elected for four-year terms, and a mayor (*župan*) who serves as the executive and is directly elected every four years. Local competences include public safety and protection, housing, land development, urban planning, trade and industry, environment, road networks, transport, pre-school and primary education, social security, and water treatment and waste collection.⁷⁹⁰

⁷⁸⁰Articles 80-81 of the Constitution of Slovenia, available at <http://www.us-rs.si/media/constitution-en.pdf> (EN).

⁷⁸¹Articles 96 and 98 of the Constitution of Slovenia.

⁷⁸²Article 87 of the Constitution of Slovenia.

⁷⁸³IPEX, National Parliaments, Slovenian National Assembly, available at <http://www.ipex.eu/IPEXL-WEB/parliaments/institution/sizbo.do> (EN).

⁷⁸⁴Article 96 of the Constitution of Slovenia.

⁷⁸⁵Articles 102-103 of the Constitution of Slovenia.

⁷⁸⁶Articles 110-111 of the Constitution of Slovenia.

⁷⁸⁷A list of the administrative districts is available at <http://www.upravneenote.gov.si/> (SL).

⁷⁸⁸A list of the municipalities is available at http://www.skupnostobcin.si/sos/zemljevid/seznam_obcin_slovenije/index.html (SL).

⁷⁸⁹See Article 141 of the Constitution of Slovenia.

⁷⁹⁰Council of European Municipalities and Regions, Local Authorities in Slovenia, available at <http://www.ccre.org/en/membres/Slov%C3%A9nie.htm> (EN).

Procedures at the central level

Pursuant to the Act on Cooperation between the National Assembly and the Government in EU affairs, as amended in 2010,⁷⁹¹ the Government informs the National Assembly on EU draft legislation.

The National Assembly's subsidiarity monitoring procedure is defined in the amended Rules of Procedure of the National Assembly.⁷⁹² The scrutiny process is initiated by a request from at least one quarter of the deputies or by a decision of the Assembly's Committee on EU Affairs (CEA), the Committee on Foreign Policy (CFP) or the relevant sectoral committee,⁷⁹³ which is sent to the President of the National Assembly. The President subsequently forwards the request to the Legislative and Legal Service for an opinion. If the Legislative and Legal Service deem the proposal merits further review, the President sends it on to the CEA, the CFP or to the relevant sectoral committee.⁷⁹⁴ If a sectoral committee is responsible for reviewing a proposal, it drafts an opinion, which is forwarded to the CEA/CFP. If the CEA/CFP confirms, or itself finds, an infringement of the subsidiarity principle, it drafts a reasoned opinion, which is sent to the President of the National Assembly. The President of the National Assembly in turn forwards the reasoned opinion to the Presidents of the European Commission, the Council and the European Parliament. However, upon the request of the CEA/CFP or of one quarter of the deputies, the issue must first be debated and voted by the plenary before the reasoned opinion can finally be forwarded to the Presidents of the European Commission, the Council and the European Parliament.⁷⁹⁵

As far as the National Council is concerned, it is noted that the Act on Cooperation between the National Assembly and the Government in EU affairs does not refer to the role of the National Council in EU affairs. Pursuant to paragraph 3 of Article 154(č) of the Rules of Procedure of the National

⁷⁹¹The amendments entered into force in January 2011. For further information, see the website of the National Assembly, Participation in EU affairs, available at <http://www.dz-rs.si/wps/portal/en/Home/deloDZ/SodelovanjeZadeveEU#EU1> (EN).

⁷⁹²The Rules of Procedure were amended on 20 December 2010 in order to organise the subsidiarity monitoring process. See Article 154(m) of the Rules of Procedure of the Slovenian National Assembly, available at <http://www.dz-rs.si/wps/portal/en/Home/ODrzavnemZboru/PristojnostiInFunkcije/RulesoftheProcedureText> (EN). See also IPEX, National Parliaments, Slovenian National Assembly, 'Monitoring compliance with the principle of subsidiarity. National Assembly of the Republic of Slovenia', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc533b5feef0133cbbe9a120eb3.do> (EN).

⁷⁹³The relevant sectoral committee is the committee having competences in policy domains relevant to the EU draft legislation.

⁷⁹⁴Alternatively, the President can still decide to send the proposal out for scrutiny on his own initiative.

⁷⁹⁵See Article 154(m) of the Rules of Procedure of the Slovenian National Assembly, available at <http://www.dz-rs.si/wps/portal/en/Home/ODrzavnemZboru/PristojnostiInFunkcije/RulesoftheProcedureText> (EN) and IPEX, National Parliaments, Slovenian National Assembly, 'Monitoring compliance with the principle of subsidiarity. National Assembly of the Republic of Slovenia', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc533b5feef0133cbbe9a120eb3.do> (EN).

Assembly, however, the President of the National Assembly transfers ‘EU affairs’ (sic) to the National Council.⁷⁹⁶ Moreover, paragraph 1 of Article 154(e) of the Rules of Procedure of the National Assembly states that a representative of the National Council is invited to attend meetings on EU affairs of the CEA/CFP of the National Assembly. The National Council itself has not (yet) established any specific rules with regard to subsidiarity monitoring.⁷⁹⁷ EU affairs are accordingly dealt with using the ordinary procedure.⁷⁹⁸ Neither the National Assembly nor the National Council are SMN members.

As of October 2013, the National Assembly has adopted one reasoned opinion, while the National Council has not yet issued any reasoned opinion.⁷⁹⁹

Procedures involving regional and local authorities and other relevant stakeholders

Local authorities do not produce assessments of EU draft legislation regarding potential violations of the subsidiarity principle. No formal mechanisms exist for the consultation of regional deliberative bodies and local stakeholders as part of the National Assembly’s subsidiarity monitoring procedure.⁸⁰⁰

However, pursuant to the amendments of 2010 to the Act on Cooperation between the Government and the National Assembly in EU affairs, the meetings of committees responsible for EU affairs are open to public.⁸⁰¹ Thus, an informal venue exists for local authorities to present their observations on subsidiarity issues (even if this procedure is not specifically related to subsidiarity concerns). Moreover, as noted by one author, ‘*municipalities have a certain impact on national policy through the (...) second chamber of Parliament, in which representatives of local authorities are dominant.*’⁸⁰²

⁷⁹⁶The Rules of Procedure are available at <http://www.dz-rs.si/wps/portal/en/Home/ODrzavnemZboru/PristojnostiInFunkcije/RulesoftheProcedureText> (EN).

