

EUROOPA LIIT



Regioonide Komitee

SUBSIDIAARSUSE AASTAARUANNE 2012

Subsidiaarsuse aastaaruanne 2012

1. Sissejuhatus

Vastusena majandus- ja finantskriisile astuti olulisi samme, et tugevdada ELi tasandil majandus- ja finantsjuhtimist. Samal ajal suureneb surve fiskaal-, majandus- ja isegi sotsiaalpoliitika paremaks koordineerimiseks liikmesriikide vahel. See tihedam koordineerimine on hädavajalik, ent samuti on oluline säilitada selge arusaam pädevuste jaotumisest mitmetasandilise valitsemise süsteemis, langetades otsuseid kõige sobivamal tasandil ja võimalikult lähedal kodanikele. Teisisõnu on subsidiaarsuse austamine veelgi olulisem, et mitmetasandiline Euroopa suudaks toimida kriisiolukorras.

Seetõttu tugevdas Regioonide Komitee 2012. aastal oma positsiooni subsidiaarsuse võrdluspunktina Euroopa Liidus. Lissaboni lepingu ja selle subsidiaarsuse põhimõtet puudutavate uute sätete rakendamise kolmandal aastal arendas ja täiustas Regioonide Komitee oma strateegiat ja teravdas järelevalvevahendeid. Regioonide Komitee käesolevas kolmandas subsidiaarsuse aastaaruandes rõhutatakse neid uusi arenguid ja võetakse need kokku.

Õigus esitada Euroopa Liidu Kohtule hagi Euroopa Liidu seadusandliku akti vastu subsidiaarsuse põhimõtte rikkumise asjus on Regioonide Komitee institutsioonilise rolli olulisim parandus subsidiaarsuse osas¹. Ent Regioonide Komitee vastutust tugevdati ka rea teiste Lissaboni lepinguga vastu võetud sätetega. Subsidiaarsust käsitlevas lepingu artiklis viidatakse selgelt kohalikule ja piirkondlikule mõõtmele² ning rõhutatakse seega vajadust austada kohalike ja piirkondlike omavalitsuste pädevust ELis. Mis puudutab võimalust, et riigi parlament³ konsulteeriks piirkondlike parlamentidega subsidiaarsusega seotud varajase hoiatamise menetluses, siis kuigi Regioonide Komitee selles ametlikult ei osale, eeldab komitee institutsiooniline positsioon tema toetust piirkondlikele parlamentidele. Kohalikke ja piirkondlikke omavalitsusi Euroopa Liidu institutsioonilises ülesehituses esindava kogu loomuomase rolli osa on tagada, et otsused võetakse vastu sobival valitsemistasandil (Euroopa, keskvalitsuse, piirkondlikul või kohalikul tasandil) ja võimalikult lähedal kodanikele.

Seetõttu on Regioonide Komitee vastu võtnud mitte ainult kohtulikku läbivaatamist, vaid ka seadusandlikku etappi hõlmava lähenemisviisi. Iga võimalikku hagi Euroopa Kohtule tuleb käsitada kui viimast abinõu ning viimast sammu protsessis, mis hõlmab kogu otsustusprotsessi. Sellisesse

¹ Vt protokoll nr 2 artiklit 8 subsidiaarsuse ja proportsionaalsuse põhimõtte kohaldamise kohta, edaspidi „protokoll nr 2”.

² Euroopa Liidu lepingu (ELi leping) artikli 5 lõige 3: *Valdkondades, mis ei kuulu liidu ainupädevusse, võtab liit kooskõlas subsidiaarsuse põhimõttega meetmeid ainult niisuguses ulatuses ja siis, kui liikmesriigid ei suuda riigi, piirkonna või kohalikul tasandil piisavalt saavutada kavandatava meetme eesmärke, kuid kavandatud meetme ulatuse või toime tõttu saab neid paremini saavutada liidu tasandil.*

³ Vt protokoll nr 2 artiklit 6.

kohtumenetlustappi jõudmine tähendaks seadusloomeprotsessi nurjumise tunnistamist. Selle asemel püüab komitee tugevdada koostööd teiste ELi institutsioonidega, et jõuda parimate võimalike õigusaktideni. Komitee leiab, et tema ülesannete hulka kuulub subsidiaarsuse jälgimine võimalikult varases järgus, mitte ainult tavapärase nõuandetegevuse kaudu, vaid kogu poliitikatsükli vältel, st juba ideejärgus, kui poliitikameetmeid ja õigusakte välja töötatakse, samuti rakendamise- ja hindamisetapis pärast meetmete jõustumist.

