

EVROPSKA UNIJA



Odbor regij

**LETNO POROČILO O SUBSIDIARNOSTI ZA LETO 2012**

## Letno poročilo o subsidiarnosti za leto 2012

### 1. Uvod

V odziv na ekonomsko-finančno krizo so bili sprejeti pomembni ukrepi za krepitev ekonomskega in finančnega upravljanja na ravni EU, hkrati pa se je povečal pritisk za boljše usklajevanje fiskalne, ekonomske in celo socialne politike med državami članicami. To tesnejše usklajevanje je sicer zelo potrebno, vendar je pri tem nujno, da se ohrani jasna razdelitev pristojnosti v sistemu upravljanja na več ravneh s sprejemanjem sklepov na najustreznejši ravni in čim bližje državljanom. Z drugimi besedami: spoštovanje subsidiarnosti je še toliko bolj pomembno za to, da Evropa več ravni lahko deluje v kriznih razmerah.

Odbor regij (OR) je zato leta 2012 okrepil svojo vlogo kot referenčna točka za subsidiarnost v Evropski uniji. V tem tretjem letu izvajanja Lizbonske pogodbe, ki vsebuje nove določbe v zvezi z načelom subsidiarnosti, je OR razvil in dodelal svojo strategijo ter okrepil orodja za nadzor. To tretje poročilo OR o subsidiarnosti poudarja in povzema te nove dogodke.

Pravica do tožbe pred Sodiščem EU proti zakonodajnemu aktu EU, ki krši načelo subsidiarnosti, je najbolj izstopajoča okrepitev institucionalne vloge OR na področju subsidiarnosti<sup>1</sup>. Odgovornost OR so okrepile tudi številne druge določbe, sprejete v Lizboni. Člen pogodbe, ki se nanaša na načelo subsidiarnosti, izrecno navaja lokalno in regionalno razsežnost<sup>2</sup> ter s tem poudarja potrebo po spoštovanju pristojnosti lokalnih in regionalnih oblasti v EU. Čeprav OR formalno ni vključen v postopek zgodnjega opozarjanja o subsidiarnosti, v okviru katerega se nacionalni parlamenti lahko posvetujejo z regionalnimi parlamenti<sup>3</sup>, je v skladu s svojo institucionalno vlogo dolžan podpreti regionalne parlamente. Skupščine, ki zastopajo lokalne in regionalne oblasti, imajo v institucionalni strukturi EU po svoji naravi vlogo zagotavljanja, da se odločitve sprejemajo na ustrezni ravni (evropski, centralni, regionalni ali lokalni) in čim bližje državljanom.

OR se je zato odločil za pristop, ki zajema ne le sodno presojo, ampak tudi zakonodajno fazo. Vsako morebitno tožbo pred Sodiščem je treba razumeti kot zadnjo možnost in zadnjo fazo v procesu celotnega postopka odločanja. Če bi prišlo do sodne presoje, bi s tem priznali neuspeh zakonodajnega procesa. Odbor si namesto tega prizadeva za krepitev sodelovanja z drugimi institucijami EU, da bi dosegli najboljšo možno zakonodajo. Meni, da je med drugim odgovoren za nadzor subsidiarnosti v čim zgodnejši fazi procesa, in sicer ne le z rednimi posvetovalnimi dejavnostmi, ampak med celotnim

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<sup>1</sup> Člen 8 Protokola št. 2 o uporabi načel subsidiarnosti in sorazmernosti (v nadaljevanju: Protokol št. 2).

<sup>2</sup> Člen 5(3) Pogodbe o Evropski uniji (PEU): "*V skladu z načelom subsidiarnosti Unija deluje na področjih, ki niso v njeni izključni pristojnosti, le če in kolikor države članice ciljev predlaganih ukrepov ne morejo zadovoljivo doseči na nacionalni, regionalni ali lokalni ravni, temveč se zaradi obsega ali učinkov predlaganih ukrepov lažje dosežejo na ravni Unije.*"

<sup>3</sup> Člen 6 Protokola št. 2.

trajanjem političnega cikla, tj. v fazi zasnove, ko se politike in zakonodaja pripravljajo, pa tudi v fazi izvajanja in vrednotenja, ko ukrepi stopijo v veljavo.

Tretje poročilo OR o subsidiarnosti odraža ta celostni pristop, ki temelji na sodelovanju. Vanj so zajete dejavnosti OR na področju nadzora subsidiarnosti od 1. januarja do 31. decembra 2012. Najprej so predstavljene najpomembnejše novosti popravljene strategije (točka 2), v nadaljevanju pa sledijo faze izvajanja v letu 2012 (točka 3). Sledi ocena učinka s preučitvijo vsebine mnenj OR z vidika subsidiarnosti (točka 4), čeprav je težko oblikovati zaključke za to prehodno leto, saj so se nova strategija in orodja začeli uporabljati šele v drugi polovici leta 2012.

## 2. Sprejetje popravljene strategije za nadzor subsidiarnosti

Predsedstvo OR je maja 2012 sprejelo novo strategijo<sup>4</sup> za nadzor načela subsidiarnosti. Splošen cilj strategije je, da OR postane referenčna točka za subsidiarnost v EU, ki lahko predvsem v svojih mnenjih zagotovi kakovostne analize subsidiarnosti in s tem prispeva k razpravi o subsidiarnosti.

Nov pristop je usmerjen zlasti v naslednje:

- krepitev strukture upravljanja pri nadzoru subsidiarnosti OR;
- vzpostavitev celovitega pristopa za nadzor subsidiarnosti med celotnim procesom odločanja EU;
- vključevanje pristojnih evropskih in nacionalnih institucij v te dejavnosti ter
- krepitev pripravljenosti OR glede morebitnega vlaganja tožb pred Sodiščem EU.

### 2.1 Politično upravljanje: usmerjevalna skupina za subsidiarnost

Prvi steber nove strategije je usmerjevalna skupina za subsidiarnost, ki je pristojna za politično upravljanje nadzora subsidiarnosti v OR. Skupina zagotavlja ustrezno usklajevanje in politično spremljanje dejavnosti na področju nadzora subsidiarnosti skozi vse leto. Njena naloga je zlasti opredelitev letnih prednostnih nalog na področju subsidiarnosti in oblikovanje predlogov za uporabo najprimernejših orodij in postopkov mreže za nadzor subsidiarnosti<sup>5</sup>, da bi podprli delo poročevalcev OR v zakonodajnem postopku.

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<sup>4</sup> Spremljanje subsidiarnosti: popravljena strategija za Odbor regij, R/CdR 606/2012.

<sup>5</sup> Posvetovanja o presoji učinka, ciljno usmerjena in odprta posvetovanja, uporaba akcijskega načrta in uporaba REGPEX, glej točko 2.3.

## 2.2 **Pristop: celovit sistem za nadzor subsidiarnosti v celotnem procesu odločanja EU**

V prenovljeni strategiji je jasno zapisano, da se dejavnosti OR, namenjene nadzoru subsidiarnosti, začnajo v predzakonodajni fazi. Skupina strokovnjakov za subsidiarnost (**uradniki**, izbrani iz mreže za nadzor subsidiarnosti glede na njihovo strokovno znanje na področju subsidiarnosti ter dobro poznavanje prava EU) na podlagi temeljite analize delovnega programa Evropske komisije in njenih načrtov za zakonodajni proces izbere več pobud EU, ki so lahko zanimive z vidika subsidiarnosti. Usmerjevalna skupina za subsidiarnost na podlagi tega seznama pripravi predlog za delovni program OR za subsidiarnost, ki se predloži predsedstvu OR v sprejem.

Uprava OR na podlagi tega delovnega programa vzpostavi notranji sistem za zgodnje označevanje, da se zagotovi ustrezen nadzor zakonodajnih predlogov in nezakonodajnih pobud EU, za katere bi se lahko zastavljala vprašanja v zvezi s subsidiarnostjo, pri katerih bi bilo potrebno ukrepanje OR. Takoj ko so takšni primeri ugotovljeni, se v OR začne postopek, ki vključuje vse pomembne politične in upravne udeležene strani ter vodi k določanju in načrtovanju dejavnosti nadzora subsidiarnosti, ki se izvajajo vse leto, tako v času, preden Evropska komisija sprejme predloge, kot tudi zatem.

Zaradi enotnega razumevanja načela in doslednega ocenjevanja predlogov EU, se OR vsebinsko strogo sklicuje na pogoje, določene v Pogodbah<sup>6</sup>, v skladu s katerimi EU ne sme posegati v področja deljene pristojnosti, razen če je takšen ukrep potreben in prinaša jasno dodano vrednost. Ker pa sedanji Protokol št. 2 ne zagotavlja vsebinskih meril za ocenjevanje morebitne kršitve načela subsidiarnosti, OR še vedno uporablja svojo tabelo za ocenjevanje subsidiarnosti in sorazmernosti<sup>7</sup>, ki upošteva merila iz nekdanjega Protokola o uporabi načel subsidiarnosti in sorazmernosti (protokol št. 30 k Amsterdamski pogodbi). Tabela ni omejena na subsidiarnost<sup>8</sup>, ampak poudarja tudi potrebo po opredelitvi vrste pristojnosti in pravno podlago za ukrepe EU na začetku analize subsidiarnosti ter poudarja povezavo z načelom sorazmernosti<sup>9</sup> in pomen upoštevanja elementov, ki so povezani z boljšo pripravo zakonodaje, pri ocenjevanju pobud EU.