⁷⁹⁷Information and data collected for the CoR by EIPA, 2011.

⁷⁹⁸Pursuant to the responses of the National Council to the questionnaire for the 13th Bi-annual Report of COSAC (May 2010) published in COSAC, Subsidiarity Control in National Parliaments, Slovenia, available at <http://www.cosac.eu/subs-slovenia/> (EN), ‘[t]he EU matters are regarded as standard/ordinary work of the working bodies and the National Council; therefore no new provisions are needed. (...) Leaders of the interest groups and Presidents of the Commissions decide which document should be put on the agenda of the Commissions. After deliberating, Commissions propose to the College of the President which topics should be put on the agenda of the plenary session.’

⁷⁹⁹IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN).

⁸⁰⁰Information and data collected for the CoR by EIPA, 2011.

⁸⁰¹For further information, see the website of the National Assembly, Participation in EU affairs, available at <http://www.dz-rs.si/wps/portal/en/Home/deloDZ/SodelovanjeZadeveEU#EU1> (EN).

⁸⁰²F. Grad, ‘Local government in Slovenia’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 577-597, at p. 596.

There is no specific mechanism to communicate reasoned opinions issued by the National Assembly to the local authorities.

Slovenia has one local authority that participates in the SMN (Izola City⁸⁰³). Local and regional associations also participate in European local government associations, such as the Council of European Municipalities and Regions.⁸⁰⁴ The Slovene CoR delegation is not a member of the SMN.

3.1.20 Sweden

General

The Kingdom of Sweden is a unitary State in which the legislative power is vested in a unicameral Parliament, the National Legislative Assembly (*Sveriges Riksdag*).⁸⁰⁵ The Assembly is composed of 349 members who are elected for four-year terms.⁸⁰⁶ The Government is led by the Prime Minister, who is appointed by the National Legislative Assembly.⁸⁰⁷ The monarch acts as Head of State, whereas the Prime Minister acts as Head of Government.

At the regional level, Sweden is divided into 20 counties (*landsting*), which include 4 regions (*regioner*), namely those of Gotland,⁸⁰⁸ Halland, Västra Götaland and Skåne.⁸⁰⁹ These regions have the same status and function as counties, but have a broader scope of competences.⁸¹⁰ As one author puts it: *'There is no hierarchical relation between municipalities, county councils and regions, since all have their own self-governing local authorities with responsibility for different activities.'*⁸¹¹ County councils and regional council assemblies are each composed of members who are directly elected to four-year terms.⁸¹² The executive committees are appointed to four-year terms by their respective councils and are responsible for the implementation of decisions

⁸⁰³ Additional information is available at <http://www.izola.si/> (SL).

⁸⁰⁴ For further information, see footnote 378.

⁸⁰⁵ Article 4 of Chapter 1 of the Instrument of Government, Constitution of Sweden. The Constitution of Sweden consists of four fundamental acts: the Instrument of Government, the Act of Succession, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. These acts are available at <http://www.riksdagen.se/en/Documents-and-laws/Laws/The-Constitution/> (EN).

⁸⁰⁶ Articles 1-3 of Chapter 3 of the Instrument of Government, Constitution of Sweden.

⁸⁰⁷ Articles 1, 4-6 of Chapter 6 of the Constitution of Sweden.

⁸⁰⁸ Gotland is an island in the Baltic Sea where the municipality enjoys the same responsibilities as county councils. See the website of the Swedish Association of Local and Regional Authorities, Municipalities, county councils and regions, available at http://english.skl.se/municipalities_county_councils_and_regions (EN).

⁸⁰⁹ *Ibid.*

⁸¹⁰ T. Madell, 'Local government in Sweden', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 637-661.

⁸¹¹ *Ibid.*, p. 640.

⁸¹² Local self-government has a constitutional status. See Article 1 of Chapter 14 of the Instrument of Government, Constitution of Sweden.

made by the councils/assemblies. Regions and county councils are mainly responsible for access to healthcare, dental care and transport. Optional competences include regional development, culture and tourism.⁸¹³

At the local level there are currently 290 municipalities (*kommuner*). Municipal assemblies are composed of members that are directly elected to four-year terms.⁸¹⁴ The municipal executive committee is appointed to four-year terms by the assembly and is responsible for the implementation of decisions made by the assemblies. Municipalities are responsible for a broad range of matters including housing, roads, water supply and wastewater processing, schools, public welfare, care for the elderly and childcare.⁸¹⁵

Procedures at the central level⁸¹⁶

The Government must inform the Parliament on EU draft legislation.⁸¹⁷ Upon receipt, it is subsequently forwarded by the Secretariat of the Parliament to the committee responsible for the policy domain associated with the EU draft legislation. The competent committee reviews the draft and may request the Government to provide its opinion on potential breaches of the subsidiarity principle by the EU draft legislation.⁸¹⁸ Additionally, the committee concerned may invite other committees to present their opinion on the draft proposal. If the committee determines that the subsidiarity principle has not been violated, it stops the scrutiny process and informs the Parliament. If the committee determines that a breach of the subsidiarity principle has occurred, a draft reasoned opinion is voted upon by the plenary. When a reasoned opinion is adopted by the Chamber, the Speaker communicates it to the Presidents of the European Commission, the Council and the European Parliament.⁸¹⁹

The Parliament is not a member of the SMN.

⁸¹³These competences may be exercised on a voluntary basis and within the framework of the Local Government Act, available at http://english.skl.se/MediaBinaryLoader.axd?MediaArchive_FileID=68d4d284-4437-4505-9166-98280b5efdf9&MediaArchive_ForceDownload=true (EN). See also Council of Municipalities and Regions, Local and Regional Authorities in Sweden, available at <http://www.ccre.org/en/membres/Su%C3%A8de.htm> (EN).

⁸¹⁴Local self-government has a constitutional status. See Article 1 of Chapter 14 of the Instrument of Government, Constitution of Sweden.

