



EUROPEAN UNION



Committee of the Regions



## 5th Subsidiarity Conference

Bilbao, 21 March 2011

### SUMMARY REPORT

#### Opening session



**Mercedes Bresso, President of the Committee of the Regions (CoR)** welcomed the participants and thanked the authorities of the Basque Country for hosting the Fifth Subsidiarity Conference, which aimed to discuss changes in the field of subsidiarity monitoring at local and regional level one and a half year after the entry into force of the Lisbon Treaty.

She then presented the avenues along which the CoR intends to further develop its subsidiarity monitoring activities. After highlighting internal developments and tools (further explored by First Vice-President Valcárcel Siso below), she stressed that subsidiarity monitoring cannot be performed in isolation.

*"The spirit of the Treaty as well as the experience of the European model, based on consensus and cooperation, leads us to develop close relations with all key actors involved in applying and monitoring subsidiarity"*

By furthering its cooperation with the European Commission, the European Parliament, national and regional parliaments, the CoR enhances the EU awareness of the principle of subsidiarity and encourages other partners to respect it already in the pre-legislative phase, in the field of Impact Assessment.

President Bresso concluded by emphasising the CoR's readiness to fulfil its new responsibilities.

*"Safeguarding the principle of subsidiarity is safeguarding democratic values; this principle should be our compass and our course".*



**Ramón Valcárcel Siso, First Vice-President of the CoR and coordinator of the Subsidiarity Monitoring Network (SMN)** expressed his gratitude to the Basque Country as well, stressing its commitment in promoting subsidiarity and its involvement in the SMN. Referring to the first CoR Subsidiarity Annual Report, Mr Valcárcel pointed out the crucial importance of the year 2010, both for the EU and the CoR with the Lisbon Treaty entering its operational phase and the huge momentum given to subsidiarity.

Mr Valcárcel then noted the new rules of procedure of the CoR stipulating that all CoR opinions should contain an explicit reference to the application of the subsidiarity and proportionality principles. A "Subsidiarity and Proportionality Assessment Grid" was developed as an internal assistance tool, but it is also "exported" and referred to by other institutions and SMN partners.

In relation to the SMN, Mr Valcárcel welcomed its gradual expansion, highlighting the membership of associations like CALRE and REGLEG which confirms the SMN's commitment towards regions with legislative powers. Thanks to the SMN's work, CoR rapporteurs may beef up their opinions with additional feedback received from the regional partners during the consultation process.

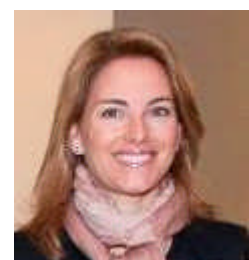
Mr Valcárcel noted that his appointment as SMN coordinator is a way to strengthen the link between the Network and the consultative activity of the CoR.

*In the same line, the SMN has now its own work programme, consistent with the CoR's political priorities, including among others new subject matters for targeted consultations and a range of potentially interesting topics in the context of the Early Warning System.*

He then turned to the 1<sup>st</sup> Action Plan of the SMN, the aim of which was to exploit the full potential of the SMN as a laboratory of ideas and platform of best practices in the implementation of the principle of subsidiarity and EU legislation. More details were presented by other speakers in the course of the conference.

*Finally Mr Valcárcel referred to the creation of a subgroup of regional parliaments within the SMN working with the support and use of an interactive database, REGPEX, which will allow for the publishing and accessing opinions of the regional parliaments, as well as facilitate the exchange of information, in the context of the Early Warning System.*

After a warm welcome to all participants, **Arantza Quiroga, President of the Regional Parliament of the Basque Country**, insisted on the need to change the current top-down and unidirectional nature of European policy-making. She called for a shift to a two-directional process where regions are active contributors of ideas and competences. Regional



parliaments have a strong role to play in ensuring that the EU policy-making process "really gets to the public" and that citizens' sphere of autonomy is maximised in deciding their own life choices. It is the responsibility of regional legislators to ensure that European legislation becomes more suited to the regional diversity and applicable at the regional and local level.