Regioonide Komitee käesolev kolmas subsidiaarsuse aastaaruanne peegeldab seda kõikehõlmavat ja koostööpõhist lähenemisviisi. Aastaaruandes käsitletakse Regioonide Komitee subsidiaarsuse järelevalve alast tegevust ajavahemikul 1. jaanuarist kuni 31. detsembrini 2012. Kõigepealt on esitatud läbivaadatud strateegia põhipunktid (osa 2) ja seejärel 2012. aasta rakendusetapid (osa 3). Seejärel on hinnatud mõju, uurides Regioonide Komitee arvamuste sisu subsidiaarsuse vaatepunktist (osa 4), kuigi kohaseid järeldusi on ülemineku-aastast keeruline teha, kuna uut strateegiat ja vahendeid rakendati alles 2012. aasta teisel poolel.

2. Subsidiaarsuse järelevalve läbivaadatud strateegia vastuvõtmine

2012. aasta mais võttis Regioonide Komitee juhatus vastu uue strateegia⁴. subsidiaarsuse põhimõtte järelevalve kohta. Selle strateegia üldine eesmärk Regioonide Komitee jaoks on saada ELis subsidiaarsuse võrdluspunktiks, mis on suuteline esitama kvaliteetseid subsidiaarsuse analüüse peamiselt oma arvamustes, st oma panuse subsidiaarsuse üle peetavasse arutellu.

Eelkõige on uus lähenemisviis suunatud järgmistele aspektidele:

- Regioonide Komitee subsidiaarsuse järelevalve juhtimisstruktuuri tugevdamine;
- ulatusliku lähenemisviisi loomine subsidiaarsuse järelevalvele kogu ELi otsustusprotsessi vältel;
- asjaomaste ELi ja riiklike institutsioonide kaasamine neisse meetmetesse ja
- Regioonide Komitee valmisoleku suurendamine vajadusel hagi esitamiseks Euroopa Kohtule.

2.1 Poliitiline juhtimine: subsidiaarsuse juhtrühm

Subsidiaarsuse juhtrühm kui uue strateegia esmane tugisammas vastutab Regioonide Komitee subsidiaarsuse järelevalve poliitilise juhtimise eest. Juhtrühm tagab subsidiaarsuse järelevalve meetmete asjakohase koordineerimise ja poliitilise järelevalve kogu aasta vältel. Eeskätt peab juhtrühm määratlema subsidiaarsuse iga-aastased prioriteedid ning esitama ettepanekud subsidiaarsuse järelevalve võrgustiku⁵ kõige kohasemate vahendite ja menetluste kasutamiseks, et toetada komitee raportöride tööd õigusloome protsessis.

⁴ Subsidiaarsuse järelevalve: Regioonide Komitee läbivaadatud strateegia, CdR 606/2012.

⁵ Mõju hindamise alased konsultatsioonid, suunatud ja avatud konsultatsioonid, tegevuskava ja REGPEXi kasutamine, vt punkt 2.3.

2.2 Läheneemisviis: terviklik subsidiaarsuse järelevalve süsteem kogu ELi otsustusprotsessi vältel

Läbivaadatud strateegiast tuleb ilmsiks, et Regioonide Komitee subsidiaarsuse järelevalve alane tegevus algab õigusloome-eelses etapis. Toetudes Euroopa Komisjoni tööprogrammi ja õigusloomeprotsessi käsitlevate tegevuskavade põhjalikule analüüsile, valib subsidiaarsuse eksperdirühm (mille liikmed on valitud subsidiaarsuse järelevalve võrgustikku kuuluvate ametnike hulgast, lähtudes nende subsidiaarsuse alastest teadmistest ning tugevast taustast ELi õiguse valdkonnas) välja teatud arvu ELi algatusi, mis on subsidiaarsuse seisukohalt huvipakkuvad. Seda nimekirja aluseks võttes valmistab subsidiaarsuse juhtrühm seejärel ette oma ettepaneku Regioonide Komitee subsidiaarsuse tööprogrammi kohta, mis esitatakse komitee juhatasele vastuvõtmiseks.

Tööprogrammi alusel viib komitee administratsioon sisse sisese märguandesüsteemi, et tagada nende ELi seadusandlike ettepanekute ja mitteseadusandlike algatuste asjakohane järelevalve, millel võib olla subsidiaarsusega seotud probleem, mis nõuab Regioonide Komitee tegutsemist. Niipea kui need juhtumid on tuvastatud, käivitatakse Regioonide Komitees menetlus, mis hõlmab kõiki asjaomaseid poliitilisi ja administratiivseid sidusrühmi ja mille eesmärgiks on määratleda ja kavandada subsidiaarsuse järelevalve tegevused kogu aasta vältel, nii enne kui ka pärast komisjoni ettepanekute vastuvõtmist.