⁸¹⁵Council of Municipalities and Regions, Local and Regional Authorities in Sweden, available at <http://www.ccre.org/en/membres/Su%C3%A8de.htm> (EN).

⁸¹⁶The subsidiarity monitoring process for parliament explained here was reviewed by an officer at the EU coordination secretariat of the *Riksdag*.

⁸¹⁷See the website of the *Riksdag*, The Riksdag and the EU, available at <http://www.riksdagen.se/en/How-the-Riksdag-works/What-does-the-Riksdag-do/The-Riksdag-and-the-EU/> (EN).

⁸¹⁸IPEX, National Parliaments, Swedish Parliament, 'Monitoring compliance with the principle of subsidiarity. Swedish Riksdag', available at <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc539edbbe6013a2fc08dcb2737.do> (EN).

⁸¹⁹*Ibid.*

As of October 2013, the Parliament has issued 47 reasoned opinions.⁸²⁰

Procedures involving regional and local authorities and other relevant stakeholders

There are no formal mechanisms for involving local and regional deliberative bodies in the Parliament's subsidiarity monitoring process.

Informally, when preparing reasoned opinions, the Parliament can consult regional and local authorities. Out of the 47 reasoned opinions published so far by the Parliament, one specifically outlines the issue as being a responsibility that is often shared with authorities at the regional and local levels. In another reasoned opinion, the Parliament indicates that '[d]etailed administrative management at EU level which does not allow for solutions that are adapted to local and regional conditions, for the benefit of cost-effective goal fulfilment should, in the opinion of the Riksdag, not be accepted.'⁸²¹ However, none of the reasoned opinions explicitly mentions the consultation of regional and local authorities.⁸²²

There has also been an initiative from the local level to address subsidiarity monitoring. The Swedish Association of Local Authorities and Regions (SALAR⁸²³) has indeed submitted a request to the Parliament to be formally involved in the subsidiarity monitoring process, but the right was not granted.⁸²⁴

The Swedish Parliament forwards its reasoned opinions to SALAR.⁸²⁵

Sweden has two regional authorities (Västra Götaland County⁸²⁶, Skåne Regional Government⁸²⁷), one local authority (Gothenburg⁸²⁸) and one

⁸²⁰IPEX, Legislative Database, Reasoned Opinions, available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN). One of these reasoned opinions addresses two legislative proposals. A list of the EU draft legislation on which reasoned opinions have been issued by national parliaments that are analysed in part 2 of the report can be found in Appendix 2.

⁸²¹See the reasoned opinion of the Swedish Parliament on the proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC (COM/2011/0370FIN), available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN).

⁸²²*Ibid.*

⁸²³For further information, see <http://english.skl.se/> (EN) and more specifically http://english.skl.se/activities/local_government_and_the_eu (EN).

⁸²⁴Information and data collected for the CoR by EIPA, 2011.

⁸²⁵<http://www.skl.se/> (SE).

⁸²⁶Additional information is available at <http://www.vgregion.se/en/Vastra-Gotalandsregionen/Home/> (EN).

⁸²⁷Additional information is available at <http://skane.se/sv/Webbplatser/skanese/English/Regional-self-government/> (EN).

⁸²⁸Additional information is available at http://goteborg.se/wps/portal/invanare/lut/p/b1/04_Sj9Q1NDU3MDe0NDWz1I_Qj8pLLMtMTyzJzM9LzAHxo8ziAwy9Ai2cDB0N_N0t3Qw8Q7wD3Py8fdxNXU2BCiKBCgxwAEcDQvr9PPJzU_Vzo3IsAFWuD8Q!/dl4/d5/L2dBISEvZ0FBIS9nQSEh/ (SE).

association of local and regional authorities (SALAR) that participate in the SMN. Several local and regional associations also belong to European local government associations, such as the Assembly of European Regions⁸²⁹ or Council of European Municipalities and Regions.⁸³⁰ The Swedish CoR delegation is not a member of the SMN.

3.2 Analysis of Mechanisms in Place

3.2.1 Analysis - Comparative Assessment

Degree of involvement of the different players (regional and local authorities and other relevant stakeholders) in the subsidiarity monitoring procedures

The States under analysis in Part 2 are all unitary States where the constitution does not devolve legislative powers to the regional and local level.

In these States, regional assemblies - or other regional authorities - do not play a formal role in the subsidiarity scrutiny process conducted by the national parliament. However, they may be invited - as may local authorities and other relevant stakeholders - to participate informally in the parliamentary decision-making process through one or more of the mechanisms described hereafter.

Formal involvement

None of the national parliaments analysed in Part 2 formally consults regional assemblies or other regional authorities in this framework. Local authorities and other relevant stakeholders are not formally involved either. In Sweden, the Association of Local Authorities and Regions (SALAR) has submitted a request to the Parliament to be formally involved in the subsidiarity monitoring process, but this right has not been granted.

Informal involvement at the level of the national parliament

However, in the majority of these States, a range of informal mechanisms have been developed that permit regional and local authorities and other relevant stakeholders to voice opinions to their national parliament. These informal mechanisms are mostly of a general nature and are not specifically tailored to the screening of EU draft legislation (and, *a fortiori*, are not specifically related

⁸²⁹For further information, see footnote 377.

⁸³⁰For further information, see footnote 378.

to subsidiarity monitoring).

Certain national parliaments organise public consultations. For instance, in Bulgaria, the Committee on European Affairs and Oversight of the European Funds has established a Council for Public Consultations, which notably discusses matters pertaining to the EU agenda. Public consultations are held with the intention of determining the interests of relevant stakeholders from outside the National Assembly, including the National Association of Municipalities in the Republic of Bulgaria. In general, the National Assembly also consults and invites relevant stakeholders to participate in discussions when EU draft legislation has a local or regional impact, and may notably request via letter that regional and local authorities give their opinion on EU draft legislation (though not necessarily limited to questions of subsidiarity). Similarly, in Denmark, the *Folketing* may request that regional or local authorities formulate their views on potential violations of the subsidiarity principle. Other examples of States where regional and local authorities are informally consulted by their national parliament include Cyprus, Estonia, Greece, Ireland, Latvia, Romania, Slovakia and Sweden.

