

DEN EUROPÆISKE UNION



Regionsudvalget

ÅRSRAPPORT OM NÆRHEDSPRINCIPPET 2012

Årsrapport om nærhedsprincippet 2012

1. Indledning

Som reaktion på den økonomiske og finansielle krise er der truffet en række vigtige foranstaltninger for at styrke den økonomiske og finansielle styring på EU-niveau. Samtidig er der et øget pres for bedre koordinering af skattemæssige, økonomiske og endda sociale politikker mellem medlemsstaterne. Selvom der er stort behov for større koordinering, er det lige så vigtigt at fastholde et klart billede af kompetencefordelingen i et system med forvaltning på flere niveauer, så beslutningerne træffes på det rigtige niveau og så tæt på borgene som muligt. Med andre ord bliver det stadig vigtigere at overholde nærhedsprincippet for at gøre det muligt for et flerniveaustyret Europa at handle i krisetider.

Regionsudvalget (RU) har derfor styrket sin position i 2012 som referencepunkt for spørgsmål vedrørende nærhedsprincippet i EU. Gennemførelsen af Lissabontraktaten og dens nye bestemmelser om nærhedsprincippet er nu på sit tredje år, og Regionsudvalget har i løbet af dette år udviklet og finjusteret sin strategi og forbedret sine overvågningsværktøjer. Udvalgets tredje årsrapport om nærhedsprincippet præsenterer og opsummerer denne nye udvikling.

Retten til at indbringe en sag for Den Europæiske Unions domstol vedrørende en lovgivningsmæssig EU-retsakts overtrædelse af nærhedsprincippet er en af de største forbedringer af udvalgets institutionelle rolle i forhold til nærhedsprincippet¹. Men der er også andre bestemmelser i Lissabontraktaten, der styrker Regionsudvalgets beføjelser. Den artikel i traktaten, der refererer til nærhedsprincippet, indeholder en eksplicit reference til de lokale og regionale niveauer², hvilket understreger nødvendigheden af at respektere de lokale og regionale myndigheders beføjelser inden for EU. De regionale parlamenter har mulighed for at blive hørt af deres nationale regeringer³ i den tidlige varslingsprocedure for nærhedsprincippet. Selvom Regionsudvalget formelt set ikke er involveret, støtter det de regionale parlamenter i kraft af sin institutionelle rolle. En af de naturlige opgaver for den forsamling, der repræsenterer de lokale og regionale myndigheder i EU's institutionelle struktur, er at sikre, at beslutningerne bliver truffet på det rigtige myndighedsniveau (europæisk, nationalt, regionalt eller lokalt niveau) og så tæt på borgerne som muligt.

¹ Artikel 8 i Protokol nr. 2 om anvendelse af nærhedsprincippet og proportionalitetsprincippet, i det følgende benævnt Protokol nr. 2.

² Artikel 5 i traktaten om Den Europæiske Union (TEU): *I medfør af nærhedsprincippet handler Unionen på de områder, der ikke hører ind under dens enekompetence, kun hvis og i det omfang målene for den påtænkte handling ikke i tilstrækkelig grad kan opfyldes af medlemsstaterne på centralt, regionalt eller lokalt plan, men på grund af den påtænkte handlingens omfang eller virkninger bedre kan nås på EU-plan.*

³ Artikel 6 i Protokol nr. 2.

Regionsudvalget har derfor anlagt en tilgang, der ikke kun omfatter domstolskontrol, men også selve lovgivningsfasen. En retssag bør ses som sidste udvej og som det sidste skridt i en proces, der omfatter hele beslutningsprocessen. Når man så vidt som til at indbringe en sag for EU-Domstolen, vil det svare til at anerkende, at lovgivningsprocessen har slået fejl. Regionsudvalget vil i stedet forsøge at styrke samarbejdet med de andre EU-institutioner for at nå frem til den bedst mulige lovgivningsløsning. Udvalget mener, at en af dets opgaver bl.a. er at overvåge nærhedsprincippet så tidligt som muligt, ikke kun gennem de regelmæssige rådgivende aktiviteter, men også i hele den politiske cyklus, dvs. fra politikkerne og lovgivningen udformes, i gennemførelsesfasen og i evalueringsfasen, efter at foranstaltningerne er trådt i kraft.