**Patxi López, President of the Regional Government of the Basque Country and CoR Member**, welcomed the participants and stressed that the Basque Country, which enjoys a broad range of competences in policies that affect all levels of politics, economy, society and culture, is an excellent example of subsidiarity.

According to him, subsidiarity is the fundamental cornerstone for the efficient management of the public good. In Spain's decentralised political model, since the competence in a range of policy fields is shared between different layers of administration and these are not always clearly assigned, real subsidiarity in action is needed so as to ensure that action is taken by at the most efficient level. So far, the Basque Government has issued 88 opinions on subsidiarity which have been passed and ratified at the national level in the context of EWS foreseen by the Lisbon Treaty. In the globalised 21st century where policies overlap and borders become more and more blurred it is even more essential to ensure closeness in policy-making which cannot be based on just a one-way flow from institutions to the citizens.

President López finally reiterated his conviction that since subsidiarity means open government, transparency and participation, it is the policymakers' obligation to ensure these qualities are achieved, particularly in the regions and municipalities.

## **Subsidiarity monitoring after Lisbon**



**Jens Nymand Christensen, European Commission, Director for Parliamentary and Interinstitutional Issues**, stressed that subsidiarity and cooperation with parliaments and assemblies at national and regional level are high on the institutional and political agenda of the European Commission.

Referring to the Protocol on the application of the principle of subsidiarity and proportionality and the EWS established by the Lisbon Treaty, he noted that although the Commission has received a total of 42 reasoned opinions raising a breach of the subsidiarity principle, the threshold necessary to activate the "yellow" or "orange card" procedure had never been achieved. The closest to that was the scope of opinions concerning the proposal of the seasonal workers' directive which had received nine negative opinions from the national chambers.

*Although the "yellow card" threshold was not reached, the reasoned opinions had caught the attention of the Commission. While most of the concerns were later addressed by the Parliament and the Council, the Commission had already analysed them in detail thanks to the subsidiarity check.*

Mr Christensen further mentioned the extremely valuable character of the continued informal political dialogue initiated in 2006 as the "Barroso initiative", of which the subsidiarity control mechanism is a crucial part. While the scope of the subsidiarity control mechanism is confined to draft legislative acts falling outside the EU's exclusive competences and to the objections "solely" on grounds of subsidiarity, the informal political dialogue as a whole gives national Parliaments the possibility to provide the Commission with their views on all aspects of all documents.

*The statistics show that the number of opinions has doubled during the last few years and that the majority of them do not actually concern the breach of subsidiarity but focus on the contents of the proposals. On the one hand, this might indicate that most of the national parliaments are not very concerned with the subsidiarity principle, but on the other hand, it might be an indicator that the Commission takes its obligations to ensure compliance with the subsidiarity principle very seriously.*

Indeed, the Commission takes policy choices after having consulted the widest possible number of the affected stakeholders. Mr Christensen pointed out that the Commission's revised Impact Assessment guidelines now include a set of structured questions which have been inspired by the work of the Committee of the Regions. In this respect Mr Christensen highlighted the need to reinforce the analysis of regional and local aspects in the Commission's Impact Assessments. The Commission therefore welcomes the inputs of the CoR and its SMN in the form of feedback from LRAs at an early stage of the legislative process. It hopes that this interinstitutional cooperation will be further developed.

**Bence Rétvári, Hungarian Minister of State for Public Administration and Justice, Representative of the Trio Presidency of the Council**

stressed that in order to ensure efficiency and adequate implementation of EU legislation, decisions should be taken at the appropriate level. The Hungarian Presidency believes that consultation is very important with those actors that will be implementing EU regulations and in this field the CoR has a decisive role to play. It also welcomes the fact that the SMN makes sure that the subsidiarity checks take place during the EU legislative process especially in the cases of policies directly affecting the regional level.



Mr Rétvári pointed out that the Lisbon Treaty made territorial cohesion one of the EU priorities, at the level of social and economic cohesion. The EU faces various challenges requiring coordination of all levels of governance in order to define a single European direction which is contained in the objectives of the Europe 2020 Strategy. Cohesion policy has a primary role to play in the implementation of this Strategy combining territorial and sectoral cooperation. In this sense, LRAs must be included in the process of formulation and implementation of policies, and not only in the field of cohesion policy but in all other EU policies.