The participation in meetings that are open to the public is another possibility for regional and local authorities and other relevant stakeholders to provide their opinion at their own initiative. Meetings of the committee in charge of subsidiarity monitoring are open to the public in, *inter alia*, Bulgaria, Latvia, Poland and Slovenia. As a consequence, regional and local authorities and other relevant stakeholders can attend the meetings of the competent committee of the national parliament - meetings in which the relevant aspects of the subsidiarity check are discussed.

In the words of a Senior Advisor of the Latvian Association of Local and Regional Governments: '*Representatives of the LALRG participate in the EU hearings [...]. The LALRG participates in the drafting of national positions before the decision is made in the Cabinet of Ministers*'⁸³¹ - at this stage, LALRG is involved in the preparation of national positions defended by the Latvian Government in the Council of the EU - '*and afterwards in the parliamentary commission*'⁸³² including the debates on subsidiarity monitoring within the Parliament. '*Likewise, the LALRG informs national authorities on the opinions of the Committee of the Regions.*'⁸³³ Consequently, the LALRG '*tries*

⁸³¹This information is based on the response given by a Senior Advisor of LALRG to the survey on the involvement of regional and local authorities and other stakeholders in the Early Warning System and the principles of subsidiarity conducted by the authors of this report in 2013.

⁸³²*Ibid.*

⁸³³*Ibid.*

*to get involved at all levels.*⁸³⁴

In Estonia, the committee in charge of subsidiarity monitoring may invite local and regional authorities and regional stakeholders to participate in the committee sittings.

Furthermore, certain national parliaments, such as the French Senate, hold regular meetings with officials from regions, departments and municipalities. This provides an informal forum for local officials to express their concerns regarding, *inter alia*, EU draft legislation (including on possible infringements of the subsidiarity principle).

Informal involvement at the level of the national government

Regional and local authorities and other relevant stakeholders may be invited by the relevant national government to provide their opinion on EU draft legislation.

For instance, in Denmark, regions and municipalities are able to informally express their opinions on EU draft legislation (including on non-compliance with the subsidiarity principle) by participating in the meetings of the 34 EU Special Committees set up under the auspices of the sectoral ministries. On an ad hoc basis, interest groups may be invited to participate in these meetings. These EU Special Committees '*form the core of the internally decentralized Danish EU coordination, as it is here that by far the most time is spent on EU coordination.*'⁸³⁵ They analyse EU draft legislation and prepare Danish governmental positions on these proposals.

Another mechanism permitting the involvement of regional and local authorities is the consultation by the national government on EU draft legislation having an impact on the regional and local interests, as in Slovakia. The Slovak Association of municipalities (ZMOS), the Association of lord-mayors and the Association of heads of regional self-governments are consulted by the national government for all EU draft legislation influencing self-government rights, tasks and responsibilities.⁸³⁶

⁸³⁴CoR, *Division of Powers between the European Union, the Member States and Regional and Local Authorities* (drafted by EIPA and the European Center for the Regions, CoR publications, 2012), available at http://cor.europa.eu/en/documentation/studies/Documents/division_of_powers/division_of_powers.pdf (EN), p. 549.

⁸³⁵P. Nedergaard, 'EU coordination processes in Denmark: Change in order to preserve', in L. Miles & A. Wivel (eds.), *Denmark and the European Union* (London, Routledge forthcoming in 2014) p. 208.

⁸³⁶M. Buček & J. Nemeč, 'Local government in Slovakia', in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 555-576, p. 573.

Other forms of involvement

Additional forms of involvement of regional and local authorities in subsidiarity monitoring exist for chambers of parliaments composed - at least partially - of representatives from the local and regional level, such as the French Senate and the Slovenian National Council. Such composition creates an opportunity for elected members of these chambers to express the views in the subsidiarity monitoring of the local and regional level..

Certain associations of regional and local authorities have established offices in Brussels, such as the Association of Lithuanian Municipalities, the Croatian Regions, the Irish Regions and the Latvian Association of Local and Regional Government. As stated by the Irish Regions Office, they may assist the regions *'in influencing the development of this [EU] legislation before having to implement it.'*⁸³⁷

Finally, the CoR national delegations may act as consultation points for national parliaments in relation to regional and local authorities. Such possibility has notably been acknowledged by the Irish Joint Committee on European Scrutiny, which consults the Irish delegation to the CoR when it considers that EU draft legislation may infringe the subsidiarity principle.⁸³⁸

No involvement

Finally, in some States including Malta and the Netherlands, such informal mechanisms permitting the integration of regional and local authorities or other relevant stakeholders in the procedures for subsidiarity monitoring or in the decision-making process concerning reasoned opinions could not be identified.

Access to information on subsidiarity monitoring in the different Member States

Reasoned opinions issued by the national parliaments are in general uploaded on IPEX. In addition, most of the national parliaments also present the results of their subsidiarity checks on-line via their website. Moreover, certain national parliaments issue press releases to inform the public about their reasoned opinions. For instance, the reasoned opinions of the Lithuanian Parliament are explained and published in press releases and in the official gazette *Valstybės žinios*, thereby making the information accessible to the public. Similarly, in

⁸³⁷For further information, see the website of the Irish Regions Office, available at http://www.iro.ie/about_us.html (EN).

⁸³⁸CoR, Division of Powers, Countries, Members without Legislative Powers, Ireland, Subsidiarity, available at <http://extranet.cor.europa.eu/divisionpowers/countries/MembersNLP/Ireland/Pages/3-Subsidiarity.aspx> (EN).

Latvia, the Public Affairs Department issues a press release on the results of the subsidiarity check conducted by the relevant parliament committee,⁸³⁹ which ensures that all the national and regional media outlets receive the information on the current workings of the national parliament in terms of draft EU legislation and the principle of subsidiarity.

As a consequence of these publications via IPEX, via the websites of the national parliaments and (in certain cases) via press releases, the information is accessible to the general public, including regional and local authorities and other relevant stakeholders.

Few national parliaments specifically inform the regional and local authorities or other relevant stakeholders of the results of their subsidiarity checks. However, this is indeed the case in Sweden, where the Parliament forwards its reasoned opinions to SALAR.