Mis puutub sisusse, siis põhimõtte üheselt mõistmise ja ELi ettepanekute järjepideva hindamise võimaldamiseks viitab komitee rangelt aluslepingutes sätestatud tingimustele⁶, st sellele, et Euroopa Liit võib sekkuda jagatud pädevusega valdkonda ainult siis, kui selline meede näib vajalik ja sellel on selge lisaväärtus. Kuna aga kehtivas protokollis nr 2 ei anta materiaalseid kriteeriume hindamaks, kas on tegemist subsidiaarsuse põhimõtte rikkumisega, siis toetub komitee siiani subsidiaarsuse ja proportsionaalsuse hindamistabelile⁷, milles viidatakse eelmises protokollis subsidiaarsuse ja proportsionaalsuse põhimõtte kohaldamise kohta (Amsterdami lepingu protokoll nr 30) kehtestatud kriteeriumitele. Hindamistabel ei piirdu üksnes subsidiaarsusega⁸, vaid selles rõhutatakse ka vajadust määratleda subsidiaarsuse analüüsi alguses pädevuse liik ja ELi meetme õiguslik alus ning toonitatakse seost proportsionaalsuse põhimõttega⁹, samuti seda, et ELi algatuste hindamisel on oluline võtta arvesse parema õigusloomega seotud aspekte.

⁶ Vt Euroopa Liidu lepingu artikli 5 lõige 3.

⁷ Kätesaadav veebilehel www.cor.europa.eu/subsidiarity, rubriik „Subsidiarity toolkit”. Hindamistabelit on alates 2007. aastast arendanud ja viimistlenud Regioonide Komitee administratsioon, ning seda tunnustavad teiste hulgas Euroopa Komisjoni peadirektoraadid ja kasutavad paljud institutsioonilised partnerid (vt nt Euroopa Komisjoni mõjuhindamise suunised, SEC(2009) 92 ja komisjoni aruanne subsidiaarsuse ja proportsionaalsuse kohta (16. aruanne „Parem õigusloome”, mis hõlmab aastat 2008, COM(2009) 504 final).

⁸ Peaks andma vastuse küsimusele „Kas ELi meede on vajalik?”

⁹ Peaks andma vastuse küsimusele „Milliseid meetmeid peaks EL võtma?” ning seda tuleb kohaldada ka ELi ainupädevuses olevate valdkondade puhul.

2.3 Rakendamise vahendid: subsidiaarsuse järelevalve võrgustik ja selle eksperdirühm

Subsidiaarsuse järelevalve võrgustik, mis loodi 2007. aastal, on nüüdseks kindel vahend, mis 2012. aasta lõpus ühendas 141 partnerit¹⁰. Selle liikmeskond ja esindatuse alus suurenesid taas 2012. aastal, peamiselt piirkondlike parlamentide seas (ühinesid Saksmaa Saksi-Anhalti liidumaa parlament ja Hamburgi parlament, samuti Hispaania Kanaari saarte piirkondlik kogu ja Itaalia piirkondlike parlamentide esimeeste konverents), kuid märkida tuleb ka Madalmaade omavalitsuste aktiivsemat osalemist nende assotsiatsiooni (VNG) kaudu. Subsidiaarsuse järelevalve võrgustik hõlmab nüüd kohalikke ja piirkondlikke omavalitsusi ja nende ühendusi kõikjalt Euroopa Liidust, välja arvatud Eestist. See toetab kõiki komitee subsidiaarsuse järelevalve tegevusi, et pakkuda komitee raportööridele ja liikmetele kvaliteetset teavet subsidiaarsuse aspektist, et komitee arvamustele saaks lisada asjakohaseid subsidiaarsuse hinnanguid.

Kuigi subsidiaarsuse infoleht (*Subsidiarity Newsletter*) ilmub kaks korda aastas ja partneritel on võimalusi kohtuda kogu aasta vältel, tegutseb võrgustik peamiselt oma veebilehe kaudu, mis hõlmab seadusandlike volitustega piirkondadele, eelkõige varajase hoiatamise süsteemi kontekstis pühendatud osa – REGPEX. Subsidiaarsuse järelevalve võrgustiku partnerite konsultatsioonid (mis on kas avatud, st sõltuvad partnerite spontaansetest panustest, või suunatud, st algatatud raportööri taotlusel) on jätkuvalt komitee raportööri peamine töövahend arvamuse eelnõu koostamisel. Mõju hindamise konsultatsioonid õigusloome-eelses etapis on veel üks viis koostööks Euroopa Komisjoniga, et hinnata teatud komisjoni ettepanekute mõju kohalikele ja piirkondlikele omavalitsustele ja ennetada subsidiaarsuse küsimuste esilekerkimist hilisemas etapis. Tegevuskava, mille kaudu saab luua viiest kuni kümnest partnerist koosnevat töörühmi, täiendab konsultatsioone. See on vahend teatud poliitikavaldkondade lähemaks uurimiseks kvaliteetsemal viisil.