Regionsudvalgets tredje årsrapport om nærhedsprincippet redegør for denne brede og samarbejdsorienterede tilgang. Rapporten omfatter Regionsudvalgets overvågning af nærhedsprincippet fra 1. januar til 31. december 2012. Først præsenteres de vigtigste aspekter af den reviderede strategi (del 2) og dernæst de gennemførelsesforanstaltninger, der er truffet i 2012 (del 3). Herefter vurderes konsekvenserne på baggrund af indholdet i Regionsudvalgets udtalelser om nærhedsprincippet (del 4), selvom det ikke er let at drage konkrete konklusioner fra et overgangså, da den nye strategi og de nye værktøjer først blev gennemført i anden halvdel af 2012.

2. Vedtagelse af en revideret strategi for overvågning af nærhedsprincippet

Regionsudvalgets præsidium vedtog i maj 2012 en ny strategi⁴ om overvågning af nærhedsprincippet. Det overordnede mål med strategien er, at Regionsudvalget skal være referencepunktet for nærhed i EU og være i stand til at tilvejebringe kvalitetsanalyser af nærhedsprincippet primært i sine udtalelser og dermed bidrage til nærhedsdebatten.

Den nye tilgang sigter især mod:

- at styrke forvaltningsstrukturen i Regionsudvalgets nærhedsovervågning,
- at etablere en omfattende tilgang til nærhedsovervågning i hele beslutningsprocessen i EU,
- at inddrage de relevante institutioner på europæisk og nationalt niveau i disse aktiviteter og
- at konsolidere Regionsudvalgets beredskab i forbindelse med en mulig sag ved EU-Domstolen.

2.1 Politisk styring: Styringsgruppen for nærhedsprincippet

Den nye strategis første søjle er styringsgruppen for nærhedsprincippet, som har ansvar for den politiske styring af Regionsudvalgets overvågning af nærhedsprincippet. Styringsgruppen sikrer en hensigtsmæssig koordinering af og politisk opfølgning på nærhedsovervågningsaktiviteterne i løbet af året. Gruppen skal især fastlægge de årlige prioriteter for nærhedsprincippet og fremsætte forslag til

⁴ Nærhedsovervågning: En revideret strategi for Regionsudvalget, R/CdR 606/2012.

anvendelse af de mest hensigtsmæssige redskaber og procedurer i nærhedsovervågningsnetværket⁵ med henblik på at støtte RU-ordførernes arbejde i lovgivningsprocessen.

2.2 Tilgang: Et omfattende system til nærhedsovervågning igennem hele beslutningsprocessen i EU

Den reviderede strategi gør det klart, at Regionsudvalgets overvågning af nærhedsprincippet begynder i den lovforberedende fase. På baggrund af en indgående analyse af Kommissionens arbejdsprogram og køreplaner for lovgivningsprocessen, udvælger ekspertgruppen vedrørende nærhedsprincippet (eksperter udvalgt fra nærhedsovervågningsnetværket på grundlag af deres ekspertise inden for nærhedsprincippet og erfaring med EU-lovgivning) et antal EU-initiativer, som er interessante set ud fra nærhedsprincippet. På baggrund af denne liste udarbejder styringsgruppen for nærhedsprincippet så det nærhedsarbejdsprogram, som forelægges Regionsudvalgets præsidium til godkendelse.

På grundlag af arbejdsprogrammet etablerer Regionsudvalgets administration et internt system for tidlig varsling for at sikre en ordentlig kontrol af forslag til lovgivningsmæssige EU-retsakter og ikke-lovgivningsmæssige initiativer, som kan indeholde nærhedsproblemstillinger, der kræver, at Regionsudvalget handler. Så snart der identificeres sådan et tilfælde, iværksætter Regionsudvalget en proces, der inddrager alle relevante politiske og administrative aktører, og som udmunder i fastlæggelse og planlægning af de nærhedsovervågningsaktiviteter, der skal udføres i løbet af året, både før og efter vedtagelsen af Kommissionens forslag.