Coordination between the regional and local authorities and other relevant stakeholders

Regional and local authorities are actively engaging with their counterparts from other EU Member States. Each of the 20 EU Member States examined in Part 2 has representatives in the Council of European Municipalities and Regions. Moreover, 13 EU Member States belong to the Assembly of European Regions. As mentioned above, certain associations of regional and local authorities - including the Association of Lithuanian Municipalities, the Croatian Regions, the Irish Regions and the Latvian Association of Local and Regional Government - have established offices in Brussels to actively support their participation in the EU institutions and the CoR and to cooperate with other EU regional and local authorities.

Extent to which regional and local interests are taken into account in the reasoned opinions of national parliaments

References to regional and local interests in reasoned opinions are scarce. Two reasoned opinions of the Danish Parliament merely mention that the scope of the proposed EU legislation would be better addressed at central, regional or local levels.⁸⁴⁰ One reasoned opinion issued by the Swedish Parliament specifically outlines the issue as being a responsibility that is often shared with authorities at the regional and local levels.⁸⁴¹ In another reasoned opinion, the Swedish

⁸³⁹*Ibid.*

⁸⁴⁰The exact wording differs from one reasoned opinion to another, but they generally refer to the content of Article 5(3) of the Treaty on European Union.

⁸⁴¹See the reasoned opinion of the Swedish Parliament on the proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific

Parliament indicates that ‘[d]etailed administrative management at EU level which does not allow for solutions that are adapted to local and regional conditions, for the benefit of cost-effective goal fulfilment should, in the opinion of the Riksdag, not be accepted.’⁸⁴²

However, none of the opinions explicitly mentions the consultation of regional and local authorities or the impact of draft legislation on regional and local stakeholders.⁸⁴³

3.2.2 Best Practices and recommendations

In general, it appears that regional and local authorities and other relevant stakeholders in the Member States concerned show little interest in European affairs and subsidiarity monitoring. As one author observes in relation to Hungary, ‘EU-related affairs are not on the agenda in local government decision-making. There is neither closer attention to governance at the European level nor an effective policy change, as the accession process did not require any institutional change or other adaptation on the part of local authorities.’⁸⁴⁴ This is fairly obvious, given their limited resources and limited expertise regarding EU affairs.

Still, a number of associations of regional and local stakeholders have been established in recent years, several of which have developed an increased interest in EU affairs. This is illustrated, for instance, by the creation of permanent offices in Brussels in order to liaise with EU institutions.

The formation of such associations of regional and local stakeholders seems to be an inevitable first step on the part of these stakeholders in an effort to be more closely involved in EU affairs, including in the subsidiarity monitoring process of their respective national parliaments. It enables them to coordinate their views internally and to develop a certain level of expertise. Moreover, it makes it possible for the national parliaments to identify an interlocutor with which it can consult.

Thus far, no formal mechanisms have been established to integrate regional and

provisions for certain agricultural products (Single CMO Regulation) (COM/2010/0799FIN), available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN).

⁸⁴²See the reasoned opinion of the Swedish Parliament on the proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC (COM/2011/0370FIN), available at <http://www.ipex.eu/IPEXL-WEB/search.do> (EN).

⁸⁴³See Appendix 2.

⁸⁴⁴Z. Szente, ‘Local government in Hungary’, in A.-M. Moreno, *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid, National Institute of Public Administration 2012) pp. 283-307, at p. 306.

local actors into the subsidiarity monitoring process. At most, a number of informal mechanisms have been set up. In cases where regional and local authorities are deemed to be stakeholders in the legislation being considered, national parliaments may seek the views of regional assemblies and regional and local authorities when drafting reasoned opinions. However, the mechanism by which these views are solicited is subject to the discretion of the parliament, and it can be as simple as requesting a letter or attendance at committee meetings.

A more active informal role for regional and local stakeholders has been introduced in several national parliaments, such as the Parliaments of Bulgaria and Latvia. In the latter, the Latvian Association of Local and Regional Governments may participate in the meetings of the European Affairs Committee.

The involvement of the regional and local authorities and other relevant stakeholders in the subsidiarity monitoring process could be increased by several means. First, an efficient transfer of information on EU draft legislation could be set up by the national authorities towards the regional and local authorities and other relevant stakeholders. Such communication could be organised through the numerous associations of regional and local authorities.

Second, guarantees for a more formal participation of representatives of regional authorities within the subsidiarity monitoring process could be established. This could be organised by including these representatives in the debates and the decision-making process within the committees responsible for subsidiarity monitoring in the national parliaments.

Third, one notices that reasoned opinions which have thus far been adopted by national parliaments seem to pay little heed to the local and regional level. This could be improved, notably via explicit references to the views expressed by regional and local authorities during the consultations or the debates held within the committee in charge of subsidiarity monitoring.

Fourth, once the national parliament has adopted a reasoned opinion touching upon local and/or regional interests, it could inform the regional and local authorities and other relevant stakeholders of this opinion more specifically than the general public. REGPEX - set up by the CoR - could be used by the relevant stakeholders as well. This forum could provide these stakeholders with the opportunity to coordinate limited resources with regional and local representatives from other States in similar situations.

On a final note, the CoR could launch a campaign to encourage regional and local authorities and other relevant stakeholders to give greater consideration to

EU affairs and to inform them on the subsidiarity principle. The CoR could for instance organise a conference on this subject or prepare an information guide that would be sent to these players. Such a campaign could also be launched at the national level by the relevant national governments and parliaments.

4 Appendix 1 - List of reasoned opinions issued by national parliaments in the eight Member States where regions have legislative powers⁸⁴⁵

4.1 Austria

Federal Chamber (*Nationalrat*)

- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM/2010/0379 FIN).
- Proposal for a Directive of the European Parliament and of the Council relating to the transparency of measures regulating the prices of medicinal products for human use and their inclusion in the scope of the public health insurance systems (COM/2012/0084).

