

EUROPEAN UNION



Committee of the Regions

SUBSIDIARITY ANNUAL REPORT 2013

- Executive Summary -

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In his State of the Union address for 2013, EU Commission President Barroso stressed the importance of smart regulation and declared that the European Union needs to be "*big on big things and smaller on smaller things*", emphasising the importance of subsidiarity and expressing the view that "*subsidiarity is not a technical concept. It is a fundamental democratic principle. An ever closer union among the citizens of Europe demands that decisions are taken as openly as possible and as closely to the people as possible.*"¹

The CoR is committed to ensuring and facilitating the effective application of the subsidiarity principle and strives to become the point of reference in terms of subsidiarity within the EU. It has done so throughout 2013 when implementing measures forming part of its subsidiarity work programme, which are reflected in the present fourth Subsidiarity Annual Report. Moreover, in 2013 the CoR engaged in establishing an agreement² with the European Parliament covering also cooperation on ensuring the respect of the subsidiarity principle.

In 2012 the CoR revised its strategy for subsidiarity monitoring, reinforcing its governance and establishing a comprehensive approach to monitoring, and 2013 was the first year in which these new elements were put into practice. The main novelty within the field of subsidiarity monitoring for the CoR in 2013 was the adoption and implementation of its first Subsidiarity Work Programme³. The work programme included five initiatives⁴, selected from the European Commission Work Programme according to certain criteria⁵, to be monitored with a special eye on their compliance with subsidiarity.

1 http://europa.eu/rapid/press-release_SPEECH-13-684_en.htm.

2 Cooperation Agreement between the European Parliament and the Committee of the Regions, signed on 5 February 2014.

3 CdR 2336/2012, adopted by the CoR Bureau on 30 January 2013.

4 1. Review of EU waste policy and legislation; 2. The Ports Package (replaced the Blue Belt initiative initially selected); 3. Urban Mobility; 4. E-invoicing in public procurement; and 5. Environmental climate and energy assessment framework to enable safe and secure unconventional hydrocarbon extraction

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- a) initiatives should present a clear political interest for local and regional authorities;
- b) initiatives should touch on competences of local and regional authorities;
- c) initiatives should bear a potential subsidiarity dimension.

Monitored initiatives and subsidiarity in CoR opinions

- **Review of EU waste policy and legislation:** The Subsidiarity Expert Group (SEG) and the Subsidiarity Monitoring Network (SMN) were consulted on these matters, since in most of the Member States local and regional authorities are responsible for the implementation of EU waste legislation⁶. The consultation brought to light important subsidiarity and proportionality-related elements, which were fed into the CoR opinion⁷.
- **Ports Package**⁸: Given the concerns that the proposal might not take sufficient account of particular local and regional conditions in Europe, a consultation of regional parliaments and governments on subsidiarity and proportionality-related issues was launched on REGPEX in parallel with the Early Warning Mechanism eight-week period⁹. It was concluded that the subsidiarity principle had been complied with, although some proportionality issues were detected. Furthermore, a territorial impact assessment workshop was co-organised by the CoR and ESPON¹⁰, this being the first time that the CoR had engaged in territorial impact assessment using the Quick Scan methodology.
- **E-invoicing in public procurement**¹¹: A subsidiarity and proportionality-related consultation of regional parliaments and governments was launched on REGPEX in parallel with the Early Warning Mechanism, given the potential impact of this initiative on costs and administrative burdens at local and regional level¹². Most of the contributions concluded that the principle of subsidiarity had been complied with, but nevertheless some questions were raised, particularly with regard to proportionality. It was especially highlighted that the proposal did not sufficiently take into account the perspective of local and regional authorities.
- **Urban Mobility:** The CoR took part in the European Commission's impact assessment through a jointly organised impact assessment workshop with local and regional authorities. The experts at the workshop concluded, *inter alia*, that introducing mandatory requirements would be premature, but introducing common performance indicators and benchmarking for cities could be very interesting. Since the initiative was published at the end of 2013 it has been carried over into the Subsidiarity Work Programme for 2014.
- **Unconventional hydrocarbon extraction:** This initiative was delayed and published only in January 2014. It too has thus been carried over into the Subsidiarity Work Programme for 2014.

6 [CoR - Waste Consultation Report.](#)

7 CdR 1617/2013.

8 CdR 3610/2013.

9 [CoR - Ports Package.](#)

10 The European Observation Network for Territorial Development and Cohesion.

11 CdR 5277/2013.

12 [CoR - E-invoicing in public procurement.](#)

Furthermore, outside the framework of the work programme, the SEG has been consulted over the preparation of the own-initiative opinion on *Devolution in the European Union and the place for local and regional self-government in EU policy making and delivery*¹³.