## 2.3 **Orodja za izvajanje: mreža za nadzor subsidiarnosti in njena skupina strokovnjakov**

Mreža za nadzor subsidiarnosti, ustanovljena leta 2007, je sedaj dobro delujoče orodje, v katerega je bilo konec leta 2012 vključenih 141 partnerjev<sup>10</sup>. Njeno članstvo in zastopstvo sta se v letu 2012 ponovno povečala, predvsem med regionalnimi parlamenti (pridružila sta se nemška deželna parlamenta Saške-Anhalt in Hamburga, španski regionalni parlament Kanarskih otokov ter

<sup>6</sup> Glej člen 5(3) PEU.

<sup>7</sup> Glej: <http://www.cor.europa.eu/subsidiarity>, rubriko *Subsidiarity Toolkit*. Mrežo je od leta 2007 razvijala in izpopolnjevala uprava OR. Med drugim so jo priznali generalni direktorati Evropske komisije in uporabljali številni institucionalni partnerji (glej na primer Smernice Evropske komisije za izvajanje ocen učinka, SEC(2009) 92, in Poročilo Komisije o subsidiarnosti in sorazmernosti iz leta 2009 (Šestnajsto poročilo o boljši pripravi zakonodaje, 2008) COM(2009) 504 final).

<sup>8</sup> Odgovorilo naj bi na vprašanje: Kako bi morala EU ukrepati? Uporabljati bi ga bilo treba tudi v primeru izključnih pristojnosti EU.

<sup>9</sup> Odgovorilo naj bi na vprašanje: Ali bi morala EU ukrepati?

<sup>10</sup> Za popoln seznam partnerjev z dne 31. decembra 2012 glej prilogo 1.

Konferenca predsednikov italijanskih regionalnih parlamentov), omeniti pa je treba tudi okrepitev sodelovanja nizozemskih občin prek njihovega združenja (VNG). Mrežo sedaj sestavljajo lokalne in regionalne oblasti ter njihova združenja iz vse EU razen Estonije. Mreža podpira vse dejavnosti OR v zvezi z nadzorom subsidiarnosti, ki poročevalcem in članom OR zagotavljajo kakovostne prispevke z vidika subsidiarnosti, tako da se v mnenja OR lahko vključijo ustrezne ocene subsidiarnosti.

Dvakrat letno izhaja bilten o subsidiarnosti, partnerji pa imajo skozi vse leto priložnosti za srečevanje. Vendar pa mreža v glavnem deluje prek spletne strani, kjer je posebno mesto namenjeno regijam z zakonodajnimi pooblastili, zlasti v zvezi s sistemom zgodnjega opozarjanja REGPEX. Posvetovanja (odprta, v katerih partnerji spontano vložijo prispevke, ali usmerjena, ki potekajo na zahtevo poročevalca) partnerjev mreže so še vedno glavno delovno orodje v okviru priprave osnutka mnenja poročevalca OR. Posvetovanja o oceni učinka v predzakonodajni fazi so še en način sodelovanja z Evropsko komisijo, katerega cilj je oceniti posledice določenih predlogov Komisije za lokalne in regionalne oblasti ter preprečiti pojav morebitnih vprašanj v zvezi s subsidiarnostjo v poznejši fazi. Posvetovanja dopolnjuje akcijski načrt, prek katerega se lahko ustanovijo delovne skupine, ki jih sestavlja od pet do deset partnerjev. To je način za podrobno preučevanje določenih političnih področij v bolj kvalitativnem smislu.

Glavna novost popravljene strategije v zvezi z orodji je ustanovitev skupine lokalnih in regionalnih strokovnjakov za subsidiarnost, ki bo pomagala usmerjevalni skupini za subsidiarnost ter na splošno pri posvetovalnem delu OR. Skupina strokovnjakov naj bi tudi prispevala k letnemu delovnemu programu za subsidiarnost ter po potrebi pomagala poročevalcem OR.

### **3. Strategija v praksi: nadzor v predzakonodajni fazi, več razvrščanja po prioritetah, tesnejše sodelovanje z regionalnimi parlamenti in vladami**

Popravljen strategija se je začela izvajati po sprejetju maja 2012. Najpomembnejši poudarki so predstavljeni v nadaljevanju.

#### **3.1 Ustanovitev usmerjevalne skupine za subsidiarnost in skupine strokovnjakov za subsidiarnost**

Usmerjevalna skupina za subsidiarnost je bila ustanovljena septembra 2012. V njej sodeluje po en član iz vsake politične skupine: Jean-François Istasse (BE/PES), Mark Hendrickx (BE/EA), Graham Tope (UK/ALDE) in Michael Schneider (DE/EPP), ki je tudi predsednik in koordinator mreže za nadzor subsidiarnosti. Skupina se je prvič sestala 30. novembra 2012, z delom pa je začela že septembra, ko je imenovala 16 članov **skupine strokovnjakov za subsidiarnost**.

Skupina strokovnjakov za subsidiarnost, ki jo sestavlja 16 lokalnih in regionalnih strokovnjakov za subsidiarnost, se je prvič sestala 25. oktobra 2012. Namen seje je bil, da med pobudami, navedenimi v takrat objavljenem delovnem programu Evropske komisije za leto 2013, izbere tiste, ki bi jih bilo treba z vidika subsidiarnosti prednostno spremljati. Na seji so predstavniki Komisije predstavili delovni program, temu pa je sledila razprava, med katero je skupina strokovnjakov določila številne

pobude v skladu z naslednjimi tremi kumulativnimi merili: pobuda mora (1) predstavljati jasen politični interes za lokalne in regionalne oblasti, (2) zadevati pristojnosti lokalnih in regionalnih oblasti in (3) imeti potencialno subsidiarnostno razsežnost.

### 3.2 Priprave za delovni program OR za subsidiarnost 2013

Seznam, ki ga je pripravila skupina strokovnjakov, je bil pomembna osnova za usmerjevalno skupino za subsidiarnost pri pripravi delovnega programa OR za subsidiarnost, ki ga je predsedstvo sprejelo 30. januarja 2013. Dejavnosti OR na področju nadzora subsidiarnosti v letu 2013 bodo temeljile na petih izbranih prednostnih področjih<sup>11</sup>. Vendar pa je poudarjeno, da je nujna prilagodljivost in da se prednostna področja lahko med letom ponovno pregledajo glede na medinstitucionalni koledar ali dejansko vsebino pobud, ki v času določanja prednostnih tem ni bila dobro znana.

### 3.3 REGPEX – izmenjava med regionalnimi parlamenti

REGPEX je del mreže za nadzor subsidiarnosti, v katerem lahko sodelujejo parlamenti in vlade regij z zakonodajnimi pooblastili. Ustanovljen je bil v podporo tem regijam pri preverjanju, ali zakonodaja EU spoštuje načelo subsidiarnosti, zlasti v kontekstu sistema zgodnjega opozarjanja, ki je zapisan v Lizbonsko pogodbo, in možnosti, da se z njimi posvetujejo nacionalni parlamenti. REGPEX je začel delovati februarja 2012. Gre za platformo, podobno platformi za izmenjave med parlamenti EU (IPEX)<sup>12</sup>, ki je namenjena nacionalnim parlamentom, s katero je tudi povezana.

#### 3.3.1 Glavne funkcije

REGPEX nudi iskalnik, ki povezuje pobude EU z njihovo analizo, ki so jo opravili regionalni parlamenti in vlade. Nudi tudi neposreden dostop do ustreznih virov informacij, ki so lahko v pomoč pri pripravi analize subsidiarnosti, kot so ocene učinkov, ki jih izvede Evropska komisija. Je orodje za izbor prednostnih področij za nadzor subsidiarnosti. Dosjeji za zgodnje opozarjanje vsebujejo ozadje o izbranih pobudah. Regionalni parlamenti in vlade so v usklajenih dejavnostih vabljeni, da prispevajo in objavijo svoja stališča v osemtedenskem obdobju zgodnega opozarjanja. Tak dosje je bil predstavljen leta 2012 o predlogih direktiv o javnih naročilih in podeljevanju koncesijskih pogodb (COM(2011) 895, 896 in 897). V okviru teh dosjejev so bili analizirani prispevki regionalnih parlamentov in vlad, ki so bili povzeti v poročilu, poslanemu poročevalcu OR.

#### 3.3.2 Od podatkovne baze do mreže

REGPEX je tudi platforma za usklajevanje med regijami v EU. Konec leta 2012 je v njej sodelovalo 39 parlamentov in 28 vlad iz 74 regij z zakonodajnimi pooblastili v EU. Na spletu bodo kmalu na

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<sup>11</sup> Štiri pobude, predvidene v delovnem programu Evropske komisije za leto 2013 (elektronsko izstavljanje računov v zvezi z oddajo javnih naročil, modri pas za enotni trg na področju pomorskega prometa, pregled politike in zakonodaje na področju ravnanja z odpadki, ocenjevalni okvir za vprašanja v zvezi z okoljem, podnebjem in energijo za zagotovitev varnega pridobivanja nekonvencionalnih ogljikovodikov), in mobilnost v mestih.