Mis puutub vahenditesse, siis on läbivaadatud strateegia peamine uuendus siiski otsus luua kohalike ja piirkondlike subsidiaarsuse valdkonna ekspertide rühm, mis toetab subsidiaarsuse juhtrühma tegevust ja Regioonide Komitee nõuandetegevust üldiselt. Eksperdirühm peab andma panuse subsidiaarsuse iga-aastasessse tööprogrammi ning olema vajadusel komitee raportööride käsutuses.

3. Strateegia praktikas: ennetav järelevalve, tugevamad prioriteedid, tihedam koostöö piirkondlike parlamentide ja valitsustega

Mais vastu võetud läbivaadatud strateegiat rakendati 2012. aasta järgnevatel kuudel järgmiste rõhuasetustega.

3.1 Subsidiaarsuse juhtrühma ja subsidiaarsuse eksperdirühma loomine

Subsidiaarsuse juhtrühm loodi 2012. aasta septembris. Sellesse kuulub üks liige igast fraktsioonist: Jean-François Istasse (BE/PES), Mark Hendrickx (BE/AE), Graham Tope (UK/ALDE) ja Michael Schneider (DE/EPP), kes on subsidiaarsuse juhtrühma juhataja ja koordinaator. Subsidiaarsuse

¹⁰ Vt partnerite täielik nimekiri 31. detsembri 2012. aasta seisuga lisas 1.

juhtrühm tuli esimest korda kokku 30. novembril 2012, kuid selle töö algas kohe septembris subsidiaarsuse eksperdirühma 16 liikme ametissenimetamisega.

Mis puutub subsidiaarsuse eksperdirühma, siis 16 kohalikku ja piirkondlikku subsidiaarsuse eksperti kohtusid esimest korda 25. oktoobril 2012. aastal. Eesmärk oli valida Euroopa Komisjoni vastvalminud 2013. aasta tööprogrammis nimetatud algatuste hulgast välja need, mille üle esmajärjekorras järelevalvet teostada subsidiaarsuse seisukohast. Tööprogrammi esitlusele komisjoni ametnike poolt järgnes arutelu, mis võimaldas eksperdirühmal määratleda teatud hulga algatusi, valides need välja järgmise kolme kumulatiivse kriteeriumi alusel: algatused peaksid (1) pakkuma selget poliitilist huvi kohalikele ja piirkondlikele omavalitsustele; (2) puudutama kohalike ja piirkondlike omavalitsuste pädevusi ja (3) omama potentsiaalset subsidiaarsuse mõõdet.

3.2 Regioonide Komitee 2013. aasta subsidiaarsuse tööprogrammi ettevalmistused

Ekspertide rühma koostatud nimekiri oli subsidiaarsuse juhtrühmale oluliseks lähtealuseks komitee subsidiaarsuse tööprogrammi koostamisel, mille juhatus võttis vastu 2013. aasta 30. jaanuaril. Komitee 2013. aasta subsidiaarsuse järelevalve alane tegevus keskendub viiele valitud prioriteedile¹¹. Rõhutatatakse siiski, et paindlikkus on väga oluline ning et prioriteete võidakse terve aasta jooksul üle vaadata, võttes arvesse nii institutsioonilist kalendrit kui ka algatuste tegelikku sisu, mis ei olnud prioriteetsete valdkondade valimise hetkel veel täielikult teada.

3.3 REGPEX – piirkondlike parlamentide teabevahetus (REGional Parliamentary Exchange)

REGPEX on olemasoleva subsidiaarsuse järelevalvevõrgustiku all-võrgustik, mis on avatud seadusandlike volitustega piirkondlikele parlamentidele ja valitsustele. See loodi selleks, et toetada neid piirkondi nende rollis ELi õigusaktide subsidiaarsuse järelevalve teostamisel, eelkõige seoses Lissaboni lepingu järgse varajase hoiatamise süsteemi ja piirkondlike parlamentide võimaliku konsulteerimisega riiklike parlamentide poolt. REGPEX käivitati 2012. aasta veebruaris. See on võrreldav riikide parlamentide jaoks loodud IPEXi¹² (parlamentidevaheline teabevahetussüsteem ELi küsimustes) platvormi tegevusega ja on sellega seotud.