For at sikre en fælles forståelse af princippet og ensartet vurdering af EU-lovforslagene vil Regionsudvalget udelukkende henholde sig til de betingelser, der fremgår af traktaten⁶. Det vil sige, at EU ikke må handle på områder med delt kompetence, medmindre det skønnes nødvendigt og tilfører en tydelig merværdi. Men eftersom den nuværende Protokol nr. 2 ikke fastlægger nogen materielle kriterier for vurdering af, om der er sket en overtrædelse af nærhedsprincippet, vil Regionsudvalget fortsat benytte sit evalueringsskema for nærhed og proportionalitet⁷, der henviser til kriterierne i den tidligere protokol om anvendelse af nærhedsprincippet og proportionalitetsprincippet (Protokol nr. 30 til Amsterdamtraktaten). Skemaet er ikke begrænset til nærhedsprincippet⁸, men understreger også behovet for at definere kompetencetype og retsgrundlag for et EU-tiltag allerede i starten af en nærhedsanalyse og fremhæver forbindelsen til proportionalitetsprincippet⁹ samt vigtigheden af at integrere elementer relateret til "bedre lovgivning" i evalueringen af EU-initiativer.

⁵ Konsekvensanalysehøringer, målrettede og offentlige høringer, anvendelse af handlingsplanen og anvendelse af REGPEX, se pkt. 2.3.

⁶ EU-traktatens artikel 5, stk. 3.

⁷ Se www.cor.europa.eu/subsidiarity, under "Subsidiarity Toolkit". Regionsudvalgets administration har siden 2007 udviklet og finjusteret evalueringsskemaet, der er anerkendt af bl.a. Kommissionens generaldirektorater og benyttes af en række institutionelle partnere (se f.eks. Kommissionens retningslinjer for konsekvensanalyser SEC(2009) 92 og Kommissionens rapport fra 2009 om subsidiaritet og proportionalitet (16. rapport om *bedre lovgivning* for 2008), COM(2009) 504 final).

⁸ Som skal give svar på spørgsmålet: "Skal EU gribe ind?".

⁹ Som skal give svar på spørgsmålet: "Hvordan skal EU gribe ind?", og som også skal anvendes i tilfælde, hvor EU har enekompetence.

2.3 Gennemførelsesinstrumenter: Nærhedsovervågningsnetværket og dets ekspertgruppe

Nærhedsovervågningsnetværket blev oprettet i 2007 og udgør nu et fornuftigt værktøj, som i slutningen af 2012 talte 141 partnere¹⁰. Det fik i 2012 atter nye medlemmer og udvidede sit repræsentative grundlag, især blandt regionale parlamenter (parlamenterne i de tyske delstater Sachsen-Anhalt og Hamborg har tilsluttet sig sammen med den spanske regionalforsamling for De Kanariske Øer den italienske konference af formænd for italienske regionale parlamenter). Det skal også bemærkes, at de hollandske kommuners deltagelse er blevet styrket gennem deres sammenslutning (VNG). Netværket omfatter nu lokale og regionale myndigheder og deres sammenslutninger fra hele EU, undtagen Estland. Det støtter alle Regionsudvalgets nærhedsovervågningsaktiviteter med henblik på at give udvalgets ordførere og medlemmer et bidrag af høj kvalitet ud fra et nærhedssynspunkt, således at passende nærhedsvurderinger kan indgå i udvalgets udtalelser.

Selvom der to gange om året udsendes et nyhedsbrev om nærhedsprincippet, og partnerne har lejlighed til at mødes i løbet af året, fungerer netværket primært gennem sin hjemmeside, som har et særligt afsnit for regioner med lovgivningsbeføjelser, "REGPEX", især i forbindelse med systemet for hurtig varsling. Høringer (uanset om de er åbne, dvs. afhængige af spontane bidrag, eller målrettede, dvs. iværksat efter en ordførers anmodning) af overvågningsnetværkets partnere er og bliver det vigtigste arbejdsredskab for en RU-ordfører i forbindelse med udarbejdelsen af et forslag til udtalelse. Konsekvensanalysehøringer under den lovforberedende fase er en anden form for samarbejde med Kommissionen, som tages i brug for at vurdere visse lovforslags konsekvenser for de lokale og regionale myndigheder og tage problemer med nærhedsprincippet i opløbet. Handlingsplanen, som danner basis for etablering af arbejdsgrupper bestående af fem til ti partnere, supplerer høringerne. Derigennem kan man mere kvalificeret foretage en deltagerundersøgelse af visse politikområder.