<sup>12</sup> [www.ipex.eu](http://www.ipex.eu).

voljo podrobne predstavitve 74 regionalni parlamentov skupaj s kontaktnimi podatki. Te predstavitve bodo predstavljene v obliki zemljevida regij EU. V prihodnjih mesecih bo preizkušen sistem regionalnih dopisnikov REGPEX.

Regionalni parlamenti in vlade, ki so partnerji izmenjave med regionalnimi parlamenti (REGPEX), so se prvič sestali 12. decembra 2012, da bi ocenili delovanje podatkovne baze, zbrali povratne informacije uporabnikov in razpravljali o prihodnjem razvoju. Seje so se udeležili tudi predstavniki Evropske komisije, Evropskega parlamenta, nacionalnih parlamentov in platforme IPEX. Jasno sporočilo seje je bilo, da se REGPEX ne sme obravnavati zgolj kot tehnična podatkovna baza. Regionalni parlamenti in vlade si želijo, da bi se njihov glas slišal v zakonodajnem procesu EU. REGPEX je vsekakor uporabno orodje v ta namen z močnim potencialom za izmenjavo informacij v okviru časovnih rokov in z močnim potencialom za usklajevanje. Platformo so pozdravile tudi druge institucije EU. Zlasti Evropska komisija prejema prispevke v zvezi s subsidiarnostjo neposredno od regij, ki zagotavljajo pomembne informacije, čeprav v Pogodbah ni pravne podlage za to, da se formalno vključijo v zakonodajni proces. REGPEX je lahko v tem smislu zanimiva stična točka. Prav tako je lahko uporabno orodje za lažjo izmenjavo informacij med nacionalnimi in regionalnimi parlamenti.

OR bo v letu 2013 nadaljeval z razvojem tega orodja in spodbujal regionalne parlamente in vlade k izmenjavi in objavi njihovih stališč na platformi REGPEX.

### 3.4 Posvetovanja

V letu 2012 so se nadaljevala posvetovanja prek spletišča mreže za nadzor subsidiarnosti. Usmerjena posvetovanja se začnejo na zahtevo poročevalcev OR, od maja 2012 pa tudi na pobudo usmerjevalne skupine za subsidiarnost. V letu 2012 sta bili dve tovrstni posvetovanji, in sicer posvetovanje *o instrumentu za povezovanje Evrope* (COM (2011) 659) na zahtevo poročevalca Ivana Žagarja (SI/EPP), ki je potekalo od 29. novembra 2011 do 15. januarja 2012, in posvetovanje *o sporočilu Komisije o boljšem zagotavljanju koristi okoljskih ukrepov EU: krepitev zaupanja z boljšim znanjem in odzivnostjo* (COM(2012) 95) v okviru priprave mnenja *o 7. okoljskem akcijskem programu (EAP) in boljšem izvajanju okoljske zakonodaje EU* poročevalke Nilgun Canver (UK/PES) od 25. maja do 6. julija 2012<sup>13</sup>.

Partnerji mreže lahko poleg tega predložijo svojo analizo subsidiarnosti katerega koli predloga EU. Te so objavijo na spletni strani in se po potrebi posredujejo ustreznemu poročevalcu OR.

Konec leta 2012 je bilo prvič organizirano posvetovanje skupine strokovnjakov za subsidiarnost. Posvetovanje se ni nanašalo na dejanski predlog EU, temveč je bilo organizirano na zahtevo Franza Schausbergerja (AT/EPP) v okviru priprave mnenja na lastno pobudo, za katerega je bil imenovan kot

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<sup>13</sup> Poročila o posvetovanjih so objavljena na spletišču mreže za nadzor subsidiarnosti [www.cor.europa.eu/subsidiarity](http://www.cor.europa.eu/subsidiarity), v rubriki "Activities", podrubriki "Consultations".

poročevalec: *Decentralizacija v Evropski uniji ter vloga lokalne in regionalne samouprave pri sprejemanju in izvajanju politik EU*. Potekalo je od 21. novembra 2012 do 3. januarja 2013<sup>14</sup>.

OR je sodeloval tudi z Evropsko komisijo v okviru priprav ocene učinka četrtega železniškega paketa. Najprej je Evropska komisija začela posvetovanje z lokalnimi in regionalnimi oblastmi prek mrež in platform OR, vključno z mrežo za nadzor subsidiarnosti, nato pa je OR lokalnim in regionalnim oblastem poslal svoja vprašanja s tega področja, na katera so lahko odgovorile od 11. maja do 21. junija 2012. Kljub temu, da je bilo posvetovanje organizirano na hitro in je bilo na voljo malo časa, smo prejeli enajst prispevkov oblasti iz sedmih držav članic<sup>15</sup>. Vsi prispevki so bili poslani Evropski komisiji, skupaj s poročilom o posvetovanju.

### 3.5 Akcijski načrt mreže za nadzor subsidiarnosti

Akcijski načrt mreže za nadzor subsidiarnosti je bil prvič pripravljen leta 2009 kot nadaljevanje 4. konference o subsidiarnosti. Načrt **spodbuja lokalne in regionalne oblasti k opredelitvi in izmenjavi najboljše prakse** pri izvajanju ciljev politik EU v duhu načela subsidiarnosti, zlasti v zvezi z vključitvijo organizacij civilne družbe. Dejavnosti mreže dopolnjuje z analizo določenih političnih področij EU z vidika subsidiarnosti v obdobju enega leta.

Akcijski načrt mreže v letu 2012 je bil osredotočen na novo politiko TEN-T. Za analizo tega področja z vidika subsidiarnosti in upravljanja na več ravneh sta mesto Göteborg in regija Västra Götaland ustanovila skupino lokalnih in regionalnih oblasti. Skupina se je prvič sestala decembra 2011 in na drugi seji konec februarja 2012 izmenjala stališča s člani komisije COTER Ivanom Žagarjem (SI/EPP), Väinom Halligmäkijem (EE/ALDE) in Unom Silbergom (EE/EA).

Delovna skupina je zaključila poročilo z analizo nove politike TEN-T z vidika subsidiarnosti in upravljanja na več ravneh, ki so vsebovale številne primere najboljše prakse, ki so jih predstavili člani skupine. Poleg tega številni politični sklepi zagotavljajo pregled mnenj lokalnih in regionalnih oblasti o novi politiki TEN-T in njenih posledicah. Nekateri sklepi so bili predstavljeni na posebni tematski delavnici o subsidiarnosti v okviru dnevov odprtih vrat 10. oktobra 2012. Delavnico je vodil koordinator mreže za nadzor subsidiarnosti Michael Schneider (EPP/DE), govorniki pa so bili Ismail Ertug (poslanec EP, DE/PES), Jean-Eric Paquet (direktor direktorata za evropsko omrežje mobilnosti, GD MOVE), poročevalca OR o tej temi Bernard Soulage (FR/PES) in Ivan Žagar (SI/EPP), Johan Nyhus (podžupan mesta Göteborg), Mimmi von Troil (članica regionalnega sveta Västra Götaland) in Anna Livieratou v imenu izvajalske agencije TEN-T.

Akcijski načrt mreže je prvič vseboval neposredno izmenjavo s člani OR in članom skupine omogočil tesno sodelovanje s poročevalci OR.

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14 Glej prejšnjo opombo.

15 Glej prejšnjo opombo.



#### 4. Subsidiarnost v mnenjih OR

OR je leta 2012 sprejel 71 mnenj<sup>16</sup>. Sedemdeset odstotkov teh mnenj (49) v skladu s členom 51(2) poslovnika Odbora vsebuje izrecno sklicevanje na uporabo načela subsidiarnosti, v 43 % odstotkih mnenj pa je bilo navedeno jasno stališče o skladnosti zadevne pobude s tem načelom.

Približno polovica mnenj, ki ni vsebovala nikakršnega sklicevanja na subsidiarnost (22), se je nanašala na nezakonodajne pobude (sporočila, zelene knjige ali poročila) ali pa je bila sprejeta na lastno pobudo OR (mnenje na lastno pobudo) ali na zaprosilo Evropske komisije (predhodno mnenje). Zadnji dve kategoriji mnenj se tako ne nanašata na določen končni dokument. Šest mnenj, ki niso v skladu s členom 51(2) poslovnika, je bilo sprejetih na zakonodajne predloge na političnih področjih, kjer je posvetovanje z OR obvezno in gre za predloge, ki izpolnjujejo formalna merila za tožbo OR za razveljavitev zaradi nespoštovanja subsidiarnosti.