¹¹ Neli Euroopa Komisjoni 2013. aasta tööprogrammis ette nähtud algatust (riigihangete valdkonna e-arvete algatus, ühtse meretranspordituru sinine vöönd, jäätme poliitika ja valdkonna õigusaktide läbivaatamine, kliima ja energia keskkondlik hindamisraamistik, et tagada mittekonventsionaalsete süsivesinike ohutu ja turvaline ammutamine) ja linnaline liikumiskeskond.

¹² www.ipex.eu.

3.3.1 Põhiülesanded

REGPEX pakub otsingumootorit, mis seob ELi algatused ning piirkondlike parlamentide ja valitsuste teemakohased analüüsid. See tagab ka otsese juurdepääsu asjaomastele teabeallikatele, mis on abiks subsidiaarsuse analüüsi läbiviimisel, nagu näiteks Euroopa Komisjoni teostatud mõju hindamistele. See on vahend subsidiaarsuse järelevalve prioriteetide valimiseks. „Varajase hindamise toimikud” annavad taustateavet valitud algatuste kohta. Piirkondlikke parlamente ja valitsusi palutakse sellega seoses koordineeritud viisil jagama ja tutvustama oma seisukohti kaheksanädalase varajase hoiatamise etapi jooksul. Selline toimik esitati 2012. aastal riigihankeid ja kontsessioone käsitlevate direktiivide ettepanekute (COM(2011) 895, 896 ja 897) kohta. Seoses nende toimikutega analüüsiti piirkondlike parlamentide ja valitsuste seisukohti ja võeti need kokku analüüsiaruandes, mis edastati komitee raportöörile.

3.3.2 Andmebaasist võrgustikuks

REGPEX on ka ELi piirkondade koordineerimisplatvorm. 2012. aasta lõpus kuulus sellesse 39 parlamenti ja 28 valitsust 74-st ELi seadusandlike volitustega piirkonnast. Peatselt võib veebis tutvuda täpsema teabega 74 piirkondliku parlamendi kohta ja asjaomaste kontaktandmetega. See teave esitatakse ELi piirkondade kaardi kujul. REGPEXi piirkondlike korrespondentide süsteemi katsetatakse lähikuudel.

REGPEXi kuuluvate piirkondlike parlamentide ja valitsuste esindajad kohtusid esimest korda 12. detsembril 2012, et Euroopa Komisjoni, Euroopa Parlamendi, riikide parlamentide ja IPEXi esindajate osalusel hinnata andmebaasi tööd, saada tagasisidet kasutajatelt ja arutada edasisi arenguid. Kohtumise selge sõnum oli järgmine: REGPEXi ei tohiks käsitleda vaid tehnilise andmebaasina. Piirkondlikud parlamendid ja valitsused on väga huvitatud sellest, et nende häält võetaks ELi seadusandlikus menetluses kuulda ja REGPEXis nähakse kindlalt kasulikku vahendit selle saavutamiseks, millel on tugev potentsiaal kiireloomuliseks teabevahetuseks ja koordineerimiseks. Platvormi tervitavad ka teised ELi institutsioonid. Eelkõige just Euroopa Komisjon saab subsidiaarsuse alast teavet otse piirkondadelt, mis annab väärtusliku panuse, kuigi aluslepingutes ei ole õiguslikku alust selle ametlikuks kaasamiseks seadusandlikku menetlusse. REGPEX võib sellega seoses olla huvitav ühenduslüli. REGPEX võib samuti olla kasulik vahend teabevahetuse lihtsustamiseks riiklike ja piirkondlike parlamentide vahel.

2013. aastal jätkab komitee selle vahendi arendamist ja innustab piirkondlikke parlamente ja valitsusi oma seisukohti REGPEXi kaudu avaldama ja vahetama.

3.4 Konsultatsioonid

2012. aastal jätkati konsultatsioonide korraldamist subsidiaarsuse järelevalve võrgustiku veebilehe kaudu. Suunatud konsultatsioone on algatatud komitee raportöörade taotlusel ning alates 2012. aasta maist võib neid algatada ka subsidiaarsuse juhtrühm. 2012. aastal on läbi viidud kaks sedalaadi

konsultatsiooni: raportöör Ivan Žagari (SI/EPP) taotlusel 29. novembrist 2011 kuni 15. jaanuarini 2012 Euroopa Ühendamise rahastu kohta (COM (2011) 659) ja Euroopa Komisjoni teatise kohta teemal „Rohkem kasu ELi keskkonnameetmetest: usalduse suurendamine teadmisi ja reageerimisvõimet täiustades” (COM(2012) 95) seoses arvamuse koostamisega teemal „Seitsmenda keskkonnaalase tegevusprogrammi suunas – ELi keskkonnaõiguse parem rakendamine” (raportöör: Nilgun Canver (UK/PES)) 25. maist kuni 6. juulini 2012.¹³

Peale selle võivad võrgustiku partnerid ka esitada oma subsidiaarsuse analüüse iga ELi seadusandliku ettepaneku kohta. Need laaditakse veebilehele üles ja kohaldatakse korral edastatakse asjaomasele komitee raportöörile.