For så vidt angår værktøjer, er den vigtigste nyhed i den reviderede strategi etableringen af en gruppe af lokale og regionale nærhedseksperter, som skal støtte aktiviteterne i styringsgruppen for nærhedsprincippet og Regionsudvalgets rådgivende aktiviteter som helhed. Ekspertgruppen skal komme med input til det årlige nærhedsarbejdsprogram og stå til rådighed for Regionsudvalgets ordførere efter behov.

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Se samlet liste over partnere pr. 31. december 2012, bilag 1.

3. Strategien i praksis: forudgående kontrol, styrket prioritering, tættere samarbejde med regionale parlamenter og regeringer

Efter vedtagelsen i maj 2012 blev den reviderede strategi gennemført i de efterfølgende måneder, og det er værd at bemærke nedenstående punkter.

3.1 Etablering af styringsgruppen for nærhedsprincippet og ekspertgruppen vedrørende nærhedsprincippet

Styringsgruppen for nærhedsprincippet blev etableret i september 2012 og har et medlem for hver af de politiske grupper: Jean-François Ismasse (BE/PSE), Marc Hendrickx (BE/AE), Graham Tope (UK/ALDE) og Michael Schneider (DE/PPE), som er formand og koordinator for nærhedsovervågningsnetværket. Gruppen mødtes for første gang den 30. november 2012, men havde straks indledt arbejdet i september med udpegelse af de 16 medlemmer af ekspertgruppen vedrørende nærhedsprincippet.

Den 26. oktober 2012 mødtes 16 lokale og regionale nærhedseksperter i ekspertgruppen vedrørende nærhedsprincippet for første gang. Opgaven var at udvælge de initiativer i Kommissionens netop offentliggjorte arbejdsprogram for 2013, der skulle gøres til genstand for en særlig overvågning ud fra et nærhedssynspunkt. Efter at repræsentanter fra Kommissionen havde fremlagt arbejdsprogrammet, fulgte der en debat, som gjorde det muligt for ekspertgruppen at identificere en række initiativer, der blev udvalgt på baggrund af tre kumulative kriterier: de skulle 1) være af klar politisk interesse for de lokale og regionale myndigheder, 2) berøre de lokale og regionale myndigheders kompetenceområder og 3) have en potentiel nærhedsdimension.

3.2 Forberedelse af Regionsudvalgets nærhedsarbejdsprogram for 2013

Ekspertgruppens liste var et vigtigt bidrag til styringsgruppens arbejde med at udarbejde Regionsudvalgets nærhedsarbejdsprogram, som blev vedtaget af udvalgets præsidium den 30. januar 2013. Regionsudvalgets overvågning af nærhedsprincippet i 2013 har fokus på fem udvalgte prioriteter¹¹. Det fremhæves dog, at fleksibilitet er en vigtig faktor, og at prioriteterne kan blive revideret i årets løb i lyset af den institutionelle kalender og afhængigt af initiativernes egentlige indhold, som man ikke havde fuldt kendskab til, da de prioriterede områder blev udvalgt.

3.3 REGPEX: REGIONAL Parliamentary EXchange

REGPEX er et under-netværk i det nuværende nærhedsovervågningsnetværk, som er åbent for parlamenter og regeringer i regioner med lovgivningsbeføjelser. REGPEX blev etableret med henblik på at støtte disse regioners deltagelse i overvågningen af nærhedsprincippets overholdelse i EU's lovgivning, navnlig i forbindelse med systemet for tidlig varsling, der indførtes som følge af

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Fire initiativer i Kommissionens arbejdsprogram for 2013 (e-fakturering inden for offentlige indkøb, et "blåt bælte" for et indre marked for søtransport, revision af affaldspolitikken og -lovgivningen og miljø-, klima- og energivurderingsrammer for ukonventionel kulbrinteudvinding) samt mobilitet i byerne.

Lissabontraktaten, og de nationale parlamenters mulige høringer af regionerne. REGPEX blev etableret i februar 2012. Det er modelleret over og koblet til IPEX¹² (EU's mellemparlamentariske platform for informationsudveksling), som anvendes af de nationale parlamenter.