Zaradi njihovega pomena z vidika subsidiarnosti je treba poudariti naslednja mnenja, ki jih je sprejel OR v letu 2012; nekatera so vzbudila pomisleke v zvezi s skladnostjo z načeloma subsidiarnosti in sorazmernosti ali pa so opozorila na dejansko kršitev načel: mnenje na lastno pobudo *Razvoj evropske kulture upravljanja na več ravneh: nadaljevanje bele knjige Odbora regij* (CdR 273/2011); mnenje o predlogu splošne uredbe o skladih skupnega strateškega okvira (CdR 4/2012); mnenje o predlogu uredbe o Evropskem skladu za regionalni razvoj (CdR 5/2012); mnenje o predlogu uredbe o Evropskem socialnem skladu (CdR 6/2012); mnenje o instrumentu za povezovanje Evrope (CdR 648/2012); mnenje o letališkem svežnju (CdR 649/2012); mnenje o 7. okoljskem akcijskem programu (CdR 1119/2012); mnenje o svežnju ukrepov o javnih naročilih (CdR 99/2012), mnenje o svežnju ukrepov za varstvo podatkov (CdR 625/2012) in mnenje o napotitvi delavcev na delo v okviru opravljanja storitev (CdR 1185/2012)<sup>17</sup>.

Število mnenj, pripravljenih o zakonodajnih predlogih (42), se je leta 2012 znatno povečalo, kar je mogoče pojasniti kot nadaljevanje trenda iz leta 2011. Več kot polovica teh mnenj se je nanašala na pobude na političnih področjih deljenih pristojnosti, kjer je posvetovanje z OR obvezno. Poleg tega v primerjavi z letom 2011 stalno narašča število primerov, ko mnenja OR izražajo pomisleke glede spoštovanja subsidiarnosti ali v osnutkih predlogov celo ugotavljajo, da nekatere določbe to načelo kršijo.

Kot so pokazale že ugotovitve v preteklih letih, postaja subsidiarnost vsekakor referenčna točka za pripravo mnenj. Glede na nove pravice in odgovornosti OR bi morala vsa mnenja, ki se nanašajo na zakonodajne predloge na področjih obveznega posvetovanja, vključevati sistematično oceno skladnosti z načelom subsidiarnosti.

H kakovosti sklicevanj na subsidiarnost v mnenjih OR bi morala prispevati tudi nadzorna vloga, ki jo ima novoustanovljena usmerjevalna skupina za subsidiarnost, ki lahko poročevalce opozori na morebitne vrzeli in vložiti amandmaje za ohranitev sklicevanj na subsidiarnost v osnutkih mnenja, ki se

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<sup>16</sup> Glej prilogo 2, ki vsebuje pregled mnenj, sprejetih med 1. januarjem in 31. decembrom 2012.

<sup>17</sup> Glej prilogo 3, ki vsebuje podrobnosti o navedenih mnenjih OR.

predložijo za plenarna zasedanja. Člani usmerjevalne skupine so to pravico enkrat uveljavili, ko so vložili amandma k mnenju o napotitvi delavcev na delo v okviru opravljanja storitev (*CdR 1185/2012*), ki ga je poročevalec podprl.

## 5. Sklepi

V letu 2012 je OR s sprejemom nove strategije pospešil izvajanje nadzora subsidiarnosti. OR je z dobro delujočimi orodji nadzora ponovno potrdil celosten pristop, v skladu s katerim nadzor subsidiarnosti obravnava kot odgovornost v celotnem ciklu priprave politik. OR je okrepil sodelovanje z institucijami EU, zlasti v okviru protokola o sodelovanju z Evropsko komisijo, in drugimi institucijami, kot to nacionalni ali regionalni parlamenti, ki preverjajo skladnost pobud EU z načelom subsidiarnosti. Mnenja OR vsebujejo vse bolj temeljito oceno spoštovanja načela subsidiarnosti in priporočila za boljšo pripravo zakonodaje.

Delovni program za subsidiarnost za leto 2013 je prvi strukturiran poskus spremljanja pobud EU v predzakonodajni fazi. Pod vodstvom usmerjevalne skupine za subsidiarnost in s pomočjo lokalnih in regionalnih strokovnjakov za subsidiarnost v okviru skupine strokovnjakov za subsidiarnost bo program vsekakor omogočil OR, da nadalje izvaja odgovornosti na tem področju v korist vseh državljanov EU.

Potrebna bo nekaj časa, da bodo nova struktura upravljanja in orodja nadzora dodobra pokazala rezultate. Organizacija šeste konference o subsidiarnosti v sodelovanju z nemškim zveznim svetom v Berlinu leta 2013 bo dobra priložnost za oceno. Institucije na evropski, nacionalni, regionalni in lokalni ravni bodo povabljeni, da sodelujejo pri oceni položaja in učinka načela subsidiarnosti na oblikovanje zakonodaje EU v kontekstu dogajanja po Lizbonski pogodbi.

Organizacija naslednje konference o subsidiarnosti v sodelovanju z nemškim zveznim svetom in v njegovih prostorih je jasen signal. Nacionalni parlamenti in Odbor regij, ki jih Pogodbi priznavata kot varuhe načela subsidiarnosti, bi se morali združiti pri ocenjevanju pobud EU s svojih različnih vidikov. OR se močno zavzema za sodelovanje v tej smeri in konferenca bo preučila možnosti za to.

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\* \*

**Priloga 1**

**List of partners**  
**The CoR Subsidiarity Monitoring Network**

141 partners at 31 December 2012

**Parliaments or assemblies representing regions**  
**with legislative powers**

Lower Austria State Parliament	Austria
Burgenland State Parliament	Austria
Carinthia State Parliament	Austria
Tyrol State Parliament	Austria
Vorarlberg State Parliament	Austria
Flemish Parliament	Belgium
Walloon Parliament	Belgium
Brussels-Capital Region Parliament	Belgium
French Community Parliament	Belgium
Åland Parliament	Finland
Bavarian State Parliament	Germany
Baden-Württemberg State Parliament	Germany
Hesse State Parliament	Germany
North Rhine-Westphalia State Parliament	Germany
Lower Saxony State Parliament	Germany
Saxony-Anhalt State Parliament	Germany
Schleswig-Holstein State Parliament	Germany
Thüringen State Parliament	Germany
Hamburg City Parliament	Germany
Emilia Romagna Regional Legislative Assembly	Italy
Marche Regional Legislative Assembly	Italy
Sardinia Regional Legislative Assembly	Italy
Tuscany Regional Legislative Assembly	Italy
Trento Autonomous Province Legislative Assembly	Italy
Friuli – Venezia Giulia Regional Assembly	Italy
Abruzzo Regional Assembly	Italy
Calabria Regional Assembly	Italy
Piedmont Regional Assembly	Italy
Azores Legislative Assembly	Portugal
Madeira Legislative Assembly	Portugal
Asturias Legislative Assembly	Spain

Basque Regional Parliament	Spain
Canary Islands Regional Assembly	Spain
Catalan Regional Parliament	Spain
Extremadura Regional Assembly	Spain
Galician Regional Parliament	Spain
Navarre Regional Parliament	Spain
Welsh National Assembly	United Kingdom
Northern Ireland Assembly (NIA)	United Kingdom

**Governments or executives representing regions**  
**with legislative powers**

Lower Austrian State Government	Austria
Vienna City Municipal Executive	Austria
Steiermark State Government	Austria
Vorarlberg State Government	Austria
Upper Austrian State Government	Austria
Flemish Government	Belgium
Bavarian State Government	Germany
Hesse State Government	Germany
Lower Saxony State Government	Germany
Saxony State Government	Germany
Rhineland-Palatinate State Government	Germany
Hamburg City Senate	Germany
Abruzzo Regional Government	Italy
Bolzano/Bozen – South Tyrol Provincial Government	Italy
Lombardy Regional Government	Italy
Piedmont Regional Government	Italy
Veneto Regional Government	Italy
Emilia Romagna Regional Government	Italy
Azores Regional Government	Portugal
Madeira Regional Government	Portugal
Basque Government	Spain
Canary Islands Government	Spain
Galicia Regional Government	Spain
Madrid Regional Government	Spain
Valencia Regional Government	Spain
Murcia Regional Government	Spain
Asturias Regional Government	Spain
Scottish Government	United Kingdom

**Local or regional authorities without legislative powers**

Sofia City	Bulgaria
Zlín City	Czech Republic
Auvergne Regional Council	France
Dunkirk Urban Community	France
Eure General Council	France
Augsburg City	Germany
Erlangen Municipality	Germany
Patras Municipality	Greece
Budapest City	Hungary
Alessandria Province	Italy
Radviliškis District Municipality	Lithuania
Flevoland Provincial Government	Netherlands
Twente Network City – (inc. municipalities of Almelo, Borne, Hengelo, Enschede and Oldenzaal)	Netherlands
Overijssel Province	Netherlands
Łódź City	Poland
Łódź Region Marshal's office	Poland
Wielkopolska Region Marshal's office	Poland
Pomeranian Regional Parliament	Poland
Masovian Region Marshal's office	Poland
Silesian Region Government	Poland
Tavira City	Portugal
Hunedoara City	Romania
Galați County Council	Romania
Košice Autonomous Region Government	Slovakia
Nitra Self Governing Region	Slovakia
Izola City	Slovenia
Barcelona Provincial Council	Spain
Ceuta Autonomous City	Spain
Madrid City	Spain
Gothenburg	Sweden
Västra Götaland County	Sweden
Skåne Regional Government	Sweden