Mr Rétvári underlined that local governance has been an important priority for the Spanish, Belgian and Hungarian Trio Presidency.

*Hungary is committed to respecting competencies of various tiers of governance and strongly supports the application of multilevel governance based on partnership and subsidiarity. To this end the Hungarian Presidency strongly supports the idea of using and disseminating the subsidiarity principle in order to create a strong Europe.*



**Luc van den Brande, Chairman of the CoR CIVEX Commission** highlighted that the best way to achieve the European general interest is to convince citizens that the principle of subsidiarity is respected and that governance is flexible and responsive. Europe needs a dynamic and participative legislative process based on real partnership. The principles of multilevel governance (MLG) and subsidiarity are closely intertwined, and the CoR is right to avoid presenting MLG and subsidiarity as too legalistic principles that can create

conflicts. He stressed that subsidiarity is both a vertical and a horizontal principle and that this multidimensional aspect of subsidiarity is its main strength.

Furthermore, a closer cooperation of the CoR and regional Parliaments with national Parliaments during the EWS is also of crucial importance. It would be to their advantage to cooperate with the CoR as the only EU body with the right to bring actions before the Court of Justice of the EU on the grounds of subsidiarity breach.

In its "White Paper on MLG" the CoR flagged up the danger of recentralisation of policy-making and this threat needs to be averted. The subsidiarity and MLG approach have to go together and efforts must be joined to implement them and enhance them as the essence of European democracy.

**Graziano Milia, CoR Member**, shared his experience of drawing up the CoR opinion on the quite complex package of two proposals for a directive on the conditions of entry and residence of third country nationals for the purposes of seasonal employment and in the framework of intra-corporate transfers. In spite of certain objections coming from several national parliaments, the CoR found the rules envisaged in the proposals to be in line with the principle of subsidiarity because they aim to ensure a uniform set of minimum rights across Europe in the field of employment.

**Ossi Martikainen, CoR Member**, explained how subsidiarity can be applied in the case of the CoR's opinion on the directive regarding distribution of food products to the most deprived persons in the Union which is closely connected to the question of welfare and social situation in the Member States. Critical voices in Finland and national parliaments' reasoned opinions stating that the initiative was going against the principle of subsidiarity, encouraged the CoR to analyse this case more closely. Finally, a positive opinion on this legislation was adopted in plenary by the CoR, stressing that in guaranteeing that the aid is effective and going where it is necessary, a strong participation of local and regional authorities is needed.



### **First session** **Subsidiarity implementation by local and regional authorities**

#### **Round Table - The Action Plan of the SMN and the implementation of EU law by local and regional authorities**

*Full reports available on the SMN website,*

<http://www.cor.europa.eu/subsidiarity/Pages/BilbaoHome.aspx>



**Guillermo Echenique, Secretary General for Foreign Affairs of the Basque Government and CoR Member**, presented the outcome of the Working Group on Social Innovation and Corporate Social Responsibility (CSR). The report focused on the current economic crisis highlighting some of the weaknesses in the economic system and requirements for change.

**Luis M. Corominas i Diaz, First Vice-President of the Catalan Parliament**, presented the findings of the Working Group on the Integration of Immigrants in Urban Areas. Today public institutions across the EU face a structural change in approach to migration and have to face the challenge by establishing a sustainable process of integration of migrant's overtime to ensure social cohesion.



**Erwin Mohr, Vice-President of the Association of Local Authorities of Voralberg and CoR Member**, presented the report of the Working Group on Fighting climate change in Europe's regions and cities. The Group's main conclusion is that although the targets of sustainable climate policies and preventing climate change are set up and aligned at the global and European level, they can only be achieved if LRAs make the goals their own and get involved in their realisation. The same applies to non-state actors and private sector actors, in the field of the reduction of the emission of greenhouse gases.



**Miquel Rosselló, Vice-president of the Council of Mallorca and representative of Arco Latino**, talked about the results of the Working Group on Fighting poverty and social exclusion. He presented best practices implemented by the group members. The main conclusion of the group is that in order to ensure social cohesion and inclusion, it is strategic to favour the widest possible interaction between LRAs, civil society and the private sector in an approach of horizontal subsidiarity.