So, the CoR has contributed to specific impact assessments of the European Commission through the findings of the workshops on the Ports Package and on Urban Mobility, which focused on the territorial dimension of the proposed initiatives. Moreover, the opinion on *Assessing Territorial Impacts*¹⁴, adopted in 2013, has paved the way for the development of the Territorial Impact Assessment Strategy, which will be launched in 2014. By engaging in territorial impact assessments, the CoR seeks to contribute to inter-institutional efforts aimed at better law-making.

The subsidiarity analysis of CoR opinions in 2013 revealed that only two of them raised concerns with regard to the compliance of EU legislative initiatives with the principles of subsidiarity and proportionality. These were: the opinion on the *Revision of the Environmental Impact Assessment Directive*¹⁵ and the opinion on the *Proposed Directive establishing a framework for maritime spatial planning and integrated coastal management*¹⁶. Moreover, in the opinion on the *Proposal for a Regulation on official controls*¹⁷, as well as in the opinion on the *Proposal for a Directive on the manufacture, presentation and sale of tobacco and related products*¹⁸, the CoR raised concerns in relation to the use of delegated acts.

6th Subsidiarity Conference

The main subsidiarity event of the year, the 6th Subsidiarity Conference¹⁹, co-organised by the CoR and the German Bundesrat, took place on 18 December 2013. It brought together prominent representatives from EU institutions, national and regional parliaments, as well as academia, to assess the status and impact of the principle of subsidiarity on EU law-making in the post-Lisbon era. The key conclusions of this sixth biennial inter-institutional and multilevel forum were firstly, that the subsidiarity principle is the yardstick for the democratic legitimacy of EU legislation, ensuring that decisions are taken at the most appropriate level and helping to shape policies for the benefit of all EU citizens. Secondly, inter-institutional cooperation on subsidiarity monitoring provided a clear added value and should be increased in order to apply the subsidiarity principle as effectively as possible.

13 CdR 2214/2012, [Consultation of the Subsidiarity Expert Group on Devolution](#).

14 CdR 29/2013, [CoR - Assessment on Territorial Impacts](#).

15 CdR 591/2013.

16 CdR 3766/2013.

17 CdR 5295/2013.

18 CdR 2062/2013.

19 [CoR - 6th Subsidiarity Conference](#).

Thirdly, subsidiarity as a constructive concept had gained even more importance through the ever-widening discussion on the limits of EU action and should be put at the heart of this debate. The CoR expressed its commitment to fostering a "subsidiarity culture", with a clear link to multilevel governance, as subsidiarity monitoring can only be effective if it is based on genuine cooperation between all the relevant levels of governance.

Additional subsidiarity monitoring activities

The CoR has further upgraded REGPEX²⁰, a web-based tool for regions with legislative powers, which now includes an interactive map of regions with legislative powers and detailed profiles of each regional parliament. It also provides a standard form in English for summarising subsidiarity analyses. In order to evaluate the experience of the Early Warning System and disseminate examples of best practice, the CoR published a study on *The Subsidiarity Early Warning System of the Lisbon Treaty – the role of regional parliaments with legislative powers and other subnational authorities*²¹. The study compares and assesses the involvement of regional parliaments with legislative powers and other regional assemblies and the relevant stakeholders in the Early Warning System in the wake of the Lisbon Treaty, describing the machinery for cooperation and identifying best practices.

Conclusions

In 2013 subsidiarity monitoring at the CoR was further consolidated by the implementation of the revised strategy for subsidiarity monitoring. Relying on sound monitoring tools, the CoR reaffirmed its comprehensive approach, regarding subsidiarity monitoring as a responsibility throughout the whole policy-making cycle, with the aim of intervening as early as possible. With its first Subsidiarity Work Programme the CoR has taken on the task of monitoring EU initiatives upstream. The political governance provided by the Subsidiarity Steering Group and the monitoring tools at hand, such as the Subsidiarity Monitoring Network, the Subsidiarity Expert Group and REGPEX, have enabled the CoR to successfully carry out this task and prepare for exploring further possibilities for monitoring subsidiarity. Consequently, the CoR will look into other related issues in the field (such as territorial impact assessment) for the benefit of local and regional authorities and, as a result, all EU citizens. The aim of the next Subsidiarity Work Programme will be to reinforce the established patterns of cooperation within the CoR and with other external partners, whether they be EU institutions, national parliaments, local and regional authorities or associations.

20 [CoR - REGPEX.](#)

21 [Study *The Subsidiarity Early Warning System of the Lisbon Treaty – the role of regional parliaments with legislative powers and other subnational authorities.*](#)

Subsidiarity is not simply about getting more or less legislation at EU level. Subsidiarity is about getting it at the right level, as close as possible to the citizen, and it goes without saying that we need to close the gap that has developed between the EU and its citizens. The CoR is committed to contributing towards the creation of a subsidiarity culture and will continue to fulfil this commitment by strengthening its subsidiarity monitoring, further developing its monitoring tools and reinforcing inter-institutional cooperation.