## Associations of regional and/or local authorities

Arco latino	European association
Assembly of European Regions	European association
Association of European Border Regions	European association
Conference of European Regional Legislative Assemblies (CALRE)	European association
Council of European Municipalities and Regions (CEMR)	European association
Eurocities	European association
REGLEG	European association
Austrian State Governors' Conference	Austria
Union of Cyprus Municipalities	Cyprus
Danish Regions	Denmark
Denmark Local Government	Denmark
Association of Finnish Local and Regional Authorities	Finland
Association of Mayors and Elected Representatives of Lozère	France
Conference of Atlantic Arc Cities	France
French Regions Association	France
German Association of Towns and Municipalities	Germany
German County Association	Germany
Association of Prefectoral Authorities of Greece (ENAE)	Greece
AICCRE - Italian Section of the Council of European Municipalities and Regions	Italy
Conference of the Presidents of the Italian Regional Parliaments	Italy
Union of Italian Provinces (UPI)	Italy
Latvian Association of Local and Regional Governments	Latvia
Lithuanian Association of Local Authorities	Lithuania
Association of the Provinces of the Netherlands (IPO)	Netherlands
Association of Netherlands Municipalities (VNG)	Netherlands
Association of Romanian Municipalities	Romania
Association of Romanian Cities	Romania
National Union of County Councils	Romania
Association of Municipalities of Aragon	Spain
Federation of Provinces and Municipalities of Extremadura	Spain
Association of Swedish Local and Regional Authorities (SALAR)	Sweden
Convention of Scottish Local Authorities (COSLA)	United Kingdom

### **CoR national delegations**

Irish Delegation to the CoR	Ireland
Luxembourg Delegation to the CoR (Syvicol)	Luxembourg
Maltese Delegation to the CoR	Malta
Romanian Delegation to the CoR	Romania
United Kingdom Delegation to the CoR (LGA)	United Kingdom

### **National Parliaments**

Austrian Federal Council (Bundesrat)	Austria
French Senate	France
Hellenic Parliament	Greece
Italian Senate	Italy
Portuguese Assembly of the Republic	Portugal

**Priloga 2: Overview of opinions adopted between 1 January and 31 December 2012**

CoR commission	Number of opinions adopted from 1 January 2012 to 31 December 2012	Number of opinions on legislative proposals	Number of opinions containing an explicit reference to subsidiarity (Rule 51(2))*	Number of opinions containing an assessment of compliance with subsidiarity principle	Related SMN consultation	Number of opinions adopted in a policy area of mandatory CoR consultation	
						Legislative proposals	Non- legislative initiatives
CIVEX	12	5	10	3	1	0	0
COTER	14	10	9	6	1	10	2
ECOS	13	9	8	5	3	2	1
EDUC	10	7	10	8	0	4	2
ENVE	12	4	9	7	3	4	7
NAT	9	6	3	2	0	2	1
BUDG	1	1	0	0	0	0	0
<b>TOTAL</b>	<b>71</b>	<b>42</b>	<b>49</b>	<b>31</b>	<b>8</b>	<b>22</b>	<b>13</b>

\* Rule 51(2) of the Rules of Procedure of the CoR, which states that "Committee opinions shall contain an explicit reference to the application of the subsidiarity and proportionality principles", entered into force on 10 January 2010.



**CIVEX**

**Overview of opinions adopted between 1 January 2012 and 31 December 2012**

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>18</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking
Own-initiative opinion CdR 273/2011 fin (CIVEX)	16 February 2012	Building a European culture of multilevel governance: follow-up to the Committee of the Regions' White Paper	No	No	No	N/A <sup>19</sup>	Yes (subsidiarity, proportionality, better law-making, multi-level governance)
COM(2011) 274 final of 18 May 2011 COM(2011) 275 final of 18 May 2011 COM(2011) 276 final of 18 May 2011 CdR 197/2011 fin (CIVEX)	16 February 2012	Opinion on the Victims' Package	Yes	No	No	No	Yes (subsidiarity, proportionality)
COM(2011) 455 final CdR 199/2011 fin (CIVEX)	15 February 2012	New European Agenda For Integration	No	No	Yes <sup>20</sup>	No	Yes (subsidiarity, proportionality, better law-making, multi-level governance)

<sup>18</sup> During the legislative procedure.

<sup>19</sup> The opinion is an assessment of multilevel governance in the EU, therefore the principle of subsidiarity is an overall concern and an assessment of compliance of the latter is not relevant.

<sup>20</sup> Although not technically taking place within the context of an impact assessment, the aim of this consultation was to provide the European Commission (DG HOME) with input from local and regional authorities with regard to the Second European Agenda on Integration, which was then being drafted. The report of the consultation together with all contributions received was transmitted to the European Commission via a letter from the CoR Secretary General on 25 May 2011. The results of the consultation were also used by Mr Kalogeropoulos (EL/EPP) in the preparation of his draft opinion.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>18</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking
COM(2011) 637 final of 13 October 2011 CdR 364/2011 fin (CIVEX)	16 February 2012	Increasing the impact of EU Development Policy: an Agenda for Change	No	No	No	No	Yes (better governance)
COM(2011) 666 final CdR 365/2011 fin (CIVEX)	3 May 2012	Opinion on The enlargement strategy and main challenges 2011-12 (Communication)	No	No	No	No	Yes (subsidiarity, multi-level governance)
COM(2011) 735 final CdR 10/2012 fin (CIVEX)	3 May 2012	Opinion on Family reunification (Green Paper)	No	No	No	No	Yes (subsidiarity, proportionality, multi-level governance)
COM(2011) 743 final CdR 9/2012 fin (CIVEX)	18 July 2012	Opinion on the Communication from the Commission on The Global Approach to Migration and Mobility	No	No	No	No	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011) 835 final CdR 11/2012 fin (CIVEX)	18 July 2012	Opinion on the Communication from the Commission on enhanced intra-EU solidarity in the field of asylum – An EU agenda for better responsibility-sharing and more mutual trust	No	No	No	Yes	Yes (subsidiarity, proportionality)
COM(2011) 749 final COM(2011) 750 COM(2011) 751 COM(2011) 752 COM(2011) 753 CdR 12/2012 fin (CIVEX)	18 July 2012	Opinion on EU financial instruments in Home Affairs	Yes	No	No	No	Yes (better law-making, multi-level governance)

<b>Opinion reference #</b>	<b>Date</b>	<b>Title</b>	<b>Legislative proposal?</b>	<b>Policy field within which consultation of the CoR is mandatory<sup>18</sup></b>	<b>SMN consultation</b>	<b>Assessment of compliance with subsidiarity principle in the opinion?</b>	<b>Other mention of subsidiarity / proportionality / better lawmaking</b>
COM(2011) 758 COM(2011) 759 COM(2011) 884 CdR 13/2012 fin (CIVEX)	18 July 2012	Opinion on the EU financial instruments in Justice and Citizenship	Yes	No, except for Art. 168(4) (safety measures for public health)	No	Yes (compliance)	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 837, 838, 839, 840, 842, 843, 844, 865 final CdR 732/2012 (CIVEX)	9 October 2012	Opinion on Global Europe: a new approach to financing EU external action	Yes	No	No	No	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011)293, 308 final COM(2012) 85 final CdR 1269/2012 (CIVEX)	10 October 2012	Opinion on the Package on protection of the licit economy	Yes	No	No	Yes	Yes (subsidiarity)

**COTER**

**Overview of opinions adopted between 1 January 2012 and 31 December 2012**

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>21</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 610 final CdR 371/2011 (COTER)	15 February 2012	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings	Yes	Yes	No	No	Yes (better law-making, multi-level governance)
COM(2011) 615 final CdR 4/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the funds covered by the Common Strategic Framework	Yes	Yes	No	Yes (non-compliance)	Yes (subsidiarity, proportionality, better law-making, multi-level governance)
COM(2011) 614 final CdR 5/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the ERDF	Yes	Yes	No	Yes (calls on the European Commission to review the draft regulation, taking greater account of the principles of subsidiarity and proportionality)	Yes (subsidiarity, proportionality, better law-making)

<sup>21</sup> During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>21</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 607 final CdR 6/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the ESF	Yes	Yes	No	Yes (non-compliance)	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 612 final CdR 7/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the Cohesion Fund	Yes	Yes	No	No	Yes (subsidiarity, multi-level governance)
COM(2011) 650 final CdR 8/2012 (COTER)	3 May 2012	Opinion on Revising the TEN-T Legislative Framework	Yes	Yes	No	Yes (compliance)	Yes (proportionality)
Outlook opinion CdR 650/2012 (COTER)	19 July 2012	Opinion on Future cities: environmentally and socially sustainable cities	No	No	No	No	Yes (multi-level governance)
COM(2011) 611 final – 2011/0273 (COD) CdR 647/2012 (COTER)	19 July 2012	Opinion on the Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal	Yes	Yes	No	No	Yes (better law-making)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>21</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM (2011) 665 and COM (2011) 659 CdR 648/2012 (COTER)	19 July 2012	Opinion on the Proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility	Yes	Yes	Yes (targeted consultation from 29 November 2011 to 15 January 2012, mentioned in the opinion)	Yes (compliance)	Yes (subsidiarity)
COM(2011) 823 final COM(2011) 828 final COM(2011) 824 final COM(2011) 827 final CdR 649/2012 (COTER)	19 July 2012	Opinion on the Airport Package	Yes	Yes	No	Yes (non-compliance)	No
COM(2012) 128 final CdR 1272/2012 (COTER)	10 October 2012	Opinion on the Revised EU strategy for the Baltic sea region	No	Yes	No	No	Yes (multi-level governance)
SWD(2012) 106 final CdR 1683/2012 (COTER)	29 November 2012	Opinion on the Code of Conduct on Partnership	No	No	No	No	Yes (subsidiarity, proportionality, multi-level governance)