3.3.1 Vigtigste opgaver

REGPEX giver adgang til en søgemaskine, som forbinder EU-initiativer med de analyser, som de regionale parlamenter og regeringer har foretaget. Det giver også direkte adgang til relevante informationskilder, der kan bidrage til udarbejdelsen af nærhedsanalyser, såsom Kommissionens konsekvensanalyser. REGPEX er et værktøj til udvælgelse af prioriteter for nærhedsovervågningen. I filer for tidlig varsling ("early warning files"), gives der baggrundsinformation om udvalgte initiativer. De ledsages af koordineringstiltag, hvor regionale parlamenter og regeringer opfordres til at dele og fremlægge deres synspunkter i løbet af den otte uger lange procedure for tidlig varsling. En sådan sag blev præsenteret i 2012 vedrørende forslag til direktiver om kontrakter for offentlige indkøb og koncessioner (COM(2011) 895, 896 og 897). De regionale parlamenters og regeringers bidrag blev i forbindelse med disse sager undersøgt og sammenfattet i en rapportanalyse, der blev fremsendt til Regionsudvalgets ordfører.

3.3.2 Fra database til netværk

REGPEX er også en koordineringsplatform for regionerne i EU. Ved udgangen af 2012 deltog 39 parlamenter og 28 regeringer fra 74 regioner med lovgivningsbeføjelser i EU i platformen. Nærmere oplysninger om de 74 regionale parlamenter vil snart blive gjort tilgængelige online med de relevante kontaktinformationer. Profilerne præsenteres i form af et kort over EU's regioner. I de kommende måneder vil man teste et system for REGPEX's regionale korrespondenter.

De regionale parlamenter og regeringer, der deltager i Regional Parliamentary Exchange (REGPEX), holdt deres første møde den 12. december 2012 for at gennemgå databasearbejdet, indsamle feedback fra brugere og drøfte den fremtidige udvikling med deltagelse af repræsentanter for Kommissionen, Europa-Parlamentet, nationale parlamenter og IPEX. En ting stod klart efter mødet: REGPEX er mere end blot en teknisk database. Regionale parlamenter og regeringer er ivrige efter at spille en rolle i EU's lovgivningsproces. De har en klar opfattelse af, at REGPEX er et nyttigt værktøj til at nå dette mål, og at det giver store muligheder for udveksling af information under tidspres samt for koordinering. De øvrige EU-institutioner har også været glade for platformen. Især Kommissionen modtager nærhedsrelaterede bidrag direkte fra regionerne, som derigennem yder et værdifuldt bidrag, skønt der i traktaterne ikke er noget lovgrundlag for en formel integration af regionerne i lovgivningsprocessen. REGPEX kan i den sammenhæng fungere som et interessant knudepunkt. Endvidere kan informationsudvekslingen mellem nationale og regionale parlamenter fremmes via REGPEX.

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www.ipex.eu

Regionsudvalget vil i 2013 fortsætte med at udvikle platformen og opfordre regionale parlamenter og regeringer til at udveksle og offentliggøre deres synspunkter på REGPEX.

3.4 Høringer

I 2012 fortsatte man med at foretage høringer via nærhedsovervågningsnetværkets hjemmeside. Måltrettede høringer foretages efter anmodning fra Regionsudvalgets ordførere og siden maj 2012 også efter begæring fra styringsgruppen for nærhedsprincippet. Der blev gennemført to sådanne høringer i 2012: om *Connecting Europe-faciliteten* (COM(2011) 659) efter anmodning fra ordfører Ivan Žagar (SI/PPE) i perioden 29. november 2011 til 15. januar 2012 og om Kommissionens meddelelse *Bedre udnyttelse af EU's miljøforanstaltninger: opbygning af tilliden gennem bedre viden og aktiv handling* (COM(2012) 95) i forbindelse med udarbejdelsen af udtalelsen *På vej mod et syvende miljøhandlingsprogram: En bedre gennemførelse af EU's miljølovgivning* ved ordfører Nilgun Canver (UK/ALDE) fra den 25. maj til den 6. juli 2012¹³.