Esmakordselt korraldati subsidiaarsuse eksperdirühma konsultatsioon 2012. aasta lõpus. See ei puudutanud ühtegi reaalset ELi seadusandlikku ettepanekut, vaid korraldati Franz Schausbergeri (AT/EPP) taotlusel, et käsitleda omaalgatuslikku arvamust, millele ta oli raportööriks määratud „Detsentraliseerimine Euroopa Liidus ning kohalike ja piirkondlike omavalitsuste positsioon ELi poliitika kujundamisel ja rakendamisel” Konsultatsioon kestis 21. novembrist 2012 kuni 3. jaanuarini 2013¹⁴.

Samuti tegi Regioonide Komitee koostööd Euroopa Komisjoniga neljanda raudteepaketi mõju hindamise ettevalmistamise raames. Esiteks algatas Euroopa Komisjon konsultatsiooni kohalike ja piirkondlike omavalitsustega komitee võrgustike ja platvormide, sealhulgas ka subsidiaarsuse järelevalve võrgustiku kaudu, ja teiseks esitas komitee omalt poolt sellekohased küsimused kohalikele ja piirkondlikele omavalitsustele 11. maist kuni 21. juunini 2012. Ehkki etteteatamise ja konsulteerimise aeg oli lühike, laekus seitsme liikmesriigi ametiasutustelt 11 vastust¹⁵. Kõik saadud vastused koos konsultatsiooniauandega edastati Euroopa Komisjonile.

3.5 Subsidiaarsuse järelevalve võrgustiku tegevuskava

Subsidiaarsuse järelevalve võrgustiku tegevuskava käivitati 2009. aastal 4. subsidiaarsuse konverentsi järelmeetmena. Sellega innustatakse kohalikke ja piirkondlikke omavalitsusi määratlema ja levitama parimaid tavasid ELi poliitiliste eesmärkide rakendamisel subsidiaarsuse põhimõtte vaimus eelkõige seoses kodanikuühiskonna organisatsioonide kaasamisega. See täiendab subsidiaarsuse järelevalve võrgustiku tegevust, analüüsides konkreetseid ELi poliitikavaldkondi subsidiaarsuse aspektist ühe aasta jooksul.

2012. aastal keskenduti võrgustiku tegevuskavas uuele üleeuroopalise transpordivõrgu poliitikale. Göteborgi linn ja Västa Götalandi piirkond moodustasid seda poliitikavaldkonda subsidiaarsuse ja mitmetasandilise valitsemise seisukohast analüüsides kohalike ja piirkondlike omavalitsuste rühma.

13 Konsultatsiooniaruanded avaldatakse subsidiaarsuse järelevalve võrgustiku veebilehel www.cor.europa.eu/subsidiarity, rubriigid „Activities” ja „Consultations”.

14 Sama.

15 Sama.

Rühm tuli esimest korda kokku 2011. aasta detsembris ja korraldas mõttevahetuse komitee COTERI komisjoni liikmete Ivan Žagari (SI/EPP), Väino Hallikmägi (EE/ALDE) ja Uno Silbergiga (EE/AE) oma teise koosoleku raames 2012. aasta veebruaril lõpus.

Töörühm on koostanud aruande, mis hõlmab ka uue üleeuroopalise transpordivõrgu poliitika analüüsi subsidiaarsuse ja mitmetasandilise valitsemise seisukohalt, samuti tervet rida rühma liikmete poolt esitatud häid tavasid. Peale selle on rida poliitilisi järeldusi suunatud sellele, et anda ülevaade kohalike ja piirkondlike omavalitsuste hoiakutest uue üleeuroopalise transpordivõrgu poliitika ja selle mõjude suhtes. Mõningaid neist järeldustest esitleti spetsiaalse temaatilise subsidiaarsuse töökoja käigus Open Days' üritusel 10. oktoobril 2012. aastal. Töökoda juhatas subsidiaarsuse järelevalve võrgustiku koordinaator Michael Schneider (DE/EPP) ja sõna võtsid Ismail Ertug (EP liige, DE/PES), Jean-Eric Paquet (Euroopa liikuvusvõrgu direktor, liikuvuse ja transpordi peadirektoraat), komitee kaks kõnealuse valdkonna raportööri – Bernard Soulage (FR/PES) ja Ivan Žagar (SI/EPP), Johan Nyhus (Göteborgi aselinnapea), Mimmi von Troil (Västra Götalandi piirkonna volikogu liige) ja Anna Livieratou, kes esindas Üleeuroopalise Transpordivõrgu Rakendusametit.