<b>Opinion reference #</b>	<b>Date</b>	<b>Title</b>	<b>Legislative proposal?</b>	<b>Policy field within which consultation of the CoR is mandatory<sup>21</sup></b>	<b>SMN consultation</b>	<b>Assessment of compliance with subsidiarity principle in the opinion?</b>	<b>Other mention of subsidiarity / proportionality / better lawmaking?</b>
CdR 1684/2012 (COTER)	29 November 2012	Opinion on Community led local development	No	Yes <sup>22</sup>	No	No	Yes (subsidiarity)
COM(2012) 496 final CdR 2027/2012 (COTER)	29 November 2012	Opinion on a Common strategic framework	Yes	Yes	No (consultation of the Europe 2020 Platform)	No	Yes (proportionality, multi-level governance)

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<sup>22</sup>

As far as economic, social and territorial cohesion are concerned; will depend on each legal basis of possibly forthcoming legislative proposals.

**ECOS**

**Overview of opinions adopted between 1 January 2012 and 31 December 2012**

<b>Opinion reference #</b>	<b>Date</b>	<b>Title</b>	<b>Legislative proposal?</b>	<b>Policy field within which consultation of the CoR is mandatory<sup>23</sup></b>	<b>SMN consultation</b>	<b>Assessment of compliance with subsidiarity principle in the opinion?</b>	<b>Other mention of subsidiarity / proportionality / better lawmaking?</b>
Own-initiative opinion COM(2011) 594 final CdR 332/2011 (ECOS)	15 February 2012	A common system of financial transaction tax and amending Directive 2008/7/EC	Yes	No	No	Yes (compliance)	No
Referral letter from the Commission of 28 October 2011 Outlook Opinion CdR 333/2011 (ECOS)	15 February 2012	Child Poverty	No	Yes	No	No	No
Outlook Opinion CdR 56/2012 (ECOS)	4 May 2012	Opinion on Active Ageing: Innovation – Smart Health – Better Lives	No	No	No	Yes (compliance)	Yes (proportionality, multi-level governance)
COM(2011) 609 final CdR 335/2011 (ECOS)	3 May 2012	Opinion on EU Programme for social change and innovation	Yes	Yes	No	No	No

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<sup>23</sup> During the legislative procedure.



Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>23</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
Outlook Opinion Proposal for a Regulation of the European Parliament and of the Council on <i>the European Globalisation Adjustment Fund for the period 2014-2020</i> COM(2011) 608 final CdR 334/2011 (ECOS)	3 May 2012	Opinion on European Globalisation Adjustment Fund for the period 2014-2020	Yes	Yes	No	No	Yes (multi-level governance)
COM(2011) 685 final COM(2011) 684 final COM(2011) 683 final COM(2011) 681 final CdR 14/2012 (ECOS)	19 July 2012	Opinion on the responsible businesses package	Yes	No	No	No	Yes (subsidiarity, proportionality, better law-making, administrative burdens)
COM(2011) 897 final CdR 100/2012 (ECOS)	19 July 2012	Opinion on the award of concessions contracts	Yes	No	Yes (first Early Warning System consultation through REGPEX)	No	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 834 final CdR 98/2012 (ECOS)	9 October 2012	Opinion on the Programme for the competitiveness of enterprises and small and medium-sized enterprises (2014-2020)	Yes	No	No	No	No

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>23</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2012) 55 final CdR 747/2012 (ECOS)	10 October 2012	Opinion on the White paper – an agenda for adequate, safe and sustainable pensions	No	No	No	Yes (compliance)	Yes (proportionality)
COM(2011) 895 & 892 final CdR 99/2012 (ECOS)	9 October 2012	Opinion on the Public Procurement Package	Yes	No	Yes (first Early Warning System consultation through REGPEX)	Yes (non-compliance)	Yes (subsidiarity, proportionality, better law-making, administrative burdens)
COM(2012) 209 final CdR 1528/2012 (ECOS)	29 November 2012	Opinion on EU State Aid Modernisation (SAM)	No	No	No	No	Yes (better law-making)
COM(2012) 131 final COM(2012) 130 final CdR 1185/2012 (ECOS)	29 November 2012	Opinion on the posting of workers in the framework of the provision of services	Yes	No <sup>24</sup>	Yes <sup>25</sup>	Yes (non-compliance)	Yes (subsidiarity, proportionality)
COM(2012) 35 final CdR 1364/2012 (ECOS)	29 November 2012	Opinion on the Statute for a European Foundation (FE)	Yes	No	No (however, publication of positions on REGPEX)	No	Yes (subsidiarity, better law-making)

<sup>24</sup> Following the legal basis chosen by the Commission (Art. 352 TFEU).

<sup>25</sup> Letter of 9 July 2012 from the rapporteur to SMN members asking them to respond to a number of questions.

**EDUC**

**Overview of opinions adopted between 1 January 2012 and 31 December 2012**

<b>Opinion reference #</b>	<b>Date</b>	<b>Title</b>	<b>Legislative proposal?</b>	<b>Policy field within which consultation of the CoR is mandatory<sup>26</sup></b>	<b>SMN consultation</b>	<b>Assessment of compliance with subsidiarity principle in the opinion?</b>	<b>Other mention of subsidiarity / proportionality / better lawmaking?</b>
Own initiative opinion CdR 191/2011 (EDUC)	15 February 2012	The future of the European capital of culture	No	Yes	No	No	Yes (subsidiarity)
COM(2011) 567 final CdR 290/2011 (EDUC)	16 February 2012	Modernisation of higher education	No	Yes	No	Yes (compliance)	Yes (subsidiarity, proportionality)
COM(2011) 788 final CdR 400/2011 (EDUC)	4 May 2012	Opinion on Erasmus for all – Proposal for a Regulation	Yes	Yes	No	No	Yes (subsidiarity, better law-making)
COM(2011) 657 final CdR 399/2011 (EDUC)	4 May 2012	Opinion on Trans-European telecom networks – Proposal for a Regulation	Yes	Yes	No	Yes (compliance)	Yes (proportionality)
COM(2011) 785 final CdR 401/2011 (EDUC)	19 July 2012	Opinion on the Creative Europe Programme	Yes	Yes	No	Yes (compliance)	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 809 final CdR 402/2011 (EDUC)	19 July 2012	Opinion on Horizon 2020 (The Framework Programme for Research and Innovation)	Yes	No	No	Yes (compliance)	Yes (proportionality, better law-making))

<sup>26</sup>

During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>26</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2012) 9, 10, 11 final CdR 625/2012 (EDUC)	10 October 2012	Opinion on the Data Protection package	Yes	No	No, however publication of positions of Regional Parliaments on REGPEX	Yes (non-compliance)	Yes (subsidiarity, proportionality)
COM(2011) 877 & 882 final CdR 626/2012 (EDUC)	10 October 2012	Opinion on the Review of the directive on re-use of public sector information and open data	Yes	No	No, however publication of positions of Regional Parliaments on REGPEX	Yes (compliance)	Yes (subsidiarity, proportionality, multi-level governance)
COM(2012) 60 final CdR 1112/2012 (EDUC)	30 November 2012	Opinion on Innovating for Sustainable Growth: A Bioeconomy for Europe	No	No <sup>27</sup>	No	Yes (compliance)	Yes (multi-level governance)
COM(2012) 407 final CdR 2077/2012 (EDUC)	30 November 2012	Opinion on the Proposal for a Decision establishing a Union action for the European Capitals of Culture for the years 2020 to 2033	Yes	Yes	No	Yes (compliance)	No

<sup>27</sup>

As far as research/innovation, agriculture, competitiveness of industry are concerned. Mandatory consultation for environment; will depend on each legal basis of possibly forthcoming legislative proposals.