Hertil kommer, at netværkets partnere også kan indgive deres nærhedsanalyser af et hvilket som helst EU-forslag. Disse analyser lægges ud på hjemmesiden og fremsendes til den relevante RU-ordfører efter behov.

Ekspertgruppen vedrørende nærhedsprincippet organiserede for første gang en høring i udgangen af 2012. Høringen omhandlede ikke et aktuelt EU-forslag, men blev udført efter anmodning fra Franz Schausberger (AT/PPE) i forbindelse med udarbejdelse af en initiativudtalelse, han var ordfører for: *Decentraliseringsprocessen i EU og det lokale og regionale selvstyres rolle i EU's politiske beslutnings- og gennemførelsesproces*. Høringen fandt sted i perioden 21. november 2012 til 31. januar 2013¹⁴.

Endelig samarbejdede Regionsudvalget med Kommissionen i forbindelse med udarbejdelsen af konsekvensanalysen vedrørende den fjerde jernbanepakke. Først iværksatte Kommissionen en høring af de lokale og regionale myndigheder gennem Regionsudvalgets netværk og platforme, herunder nærhedsovervågningsnetværket. Dernæst fremlagde udvalget sine egne spørgsmål for de lokale og regionale myndigheder i perioden 11. maj 2012 til 21. juni 2012. På trods af det korte varsel og den korte høringsperiode modtog man 11 bidrag fra myndigheder i syv medlemsstater¹⁵. Alle bidrag blev videregivet til Kommissionen sammen med en høringsrapport.

13 Der er offentliggjort høringsrapporter på nærhedsovervågningsnetværkets hjemmeside www.cor.europa.eu/subsidiarity under "Activities", derefter "Consultations".

14 Ibid.

15 Ibid.

3.5 Handlingsplan for nærhedsovervågningsnetværket

Handlingsplanen for nærhedsovervågningsnetværket blev lanceret i 2009 som opfølgning på den 4. konference om nærhedsprincippet. Handlingsplanen tilskynder lokale og regionale myndigheder til at kortlægge og udveksle bedste praksis i forbindelse med gennemførelsen af EU's politiske mål i overensstemmelse med tanken bag nærhedsprincippet og med særlig fokus på inddragelse af civilsamfundsorganisationer. Den supplerer nærhedsovervågningsnetværkets aktiviteter ved at analysere specifikke EU-politikområder ud fra et nærhedssynspunkt i en periode på et år.

I sin handlingsplan for 2012 satte netværket fokus på den nye politik for det transeuropæiske transportnet (TEN-T). Göteborg og Västra Götaland havde etableret en gruppe af lokale og regionale myndigheder med henblik på en analyse af dette politikområde ud fra nærhedsprincippet og princippet om forvaltning på flere niveauer. Gruppen mødtes for første gang i december 2011 og udvekslede synspunkter med Regionsudvalgets COTER-underudvalgsmedlemmer Ivan Žagar (SI/PPE), Väino Hallikmägi (EE/ALDE) og Uno Silberg (EE/AE) på sit andet møde i slutningen af februar 2012.

Arbejdsgruppen har udarbejdet en rapport, som indeholder en analyse af den nye TEN-T-politik set ud fra nærhedsprincippet og princippet om forvaltning på flere niveauer samt en række eksempler på bedste praksis, der blev fremlagt af gruppens medlemmer. Rapporten indeholder tillige en række politiske konklusioner, der sigter mod at give et overblik over, hvad de lokale og regionale myndigheder mener om den nye TEN-T-politik og dens konsekvenser. Nogle af disse konklusioner blev præsenteret på en temaworkshop om nærhed under Open Days-arrangementet den 10. oktober 2012. Workshoppens blev ledet af Michael Schneider (DE/PPE), koordinator for nærhedsovervågningsnetværket, med indlæg fra Ismail Ertug (MEP, DE/PSE), Jean-Eric Paquet (direktør for det europæiske mobilitetsnetværk, GD for Mobilitet og Transport) de to RU-ordførere for emnet, Bernard Soulage (FR/PSE) og Ivan Žagar (SI/PPE), Johan Nyhus (viceborgmester i Göteborg), Mimmi von Troil (medlem af regionalrådet i Västra Götaland) og Anna Livieratou som repræsentant fra Forvaltningsorganet for TEN-T.