Esmakordselt hõlmas võrgustiku tegevuskava ka otsesest mõttevahetust Regioonide Komitee liikmetega ja võimaldas rühma liikmetel komitee raportöridega tihedat koostööd teha.

4. Subsidiaarsus komitee arvamustes

Regioonide Komitee võttis 2012.aastal vastu 71 arvamust¹⁶. 70 % neist (49) sisaldas selgesõnalist viidet subsidiaarsuse põhimõtte rakendamisele, nagu on nõutud Regioonide Komitee kodukorra artikli 51 lõikes 2, ja 43 %-s arvamustes võeti selge seisukoht selle kohta, kas algatus on selle põhimõttega kooskõlas.

Umbes pool arvamustest, mis ei sisaldanud viidet subsidiaarsusele (22), koostati kas mitteseadusandlike algatuste (teatised, rohelised raamatud või aruanded) kohta, Regioonide Komitee enda algatusel (omaalgatuslikud arvamused) või Euroopa Komisjoni taotlusel (perspektiivarvamused); kahe viimase kategooria arvamused ei ole seega seotud konkreetse lõpliku dokumendiga. Kuus arvamust, mis ei olnud kooskõlas kodukorra artikli 51 lõikega 2, võeti siiski vastu õigusakti ettepanekute kohta poliitikavaldkondades, kus Regioonide Komiteega konsulteerimine on kohustuslik, st ettepanekute kohta, mille puhul Regioonide Komiteel on formaalselt õigus esitada tühistamishagi subsidiaarsuse põhimõtte rikkumise alusel.

Järgmisi Regioonide Komitee 2012. aasta arvamusi tuleb esile tõsta nende olulisuse tõttu subsidiaarsuse seisukohalt. Mõningates neist on väljendatud kahtlusi seoses vastavusega subsidiaarsuse ja proportsionaalsuse põhimõttele või tuvastatud lausa nende reaalseid rikkumisi: Omaalgatuslik arvamus: „Euroopa mitmetasandilise valitsemise kultuuri arendamine: Regioonide Komitee valge raamatu järelkäsitlus” (CdR 273/2011); arvamus „Ühisesse strateegilisse raamistikku kuuluvate fondide üldmääruse ettepanek” (CdR 4/2012); arvamus „Euroopa Regionaalarengu Fondi

¹⁶

Vt lisa 2: ülevaade 1. jaanuarist kuni 31. detsembrini 2012 vastu võetud arvamustest

määruse ettepanek” (CdR 5/2012); arvamused „Määruse ettepanek Euroopa Sotsiaalfondi kohta” (CdR 6/2012); arvamused „Euroopa Ühendamise rahastu”(CdR 648/2012); arvamused „Lennujaamapakett” (CdR 649/2012); arvamused „Seitsmenda keskkonnaalase tegevusprogrammi suunas – ELi keskkonnaõiguse parem rakendamine” (CdR 1119/2012); arvamused „Riigihangete pakett” (CdR 99/2012); arvamused „Andmekaitsepaket” (CdR 625/2012) ja arvamused „Töötajate lähetamine seoses teenuste osutamisega” (CdR 1185/2012)¹⁷.

2012. aastal on seadusandlike ettepanekute kohta koostatud arvamuste arv märkimisväärselt tõusnud (42), milles võib näha 2011. aastal juba täheldatud suundumuse jätku. Enam kui pooltes neist käsitleti algatusi jagatud pädevuste alla kuuluvates poliitikavaldkondades, milles Regioonide Komiteega konsulteerimine on kohustuslik. Lisaks sellele on võrreldes 2011. aastaga tublisti tõusnud juhtude arv, kus Regioonide Komitee arvamustes väljendatakse muret seoses subsidiaarsuse põhimõttele vastavusega või tuvastatakse seadusandlikes ettepanekutes koguni sätteid, mis rikuvad subsidiaarsuse põhimõtet.

Nagu täheldatud eelnevatel aastatel, on subsidiaarsusest saamas võrdluspunkt arvamuste koostamiseks. Ent arvestades komitee uusi õigusi ja kohustusi, peaksid kõik arvamused, milles käsitletakse kohustusliku konsulteerimise valdkonda kuuluvaid seadusandlikke ettepanekuid, sisaldama subsidiaarsuse põhimõttele vastamise süstemaatilist hindamist.