**ENVE**

**Overview of opinions adopted between 1 January 2012 and 31 December 2012**

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>28</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 321 final CdR 190/2011 (ENVE)	16 February 2012	Report from the Commission to the European Parliament and the Council on the implementation of the Environmental Noise Directive in accordance with Article 11 of Directive 2002/49/EC	No	No	No	No	Yes (subsidiarity, proportionality, multi-level governance)
Referral by the Danish Presidency of 12 January 2012 CdR 85/2012 (ENVE)	4 May 2012	Opinion on Energy efficiency in cities and regions incl. a focus on the differences between rural districts and cities	No	Yes	No	No	No
Letter from the European Commission vice-president of 19 July 2011 CdR 329/2011 (ENVE)	3 May 2012	Outlook opinion on Review of EU Air Quality and Emissions Policy	N/A (not yet, the legislative proposals are still to come)	Yes	Yes (targeted consultation from 18 October to 2 December 2011, mentioned in the opinion)	No	Yes (multi-level governance)

<sup>28</sup> During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>28</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 874 final – 2011/0428 COD CdR 86/2012 (ENVE)	19 July 2012	Opinion on the establishment of the Programme for the Environment and Climate Action (LIFE)	Yes	Yes	Yes (in the framework of an impact assessment consultation during the pre-legislative phase in 2011)	Yes	Yes (proportionality, better law-making, multi-level governance)
COM(2011) 658 final - 2011/0300 (COD) CdR 20/2012 (ENVE)	19 July 2012	Opinion on the Proposal for a Regulation on Guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC	Yes	Yes	No	Yes (compliance)	No
COM(2011) 789 final CdR 87/2012 (ENVE)	19 July 2012	Opinion on the Proposal for a Regulation on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change	Yes	Yes	No	Yes (compliance)	Yes (proportionality, better law-making, multi-level governance)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>28</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 885 final – CdR 88/2012 (ENVE)	10 October 2012	Opinion on the Energy Roadmap 2050	No	Yes <sup>29</sup>	No	No	Yes (better law-making, multi-level governance)
Own-initiative opinion CdR 89/2012 (ENVE)	10 October 2012	Opinion on Regional-specific approaches to climate change in the EU based on the example of mountainous regions	No	Yes <sup>30</sup>	No	No	Yes (subsidiarity)
Presidency referral CdR 1751/2012 (ENVE)	10 October 2012	Opinion on Adaptation to climate change and regional responses: the case of coastal regions	No	Yes <sup>31</sup>	No	Yes (compliance)	Yes (proportionality, multi-level governance)

<sup>29</sup> As far as energy- or environment-related issues are concerned – will depend on each legal base of possibly forthcoming legislative proposals.

<sup>30</sup> As far as energy- or environment-related issues are concerned – will depend on each legal base of possibly forthcoming legislative proposals.

<sup>31</sup> As far as energy- or environment-related issues are concerned – will depend on each legal base of possibly forthcoming legislative proposals.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>28</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2012) 95 final CdR 1119/2012 (ENVE)	30 November 2012	Opinion "Towards a 7 <sup>th</sup> Environment Action Programme: Better implementation of EU environment law"	No	Yes	Yes (targeted consultation of the SMN which ran from 25 May to 6 July 2012)	Yes	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011) 876 final – 2011/0429 (COD) CdR 1120/2012 (ENVE)	30 November 2012	Opinion on priority substances in the field of water policy	Yes	Yes	No (however, publication of positions on REGPEX)	Yes (compliance)	Yes (proportionality)
COM(2012) 46 final CdR 1121/2012 (ENVE)	30 November 2012	Opinion on The implementation of the Soil Thematic Strategy and ongoing activities	No	Yes	No	Yes	Yes (subsidiarity, proportionality, better regulation, administrative burdens)



NAT

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>32</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 709 final CdR 67/2012 (NAT)	4 May 2012	Opinion on the proposal for a regulation on "Health for Growth, the third multi-annual programme of EU action in the field of health for the period 2014-2020	Yes	Yes	No	Yes (compliance)	Yes (better law-making, administrative burdens)
COM(2011) 707 final CdR 66/2012 (NAT)	4 May 2012	Opinion on the Proposal for a Regulation of the European Parliament and of the Council on a consumer programme 2014-2020	Yes	No	No	No	Yes (better law-making)

<sup>32</sup>

During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>32</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 625 final/2, COM(2011) 626 final/2, COM(2011) 627 final/2, COM(2011) 628 final/2, COM(2011) 629 final, COM(2011) 630 final, COM(2011) 631 final CdR 65/2012 (NAT)	4 May 2012	Opinion on the proposals on the reform of the Common Agricultural Policy and the Rural Development Policy after 2013	Yes	No	No	Yes	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011) 416 final - COM(2011) 417 final - COM(2011) 418 final - COM(2011) 424 final - COM(2011) 425 final CdR 239/2011 (NAT)	4 May 2012	Opinion on the Proposals on the reform of the common fisheries policy	Yes	No	No	No	Yes (proportionality, good governance)
COM(2011) 934 final CdR 740/2012 (NAT)	19 July 2012	Opinion on Union Civil Protection Mechanism	Yes	No	No	No	Yes (better law-making, multi-level governance)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory <sup>32</sup>	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 804 final CdR 34/2012 (NAT)	9 October 2012	Opinion on the European Maritime and Fisheries Fund (EMFF)	Yes	Yes	No	No	Yes (better law-making, multi-level governance)
COM(2011) 782 final CdR 741/2012 (NAT)	9 October 2012	Opinion on Developing a maritime strategy for the Atlantic Ocean area	No	Yes <sup>33</sup>	No	No	Yes (multi-level governance)
COM(2012) 79 final CdR 1749/2012 (NAT)	30 November 2012	Opinion on the European Innovation Partnership: Agricultural Productivity and Sustainability	No	No	No	No	Yes (multi-level governance)
COM(2012) 225 final CdR 1750/2012 (NAT)	29 November 2012	Opinion on A European Consumer Agenda – boosting confidence and growth	No	No	No	No	Yes (subsidiarity, proportionality)

<sup>33</sup>

As far as territorial cohesion is concerned – will depend on each legal base of possibly forthcoming legislative proposals.

**BUDG**

**Overview of opinions adopted between 1 January 2012 and 31 December 2012**

<b>Opinion reference</b>	<b>Date</b>	<b>Title</b>	<b>Legislative proposal?</b>	<b>Policy field within which consultation of the CoR is mandatory<sup>34</sup></b>	<b>SMN consultation</b>	<b>Assessment of compliance with subsidiarity principle in the opinion</b>	<b>Other reference to subsidiarity / proportionality / better lawmaking in the opinion</b>
COM(2012) 42 final COM(2012) 388 final CdR 1777/2012 (BUDG)	9 October 2012	Opinion on The new multiannual financial framework post-2013	Yes	No	No	No	Yes (better law-making)

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<sup>34</sup> During the legislative procedure.

### Priloga 3

#### **KEY OPINIONS ADOPTED IN 2012 WITH REGARD TO SUBSIDIARITY AND PROPORTIONALITY**

- 1. Own-initiative opinion: Building a European culture of multilevel governance: follow-up to the Committee of the Regions' White Paper**  
(CdR 273/2011, adopted on 15 February 2012)

This opinion confirmed the CoR's political commitment expressed in its White Paper on Multilevel Governance adopted on 17 June 2009<sup>35</sup> and highlighted a number of political principles and directions to ensure that its project for Building Europe in partnership is achieved.

It particularly developed the concept of multilevel governance as "*based on coordinated action by the EU, the Member States and regional and local authorities according to the principles of subsidiarity and proportionality and in partnership, taking the form of operational and institutionalised cooperation in the drawing-up and implementation of the European Union's policies*". Furthermore, it stressed the link between multilevel governance and subsidiarity, the latter relating to the remits of the various tiers of government and the former focusing on their interaction.

In the opinion, the CoR pointed out that it has taken the initiative of creating a Multilevel Governance Scoreboard at European Union level which will help to measure annually to what extent the main principles and mechanisms of this type of governance have been taken into account in the European Union's political cycle. Also, the CoR has undertaken to draw up its European Union Charter for Multilevel Governance, which will seek to incorporate a shared understanding of European governance into the European Union's core values and should lead to greater participation by local and regional authorities in the exercise of European democracy.

- 2. Opinion on the proposal for a Regulation on the funds covered by the Common Strategic Framework**  
(COM(2011) 615 final, CdR 4/2012, adopted on 3 May 2012)

In the opinion, the CoR welcomed the fact that "*the ESF will remain in the sphere of cohesion policy as a key instrument for jobs, for improving people's skills and for social inclusion*" but insisted "*however that in accordance with the subsidiarity principle regional and competent local authorities should be responsible for choosing investment priorities and distributing the Structural Funds between the ERDF and the ESF*".

One of the amendments to the Commission's proposal thus specified that "[i]n accordance with the subsidiarity principle, the managing authorities shall autonomously choose the thematic objectives and investment priorities on which overall EU support shall be concentrated." In the reason for the

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<sup>35</sup> CoR White Paper on Multilevel Governance, CdR 89/2009 fin.

amendment it is explained that although the CoR endorses the principle of concentrating the bulk of resources on a limited number of thematic objectives/investment priorities it considers that *"the choice of objectives and priorities should be left to the managing authorities which will adapt the goals of the Europe 2020 strategy and the Common Strategic Framework to local conditions."*

In the opinion, the CoR furthermore *"reject[ed] the proposed accreditation of management and control authorities. The implementation of cohesion policy by the Member States is in line with the subsidiarity principle in the EU. Accreditation of state authorities by other state authorities has no basis in administrative law in some Member States and interferes in the organisational sovereignty of Member States."*

3. **Opinion on the proposal for a Regulation on the ERDF**  
(COM(2011) 614 final, CdR 5/2012, adopted on 3 May 2012)

The opinion stated the CoR's view that *"the European Commission's draft regulation overly restrict[ed] the ERDF's scope for funding and [did] not allow Member States and regions the necessary room for manoeuvre in terms of regional and structural policy to meet the goals of the treaty and the Europe 2020 strategy with tailor-made territorial measures"* and that *"[i]t restrict[ed] the scope for using the ERDF to support the introduction of integrated territorial development strategies which take account of the respective territorial strengths and needs and in so doing make a major contribution to boosting economic growth and employment"*.