Regional Chamber (*Bundesrat*)

- Proposal for a Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings (COM/2010/0082FIN).
- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM/2010/0379FIN).
- Proposal for a Regulation of the European Parliament and of the Council on a Common European Sales Law (COM/2011/0635).
- Proposal for a Directive of the European Parliament and of the Council on the award of concession contracts (COM/2011/0897).
- Proposal for a Regulation of the European Parliament and of the Council amending Directives 1999/4/EC, 2000/36/EC, 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission (COM/2012/0150).

⁸⁴⁵ Source: IPEX, Documents, Legislative Database, available at <http://www.ipex.eu/IPEXL-WEB/search.do>.

- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European statistics (COM/2012/0167).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (COM/2013/0028).
- Proposal for a Regulation of the European Parliament and of the Council on animal health (COM/2013/0260).
- Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law) (COM/2013/0262).
- Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants (COM/2013/0267).
- Proposal for a Regulation of the European Parliament and of the Council on the prevention and management of the introduction and spread of invasive alien species (COM/2013/0620).

4.2 Belgium

House of Representatives (*La Chambre – De Kamer*)

- Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public-interest entities (COM/2011/0779).
- Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM/2012/0011).
- Proposal for a Council 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/2012/0130).
- Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA

(COM/2013/0173).

Senate (*Sénat – Senaat*)

- Proposal for a Regulation of the European Parliament and of the Council on a Common European Sales Law (COM/2011/0635).
- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).

4.3 Finland

Parliament (*Eduskunta*)

- Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC (COM/2011/0370FIN).
- Proposal for a Council 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/2012/0130).
- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).

4.4 Germany

Federal Assembly (*Bundestag*)

- Proposal for a Directive of the European Parliament and of the Council on Deposit Guarantee Schemes (COM/2010/0369 FIN).
- Proposal for a Regulation of the European Parliament and of the Council on a Common European Sales Law (COM/2011/0635).
- Proposal for a Regulation of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (COM/2012/0617).

Federal Council (*Bundesrat*)

- Proposal for a Directive of the European Parliament and of the Council on Deposit Guarantee Schemes (COM/2010/0369 FIN).
- Proposal for a Directive of the European Parliament and of the Council on criminal sanctions for insider dealing and market manipulation (COM/2011/0654).
- Proposal for a Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (COM/2011/0793).
- Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council (COM/2011/0828).
- Proposal for a Directive of the European Parliament and of the Council on the award of concession contracts (COM/2011/0897).
- Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (COM/2012/0010).
- Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM/2012/0011).
- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).
- Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA (COM/2013/0173).

4.5 Italy

Chamber of Deputies (*Camera dei Deputati*)

- Proposal for a Regulation of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection (COM/2011/0215 FIN).
- Proposal for a Council Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements (COM/2011/0216 FIN).
- Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM/2012/0011).
- Amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006 (COM/2012/0496).
- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).

Senate (*Senato*)

- Proposal for a Regulation of the European Parliament and of the Council on the citizens' initiative (COM/2010/0119 FIN).
- Proposal for a Council Decision laying down rules for imports into the European Union from Greenland of fishery products, live bivalve mollusks, echinoderms, tunicates, marine gastropods and by-products thereof (COM/2010/0176 FIN).
- Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes (COM/2011/0126 FIN).

- Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships (COM/2011/0127 FIN).
- Proposal for a Regulation of the European Parliament and of the Council on food intended for infants and young children and on food for special medical purposes (COM/2011/0353).
- Proposal for a Regulation of the European Parliament and of the Council on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (COM/2012/0576).
- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).
- Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports (COM/2013/0296).

4.6 Portugal

Parliament (*Assembleia da República*)

- Proposal for a Council 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/2012/0130).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (COM/2011/0560).
- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).

4.7 Spain

National Parliament (*Cortes Generales*)

- Proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity (COM/2011/0169 FIN).
- Proposal for a Regulation of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection (COM/2011/0215 FIN).
- Proposal for a Council Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements (COM/2011/0216 FIN).
- Proposal for a Directive of the European Parliament and of the Council on the award of concession contracts (COM/2011/0897).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European statistics (COM/2012/0167).
- Proposal for a Regulation of the European Parliament and of the Council amending certain legislative acts in the domain of agricultural and fishery statistics (COM/2012/0724).
- Amended proposal for a Directive of the European Parliament and of the Council relating to the transparency of measures regulating the prices of medicinal products for human use and their inclusion in the scope of the public health insurance systems (COM/2013/0168).
- Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA (COM/2013/0173).
- Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports (COM/2013/0296).
- Proposal for a Regulation of the European Parliament and of the Council on fees payable to the European Medicines Agency for the conduct of

pharmacovigilance activities in respect of medicinal products for human use (COM/2013/0472).

4.8 The United Kingdom

House of Commons

- Proposal for a Directive of the European Parliament and of the Council amending Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes (COM/2010/0371 FIN).
- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM/2011/0121 FIN).
- Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms PART I (Text with EEA relevance) (COM/2011/0452).
- Proposal for a Regulation of the European Parliament and of the Council on a Common European Sales Law (COM/2011/0635).
- Proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal sectors (COM/2011/0896).
- Proposal for a Council 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/2012/0130).
- Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM/2012/0614).
- Proposal for a Regulation of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (COM/2012/0617).
- Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks (COM/2013/0147).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

House of Lords

- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM/2010/0379 FIN).
- Proposal for a Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community (COM/2012/0034).
- Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM/2012/0614).
- Proposal for a Regulation of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (COM/2012/0617).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534)

5 Appendix 2 - List of reasoned opinions issued by national parliaments in the 20 Member States where regions do not have legislative powers⁸⁴⁶

5.1 Bulgaria

National Assembly (*Narodno Sabranie*)

- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)(COM/2011/0121FIN).
- Proposal for a Council Directive amending Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity (COM/2011/0169 FIN).
- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).

5.2 Croatia

Assembly (*Sabor*)

5.3 Cyprus

House of Representatives (*Vouli ton Antiprosópon*)

- Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC (COM/2011/0594).
- Proposal for a Regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (COM/2012/0380).

⁸⁴⁶ Source: IPEX, Documents, Legislative Database, available at <http://www.ipex.eu/IPEXL-WEB/search.do>.