Komitee arvamustes subsidiaarsusele tehtavate viidete kvaliteeti peaks tõstma järelevalvega tegelev vastloodud subsidiaarsuse juhtrühm, kes võib juhtida raportöride tähelepanu võimalikele puudujääkidele ja esitada muudatusettepanekuid, et rõhutada viiteid subsidiaarsusele täiskogule esitatavates arvamuse eelnõudes. Juhtrühma liikmed on seda õigust kasutanud ühel juhul ja esitanud raportööri toetuse leidnud muudatusettepaneku arvamuse kohta, milles käsitleti töötajate lähetamist seoses teenuste osutamisega (CdR 1185/2012).

5. Kokkuvõte

Seoses uue strateegia algatamisega sai Regioonide Komitee subsidiaarsuse järelevalve 2012. aastal selgelt uue hoo. Kindlatele järelevalvevahenditele toetudes kinnitas komitee oma terviklikku lähenemisviisi, käsitledes subsidiaarsuse järelevalvet kogu poliitikakujunduse tsükli vältava kohustusena. Komitee tugevdas koostööd ELi institutsioonidega – eelkõige komitee ja Euroopa Komisjoni koostööprotokolliga raames – ja ELi algatuste subsidiaarsuse kontrollimisega seotud teiste institutsioonidega, nagu riiklikud ja piirkondlikud parlamendid. Komitee arvamustes esitatakse aina põhjalikumaid hinnanguid subsidiaarsuse põhimõttele vastavuse kohta ja tehakse ettepanekuid seadusloome parandamiseks.

2013. aasta subsidiaarsuse tööprogramm on esimene struktureeritud katse teostada järelevalvet ELi algatuste üle ennetavalt. Subsidiaarsuse juhtrühma juhatusel ning kohalike ja piirkondlike

¹⁷

Vt lisa 3: üksikasjalikum teave Regioonide Komitee kõigi nimetatud arvamuste kohta.

subsidaarsuse ekspertide abiga subsidaarsuse eksperdirühmas on komiteel kindlasti võimalik veelgi parandada oma kohustuste täitmist selles valdkonnas kõigi ELi kodanike hüvanguks.

Läheb siiski veel aega, enne kui uus juhtimisstruktuur ja uued järelevalvevahendid täielikult tulemusi annavad. Kuuenda subsidaarsuse konverentsi korraldamine koos Saksamaa Bundesrat'iga 2013. aastal Berliinis on hea võimalus hindamiseks. ELi, riikliku, piirkondliku ja kohaliku tasandi institutsioone kutsutakse samuti hindama subsidaarsuse põhimõtte staatust ja mõju ELi õigusloomele Lissaboni lepingu järgses kontekstis.

Järgmise subsidaarsuse konverentsi korraldamine koostöös Saksamaa Bundesratiga Bundesrati hoones on märgilise tähendusega. Riikide parlamendid ja Regioonide Komitee, kes on aluslepingute kohaselt subsidaarsuse põhimõtte tunnustatud kaitsjad, peaksid ühinema, et hinnata ELi algatusi eri vaatepunktidest. Regioonide Komitee on kindlalt pühendunud sellesuunalisele tööle ja konverentsil uuritakse võimalusi selle eesmärgi saavutamiseks.

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Appendix 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

Appendix 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
TOTAL	71	42	49	31	8	22	13

* 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 mandatory¹⁸	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 ¹⁹	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 ²⁰	No	Yes (subsidiarity, proportionality, better law-making, multi-level governance)

¹⁸ During the legislative procedure.

¹⁹ 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.

²⁰ 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 ¹⁸	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)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²¹	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking
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)

²¹ During the legislative procedure.

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 ²²	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)

²²

During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²²	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 ²²	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)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory²²	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
CdR 1684/2012 (COTER)	29 November 2012	Opinion on Community led local development	No	Yes ²³	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)

²³

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

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory²⁴	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
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

²⁴

During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²⁴	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
COM(2012) 55 final CdR 747/2012	10 October	Opinion on the White paper – an agenda for	No	No	No	Yes (compliance)	Yes (proportionality)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²⁴	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
(ECOS)	2012	adequate, safe and sustainable pensions					
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 ²⁵	Yes ²⁶	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)

²⁵ Following the legal basis chosen by the Commission (Art. 352 TFEU).

²⁶ 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

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory²⁷	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
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)

²⁷ During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²⁷	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 ²⁸	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

²⁸

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 ²⁹	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)

²⁹

During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²⁹	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 ²⁹	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 ³⁰	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 ³¹	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 ³²	No	Yes (compliance)	Yes (proportionality, multi-level governance)

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

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

³² 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 ²⁹	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 7th 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 ³³	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)

33

During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ³³	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 ³³	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 ³⁴	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)

³⁴

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

Opinion reference	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory³⁵	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion	Other reference to subsidiarity / proportionality / better lawmaking in the opinion
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)

³⁵ During the legislative procedure.

Appendix 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 2009³⁶ 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

³⁶ 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.