More generally, the opinion called for greater account to be taken of the principles of subsidiarity and proportionality in the negotiations so that ERDF support *"does not become centralised, overregulated and highly bureaucratic"*. It called on the European Commission to review the draft regulation accordingly in consultation with the Council and the European Parliament.

4. **Opinion on the proposal for a Regulation on the ESF**  
(COM(2011) 607 final, CdR 6/2012, adopted on 3 May 2012)

In the opinion, the CoR raised concerns regarding a number of points in the Commission proposal, such as for instance those relating to thematic concentration, *"because they will limit scope to tailor ESF support to the needs and particularities of individual regions, which raise issues of conflict with the subsidiarity and proportionality principles"*.

The CoR then recalled that *"the Commission is bound under the Treaties to respect the subsidiarity principle and that this is a matter of particular interest to the CoR, since Article 2 of the Protocol on the application of the principles of subsidiarity and proportionality stipulates that consultations conducted during the process of enacting legislation should 'take into account the regional and local dimension of the action envisaged'; furthermore, Article 5 of the same protocol specifies that justification must be provided for Commission proposals. Since the present proposal simply invokes in the usual general and vague terms the need for ESF interventions to be effective, it can hardly be said to meet this specification"*.

Furthermore, the CoR found that the proposal was not in compliance with the principle of subsidiarity as regards the chosen method and procedure for pursuing the aim of thematic concentration: "*while welcoming the aim of thematic concentration, is against the Commission's chosen method and procedure for pursuing this goal, as set out in Article 4(3) of the proposal for a Regulation: prescribing very high rates of concentration for allocations to each operational programme, ranging from 80% to 60% depending on the category of region, in up to four of the total 18 investment priorities, is incompatible with the principles of subsidiarity and proportionality, as this may not prove adequate to cover the particular needs and priorities of each region*".

**5. Opinions on the Revision of the TEN-T Guidelines and Connecting Europe Facility**  
(COM(2011) 650, COM (2011) 665 and COM (2011) 659; CdR 8/2012 and CdR 648/2012, respectively adopted on 3 May and 19 July 2012)

In 2012, the Action Plan of the Subsidiarity Monitoring Network focused on these two opinions, allowing for the first time direct exchange between CoR rapporteurs and members of the Network. Moreover, a targeted SMN consultation on the Connecting Europe Facility took place at the beginning of the year. Finally, the Thematic Subsidiarity Workshop held during the Open Days 2012 was attended by Mr Soulage (FR/PES) and Mr Zagar (SL/EPP), both CoR rapporteurs for the above mentioned opinions. The CoR has expressed its support to these two initiatives and has recalled the importance of involving local and regional authorities in all phases of the different procedures.

**6. Opinion on the Airport Package**  
(COM(2011) 823 final, COM(2011) 828 final, COM(2011) 824 final, COM(2011) 827 final, CdR 649/2012, adopted on 19 July 2012)

In the opinion, the CoR found that several points of the Commission's proposal were in breach with the principle of subsidiarity.

The CoR agreed "*that in line with the Balanced Approach, the most cost-efficient measure should be chosen in order to achieve noise abatement objectives but considers that the proposed right of scrutiny for the Commission exceeds its powers according to the principle of subsidiarity. Operating restrictions must be imposed by regional authorities with due regard to the local situation and to local specifics. An additional right of scrutiny for the Commission is neither necessary nor proportionate*".

Consequently, the CoR deleted Article 10 on operating restrictions from the Commission's proposal considering that, "*as currently worded, [the relevant provision] could call regional mediation agreements into question. These agreements between airports, the relevant region and citizens are often reached after years of difficult and exhausting negotiations. The German Bundesrat, Austrian Bundesrat, French Senate and Dutch First Chamber concluded that the Commission's right of scrutiny under Article 10 is in breach of the European Union's principle of subsidiarity*".

Furthermore, the CoR considered that *"the proposed right of the European Commission to designate individual 'network airports', whereby it can require Member States to treat individual airports distinctly and separately, exceeds its powers according to the principle of subsidiarity."*

7. **Opinion "Towards a 7th Environment Action Programme (EAP) – better implementation of EU environment law"**

(COM(2012) 95 - Improving the delivery of benefits of EU environment measures: Building confidence through better knowledge and responsiveness (COM), CdR 1119/2012, adopted on 30 November 2012)

The rapporteur of this opinion, Ms Canver (UK/PES), was able to use the outcome of a targeted consultation of the SMN which ran from 25 May to 6 July 2012. In its opinion, the CoR noted that the Commission makes no assessment of the various options set out in its communication (COM(2012) 95), in terms of their compatibility with the principle of subsidiarity. Furthermore, the CoR considered that the options presented in the communication are *"insufficiently well-developed for the CoR to form a definitive view, with much depending on whether (and how) the European Commission decides to take some of these forward."*

With this reservation, the opinion referred to the consultation of the SMN, noting that the contributions *"generally indicate that the options in the Communication, when fully formulated, are unlikely to constitute a significant breach of subsidiarity"* and highlighted *"however, that whereas there is support for an upgrade of the existing framework for inspections, there may be some resistance in the SMN to this being made binding and to the creation of an EU inspection body. Similarly, whereas there is support for criteria for handling of complaints by Member States, some SMN members may prefer for these to be non-binding recommendations. There appears to be an acceptance that the EU should define the conditions for efficient and effective access to national courts on EU environment law."*

8. **Opinion on the Public Procurement Package and Opinion on the award of concessions contracts**

(COM(2011) 895 and 896 final, CdR 99/2012, adopted on 9 October 2012; and COM(2011) 897 final, CdR100/2012, adopted on 19 July 2012)

The two opinions benefited from the first coordinated exercise organised by the CoR with regional parliaments and governments through REGPEX. Partners were invited to share their positions during the early warning phase, from 11 January to 8 March 2012. A report, analysing and summarising the contributions of twelve SMN partners and referring to reasoned opinions adopted by national parliaments during the same period, was drawn up and forwarded to the two CoR rapporteurs appointed on this legislative package, Mr Kool (NL/PES) for concessions and Ms Segersten-Larsson (SV/EPP) on public procurement.

Eventually, the opinion on concessions made a general statement to the effect that the proposal *"must show due regard for the subsidiarity principle: local and regional authorities should remain free to*



*choose whether they will carry out works and services themselves or outsource them to third parties".* The opinion on public procurement went further in expressing concern. It pointed out that *"the proposal contravenes the Member States' right to organise their own administration and is in breach of the subsidiarity principle"*.

**9. Opinion on the Data Protection package**

(COM(2012) 9, 10, 11 final, CdR 625/2012, adopted on 10 October 2012)

The opinion acknowledged that *"insofar as it concerns the private sector, there is good reason to try to fully harmonise parts of European data protection law by replacing it with a regulation"*. However, it noted that the package of the General Data Protection Regulation and the Directive relating to the police and justice attracted objections concerning its compliance with the principles of subsidiarity and proportionality. Indeed, a number of regional parliaments and governments have expressed concerns.

The opinion questioned the choice of instrument for the General Data Protection Regulation, i.e. a rather abstract regulation giving the Commission some power for delegated acts, including in essential matters. It considered that processing by public authorities of personal data and the sphere of employment law should continue to be governed by a directive. Furthermore, it also expressed doubts as to *"whether regulation of exclusively national-level data processing by way of a proposal for a directive relating to the police and justice falls within the legislative competence of the European Union or complies with the principles of subsidiarity and proportionality"*.

**10. Opinion on the posting of workers in the framework of the provision of services**

(COM(2012) 131 final; COM(2012) 130 final; CdR1185/2012, adopted on 29 November 2012)

This opinion was adopted after the 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 ("Monti II") was withdrawn by the Commission as a result of the activation of the "Yellow card" procedure by national parliaments. However, the CoR stated in the opinion that it shared the view that the right to strike is clearly excluded of the scope of EU legislation and that the proposal lacked a legal basis in this area.

Moreover, the opinion stressed that *"if the Commission had maintained its proposal for a regulation, in the light of reasoned opinions adopted by national parliaments as well as positions expressed at regional level through the CoR, the latter could have considered taking the necessary steps to lodge an ex-post appeal against it for breaching the principle of subsidiarity in terms of both the choice of legal basis and insufficient evidence of the added value of EU action in this area"*. The opinion also pointed out that the CoR will continue to monitor these matters very closely.