- Proposal for a Directive of the European Parliament and of the Council amending Council Directive 1999/37/EC on the registration documents for vehicles (COM/2012/0381).
- Proposal for a Regulation of the European Parliament and of the Council on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC (COM/2012/0382).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

5.4 Czech Republic

Czech Senate (*Senát*)

- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM/2010/0379).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).
- Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) (COM/2013/0535).

Czech Chamber of Deputies (*Poslanecká sněmovna*)

- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM/2010/0379).
- Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM/2012/0614).
- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).

5.5 Denmark

Parliament (*Folketing*)

- Proposal for a directive of the European Parliament and of the Council on Deposit Guarantee Schemes (Recast) (COM/2010/0368FIN).
- Amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union (COM/2010/0486FIN).
- Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (COM/2010/0799FIN).
- Proposal for a Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (2014 - 2020) (COM/2011/0608).
- Proposal for a Council 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/2012/0130).
- Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM/2012/0614).
- Proposal for a Regulation of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (COM/2012/0617).
- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).

5.6 Estonia

Parliament (*Riigikogu*)

- Proposal for a Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups (COM/2013/0207).

5.7 France

Senate (*Sénat*)

- Proposal for a Decision of the European Parliament and of the Council establishing a European Union action for the European Heritage Label (COM/2010/0076FIN).
- Proposal for a Decision of the European Parliament and of the Council establishing the first radio spectrum policy programme (COM/2010/0471FIN).
- Amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union (COM/2010/0486FIN).
- Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms Part I (Text with EEA relevance) (COM/2011/0452).
- Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the trans-European transport network (COM/2011/0650).
- Proposal for a Regulation of the European Parliament and of the Council on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area (COM/2011/0821).
- Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of

noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council (COM/2011/0828).

- Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System (COM/2011/0883).
- Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM/2012/0011).
- Amended proposal for a Directive of the European Parliament and of the Council amending Directive 2001/83/EC as regards information to the general public on medicinal products subject to medical prescription amending, as regards information to the general public on medicinal products subject to medical prescription, Directive 2001/83/EC on the Community code relating to medicinal products for human use (COM/2012/0048).
- Amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 726/2004 as regards information to the general public on medicinal products for human use subject to medical prescription (COM/2012/0049).
- Proposal for a Council 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/2012/0130).
- Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (COM/2012/0372).
- Proposal for a Regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (COM/2012/0380).
- Proposal for a Regulation of the European Parliament and of the Council on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (COM/2012/0576).

- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

National Assembly (*Assemblée Nationale*)

- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (COM/2011/0560).
- Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports (COM/2013/0296).

5.8 Greece

Parliament (*Vouli ton Ellinon*)

- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).
- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing (COM/2013/0151).
- Proposal for a Regulation of the European Parliament and of the Council on fees payable to the European Medicines Agency for the conduct of pharmacovigilance activities in respect of medicinal products for human use (COM/2013/0472).

5.9 Hungary

National Assembly (*Országgyűlés*)

- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

5.10 Ireland

National Parliament (*Oireachtas*)

- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

5.11 Latvia

Parliament (*Saeima*)

- Proposal for a Council 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/2012/0130).
- Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports (COM/2013/0296).

5.12 Lithuania

Parliament (*Seimas*)

- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (COM/2010/0537FIN).
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (COM/2010/0539FIN);
- Proposal for a Council Regulation on the Statute for a European Foundation (FE) (COM/2012/0035).
- Proposal for a Regulation of the European Parliament and of the Council on

the European Union Agency for Railways and repealing Regulation (EC) No. 881/2004 (COM/2013/0027).

- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (COM/2013/0028).
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (COM/2013/0029).
- Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast) (COM/2013/0030).
- Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast) (COM/2013/0031).
- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).

5.13 Luxembourg

Chamber of Deputies (*Chambre des Députés du Grand-Duché de Luxembourg*)

- Proposal for a Directive of the European Parliament and of the Council establishing a single European railway area (COM/2010/0475FIN).
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 1234/2007 as regards marketing standards (COM/2010/0738FIN).
- **Proposal for a Regulation of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products (COM/2011/0530).**
- Proposal for a Decision of the European Parliament and of the Council

setting up an information exchange mechanism with regard to intergovernmental agreements between Member States and third countries in the field of energy (COM/2011/0540).

- Proposal for a Regulation of the European Parliament and of the Council on specific provisions concerning the European Regional Development Fund and the Investment for growth and jobs goal and repealing Regulation (EC) No. 1080/2006 (COM/2011/0614).
- Proposal for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (COM/2011/0625).
- Proposal for a Regulation of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (COM/2011/0627).
- Proposal for a Regulation of the European Parliament and of the Council on groundhandling services at Union airports and repealing Council Directive 96/67/EC (COM/2011/0824).
- Proposal for a Directive of the European Parliament and of the Council relating to the transparency of measures regulating the prices of medicinal products for human use and their inclusion in the scope of the public health insurance systems (COM/2012/0084).
- **Proposal for a Council 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/2012/0130).**
- **Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (COM/2012/0372).**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (COM/2013/0028).
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport

services by rail and the governance of the railway infrastructure (COM/2013/0029).

- Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No. 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No. 1151/2012, [...] /2013 [Office of Publications, please insert number of Regulation laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material], and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation) (COM/2013/0265).

5.14 Malta

House of Representatives (*Kamra tad-Deputati*)

- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM2011/0121FIN).
- Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC (COM/2011/0594).
- Proposal for a Council 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/2012/0130).
- Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports (COM/2013/0296).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services (COM/2013/0409).
- Proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (Recast) (COM/2013/0410).
- Proposal for a Council Regulation on the establishment of the European

Public Prosecutor's Office (COM/2013/0534).

5.15 The Netherlands

Upper Chamber (*Eerste Kamer*)

- Proposal for a Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on consumer ODR) (COM/2011/0794).
- Proposal for a Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No. 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (COM/2011/0793).
- Amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union (COM/2010/0486FIN).

Lower Chamber (*Tweede Kamer*)

- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM/2011/0121FIN).
- Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council (COM/2011/0828).
- Proposal for a Council 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/2012/0130).
- Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks (COM/2013/0147).
- Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law) (COM/2013/0262).