**Rafael Ripoll Navarro, CoR Member**, expressed the interest of the Regional Government of Valencia of which he is the Regional Vice-Minister for European Affairs, in participating in the second SMN Action Plan in the field of efficiency of resources. He also commented the participation of Valencia Region in the working group "Health Inequalities" pertaining to the first SMN Action Plan and led by Lombardy Region.



**Vittoriano Solazzi, President of the Regional Parliament of Marche**, stressed the incomparable role of subsidiarity in enhancing democracy in Europe and the world. Referring to the lately occurring re-centralisation of powers by the EU he said that not words but deeds are needed to address the problem of a top-down EU policy-making and to change it the involvement of the regional parliaments with legislative power is essential. He then expressed the will of the Marche Region to participate as a lead partner in the second SMN Action Plan.

At the end of the morning session, the floor was given to **Mr Banaszak, CoR Member and representative of the future Polish Presidency in the EU** who thanked the Basque Country and the partners from the SMN of the CoR for their commitment and the good work which has been done so far in the field of subsidiarity. He assured the conference that Poland will take an active role in promoting subsidiarity culture during its Presidency.



## **Subsidiarity monitoring: the way forward**



**Nazario Pagano, President of the Conference of European Regional Legislative Assemblies (CALRE)**, thanked the Basque authorities for organising the Fifth Subsidiarity Conference and Ms Bresso for putting subsidiarity at the top of the CoR's agenda. Hereafter Mr Pagano expressed his satisfaction about the fresh involvement of European parliamentary assemblies in monitoring the principle of subsidiarity which according to him shows the EU's commitment to move towards a greater participation of

Europe's parliaments in the work of the EU. He underlined that CALRE could help to better involve regional assemblies by creating a culture of subsidiarity within the regional legislative bodies and by raising awareness of how regions can make more efficient use of existing tools of monitoring. CALRE will try to develop a culture of subsidiarity meaning that regional assemblies should become aware of the fact, that they are not just the last element of the "institutional chain" only dealing with the very last step within the process of EU legislation, that is to say its implementation, but to become aware that they can also influence pieces of legislation that are still in the preparatory phase. Another priority is raising awareness amongst European regional assemblies of the already existing tools of subsidiarity monitoring, such as the SMN. CALRE could also try to stimulate regional parliaments to get more actively involved in subsidiarity monitoring together with their national parliaments. CALRE will try to urge the national parliaments to more easily involve the regional assemblies in the Early Warning System (EWS). Mr. Pagano concluded by inviting the guests to the next CALRE workshop on 20 and 21 July in Pescara, Italy.

**Jean-Luc Vanraes, President of the Conference of European regions with legislative powers (REGLEG) and CoR Member**

thanked the Basque authorities for their hospitality and began by asking whether the word subsidiarity is really known to European citizens, as it would even not occur in any dictionaries. He called for the linguists to no longer ignore this word. Hereafter he explained how REGLEG understands the future of subsidiarity. The 73 Regions which compose REGLEG live the principle of subsidiarity on a daily basis and are also responsible for implementing it on a daily basis. Since the regions are in charge of the implementation of more than 70% of EU-legislation, Mr Vanraes demanded that Regions become equal-footed "cooks" of the "European cuisine." In this way, European citizens would appreciate more the "EU dish", as they would be closer involved in its preparation.



Among REGLEG's objectives for 2011, Mr Vanraes mentioned the importance of administrative simplification and the limitation of administrative burdens, which has to be carried out mostly by the regions, and pointed out REGLEG's new membership in the CoR's Subsidiarity Monitoring Network as one of its top five priorities for 2011. Mr Vanraes concluded by calling the CoR and CALRE to work together with REGLEG to promote the region's involvement in the European economic governance system vis-à-vis the European Institutions.