Proposals on which joint opinions of the Upper Chamber and the Lower Chamber were issued

- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM/2010/0379FIN).
- Proposal for a Regulation of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (COM/2010/0748FIN).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (COM/2011/0560).
- Proposal for a Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (2014 - 2020) (COM/2011/0608).
- Proposal for a Regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (COM/2012/0380).
- Proposal for a Directive of the European Parliament and of the Council amending Council Directive 1999/37/EC on the registration documents for vehicles (COM/2012/0381).
- Proposal for a Regulation of the European Parliament and of the Council on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC (COM/2012/0382).
- Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM/2012/0614).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (COM/2013/0028).
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the

Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (COM/2013/0029).

- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

5.16 Poland

Senate (*Senat*)

- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 1290/2005 on the financing of the common agricultural policy and repealing Council Regulation (EC) No. 165/94 and Council Regulation (EC) No. 78/2008 (COM/2010/0745FIN).
- Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No. 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) (COM/2010/0061FIN).
- Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM/2010/0379FIN).
- Amended proposal for a Directive of the European Parliament and of the Council amending Directive 2001/83/EC as regards information to the general public on medicinal products subject to medical prescription amending, as regards information to the general public on medicinal products subject to medical prescription, Directive 2001/83/EC on the Community code relating to medicinal products for human use (COM/2012/0048).
- Amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 726/2004 as regards information to the general public on medicinal products for human use subject to medical prescription (COM/2012/0049).

- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).

Lower House (*Sejm*)

- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM/2011/0121FIN).
- Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (COM/2012/0372).
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 1234/2007 as regards contractual relations in the milk and milk products sector (COM/2010/0728FIN).
- Proposal for a Council 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/2012/0130).
- Proposal for a Regulation of the European Parliament and of the Council on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC (COM/2012/0369).
- Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports (COM/2013/0296).

Proposals on which both Chambers issued reasoned opinions

- Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (COM/2010/0799FIN).
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (COM/2010/0539FIN).
- Proposal for a Regulation of the European Parliament and of the Council

amending Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (COM/2010/0537FIN).

- Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships (COM/2011/0127FIN).
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No. 1234/2007 as regards marketing standards (COM/2010/0738FIN).
- Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM/2012/0614).

5.17 Romania

Senate (*Senatul*)

- Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships (COM/2011/0127FIN).
- Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No. 881/2004 (COM/2013/0027).
- Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast) (COM/2013/0031).

Chamber of Deputies (*Camera Deputaților*)

- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM/2011/0121FIN).
- Proposal for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (COM/2011/0453).

- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).
- Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks (COM/2013/0147).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

5.18 Slovakia

National Council of the Slovak Republic (*Narodna Rada Slovenskej republiky*)

- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM/2011/0121FIN).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (COM/2011/0560).
- Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public-interest entities (COM/2011/0779).

5.19 Slovenia

Slovenian National Assembly (*Državni Zbor*)

- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).

Slovenian National Council (*Državni Svet*)

5.20 Sweden

Swedish National Legislative Assembly (*Sveriges Riksdag*)

- Proposal for a directive of the European Parliament and of the Council on Deposit Guarantee Schemes (Recast) (COM/2010/0368FIN).
- Proposal for a Directive of the European Parliament and of the Council amending Directive 97/9/EC of the European Parliament and of the Council on investor-compensation schemes (COM/2010/0371FIN).
- Amended proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union (COM/2010/0486FIN).
- Proposal for a Regulation of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (COM/2010/0799FIN).
- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM2011/0121FIN).
- Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC (COM/2011/0370FIN).
- Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms Part I (Text with EEA relevance) (COM/2011/0452).
- Proposal for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (COM/2011/0453).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (COM/2011/0560).

- Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC (COM/2011/0594).
- Proposal for a Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (2014 - 2020) (COM/2011/0608).
- Proposal for a Regulation of the European Parliament and of the Council on a European Union Programme for Social Change and Innovation (COM/2011/0609).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 1060/2009 on credit rating agencies (Text with EEA relevance) (COM/2011/0747).
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts (COM/2011/0778).
- Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public-interest entities (COM/2011/0779).
- Proposal for a Regulation of the European Parliament and of the Council on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area (COM/2011/0821).
- Proposal for a Regulation of the European Parliament and of the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014 - 2020) (COM/2011/0834).
- Proposal for a Regulation of the European Parliament and of the Council establishing the European Border Surveillance System (EUROSUR) (COM/2011/0873).
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information (COM/2011/0877).
- Proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors (COM/2011/0895).

- Proposal for a Directive of the European Parliament and of the Council on public procurement (COM/2011/0896).
- Proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No. 2008/97, (EC) No. 779/98 and (EC) No. 1506/98 in the field of imports of olive oil and other agricultural products from Turkey as regards the delegated and implementing powers to be conferred on the Commission (COM/2011/0918).
- Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (COM/2012/0010).
- Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM/2012/0011).
- Amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 726/2004 as regards information to the general public on medicinal products for human use subject to medical prescription (COM/2012/0049).
- Proposal for a Council 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/2012/0130).
- Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law (COM/2012/0363).
- Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market (COM/2012/0372).
- Proposal for a Regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (COM/2012/0380).
- Proposal for a Council Regulation conferring specific tasks on the European

Central Bank concerning policies relating to the prudential supervision of credit institutions (COM/2012/0511).

- Proposal for a Regulation of the European Parliament and of the Council on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (COM/2012/0576).
- Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM/2012/0614).
- Proposal for a Regulation of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (COM/2012/0617).
- Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products (COM/2012/0788).
- Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No. 881/2004 (COM/2013/0027).
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No. 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (COM/2013/0028).
- Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (COM/2013/0029).
- Proposal for a Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast) (COM/2013/0030).
- Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast) (COM/2013/0031).
- Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and

information security across the Union (COM/2013/0048).

- Proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax (COM/2013/0071).
- Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM/2013/0133).
- Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high-speed electronic communications networks (COM/2013/0147).
- Proposal for a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No. 1093/2010 (COM/2012/0280).
- Proposal for a Regulation of the European Parliament and of the Council establishing a framework on market access to port services and financial transparency of ports (COM/2013/0296).
- Proposal for a Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council (COM/2013/0520).
- Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM/2013/0534).