## Second session

### The regional Parliaments and the Early Warning System (EWS)

#### Presentation of the study: "The role of regional parliaments in the process of subsidiarity analysis within the EWS"

**Gracia Vara Arribas, European Institute of Public Administration**, presented the results of the study "The role of Regional Parliaments in the process of subsidiarity analysis within the Early Warning System of the Lisbon Treaty". *Presentation available on the SMN website, <http://portal.cor.europa.eu/subsidiarity/news/Pages/StudyonRegionalParliamentSandtheEarlyWarningSystem.aspx>*



**Ursula Männle, CoR Member**, opened the Round Table on the role of regional parliaments within the EWS, stressing that the Treaty of Lisbon legitimised the role of the regional parliaments as true stakeholders in the monitoring of the subsidiarity principle. Taking into account the very tight timeframes for subsidiarity scrutiny, regional Parliaments should learn how to work effectively within these frames. In other words, local and regional authorities need to develop a real subsidiarity culture. Referring to the Bavarian experience in the EWS, Ms Männle stressed that the Bavarian State Parliament possesses the resources and institutional capacity to get involved in the scrutiny system. She pointed out that the regional parliament works on an independent basis through the parliamentary expert committees and that the opinions of the regional parliament and government are not always the same. Overall, Ms Männle expressed her enthusiasm as to the quality of regional parliaments' work and parliamentary debate is also a crucial part of the subsidiarity monitoring. Bavaria has also set up its own parliamentary representation office in Brussels, the primary aim of which is to monitor the very embryonic phase of the EU legislative process at the EU level.

*"It is now up to the regional parliaments themselves as to how they will take this new tool given to them and turn it into an effective instrument. The EU will not wait for them neither offer them any particular help."*

**Arantza Quiroga** summarised the experience of her own region in monitoring subsidiarity in the context of the Lisbon Treaty provisions. She focused on the intention of the regional parliament to be very streamlined in the whole procedure. Specific timetables have been set out in order to satisfy the EWS timeframe of eight weeks. The time management as well as secure information transmission and technology are of crucial importance here. A better coordination and information sharing system between the different regional authorities and EU Affairs committees at the national levels would be necessary.

*The EWS has to be carefully reviewed in terms of the capacities of regional parliaments. The pre-selection of what is really important for regional interests and territorial impact should take place systematically. Regional analysis should cover more than just whether or not subsidiarity is properly complied with.*

Finally, Ms Quiroga also stressed the necessity for the EU to take opinions of particular regional assemblies into account even if the number of negative opinions regarding subsidiarity has not reached the necessary threshold, at least as advisory items at the EU level.

*All regional authorities should have access to other regional authorities' opinions elsewhere through a platform similar to IPEX.*

For **Vittoriano Solazzi**, the principle of subsidiarity is the essential element of the EU decision-making process, but its practical application depends of the internal structure and division of competencies in the Member States. After the entry into force of the Lisbon Treaty and the new possibilities of involvement of the regional assemblies in the EWS, it cannot be anymore a matter of discretion for the Member States to cooperate with regional authorities but is has to become a routine. He welcomed the fact that at the European level the regional parliaments have found in the Committee of the Regions not just a natural partner but also the best possible partner thanks to its networking possibilities and institutional capacity. He assured delegates that the Italian Conference is committed to collaborating with the CoR in this field and supports the creation of the REGPEX database.



**Rossana Boldi, President of the Committee for European Policies of the Italian Senate**, gave an overview of the subsidiarity monitoring process from the perspective of the Italian Senate, one of the first chambers of the 27 Member State to be involved in checking on subsidiarity and proportionality. Since the entry into force of the Lisbon Treaty there has been more and more attention devoted to susidiarity in the works of the Senate committees, not only in the European Affairs Committee of which she is the chair.

Addressing the operational procedures of the Senate, the Committee decided not to limit itself to the simple parameters of subsidiarity and proportionality and to take into account the actual merit, the content of each Community proposal. She is convinced of the importance of getting involved in the works of the Subsidiarity Monitoring Network of the CoR and believes that it is desirable to revise the constitutional charters giving voice to regional and local bodies.

**Concluding the Conference, Ms Männle thanked all the participants for taking part in this very fruitful exchange of ideas and stressed the need for joint and continued work in order to spread the culture of subsidiarity.**