Netværkets handlingsplan indeholdt for første gang en direkte udveksling mellem Regionsudvalgets medlemmer og gav gruppens medlemmer mulighed for at indlede et tæt samarbejde med udvalgets ordførere.

4. Nærhedsprincippet i Regionsudvalgets udtalelser

Regionsudvalget vedtog 71 udtalelser i 2012¹⁶. 70 % af dem (49) indeholdt en eksplicit henvisning til anvendelsen af nærhedsprincippet i medfør af artikel 51, stk. 2, i Regionsudvalgets forretningsorden, mens 43 % indeholdt en klar holdning til initiativets overensstemmelse med princippet.

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Se bilag 2 for en liste over udtalelser vedtaget mellem 1. januar og 31. december 2012.

Omkring halvdelen af de vedtagne udtalelser, der ikke indeholdt en henvisning til nærhedsprincippet (22), omhandlede ikke-lovgivningsmæssige initiativer (meddelelser, grønbøger eller rapporter) eller blev afgivet på Regionsudvalgets eget initiativ (initiativudtalelser) og efter anmodning fra Kommissionen (perspektivudtalelser). De sidste to typer udtalelser refererer således ikke til et specifikt basisdokument. Imidlertid handlede seks af de vedtagne udtalelser, som ikke var i overensstemmelse med artikel 51, stk. 2, i Regionsudvalgets forretningsorden, om lovforslag inden for politikområder, hvor det er obligatorisk at høre Regionsudvalget, dvs. forslag, som opfylder de formelle kriterier for, at Regionsudvalget kan anlægge sag om annullering af retsakter med henvisning til nærhedsprincippet.

Følgende af Regionsudvalgets udtalelser fra 2012 fremhæves for deres relevans ud fra et nærhedssynspunkt. Nogle af dem udtrykte bekymring med hensyn til overholdelsen af nærhedsprincippet og proportionalitetsprincippet, mens andre anførte, at der var sket en reel overtrædelse af samme: Initiativudtalelsen *Udvikling af en europæisk kultur for forvaltning på flere myndighedsniveauer: opfølgning af Regionsudvalgets hvidbog* (CdR 273/2011) samt udtalelserne *Forslag til generel forordning om de fonde, der er omfattet af den fælles strategiske ramme* (CdR 4/2012), *Forslag til forordning om Den Europæiske Fond for Regionaludvikling (EFRU)* (CdR 5/2012), *Forslag til forordning om Den Europæiske Socialfond (ESF)* (CdR 6/2012), *Revision af TEN-T-retningslinjerne og Connecting Europe-faciliteten* (CdR 648/2012), *Lufthavns pakken* (CdR 649/2012), *På vej mod et syvende miljøhandlingsprogram: En bedre gennemførelse af EU's miljølovgivning* (CdR 1119/2012), *Lovpakken om offentlige indkøb* (CdR 99/2012), *Pakken om databeskyttelse* (CdR 625/2012) og *Udstationering af arbejdstagere som led i udveksling af tjenesteydelser* (CdR 1185/2012)¹⁷.

Antallet af udtalelser om lovforslag (42) er steget betydeligt i 2012, hvilket kan ses som en fortsættelse af den tendens, der viste sig allerede i 2011. Mere end halvdelen af disse udtalelser omhandlede initiativer inden for politikområder med delt kompetence, hvor høring af Regionsudvalget er obligatorisk. Ydermere er der i forhold til 2011 stadig flere tilfælde, hvor Regionsudvalgets udtalelser udtrykker bekymring for overholdelsen af nærhedsprincippet eller endda finder bestemmelser i udkast til lovforslag, som overtræder nærhedsprincippet.

Som man har set i de foregående år, står det nu mere og mere klart, at nærhed er ved at blive et referencepunkt i forbindelse med udarbejdelsen af udtalelser. Men i lyset af Regionsudvalgets nye beføjelser og ansvarsområder bør alle udtalelser om lovforslag inden for områder, hvor høring af udvalget er obligatorisk, indeholde en systematisk vurdering af lovforslagets overensstemmelse med nærhedsprincippet.

Den nyoprettede styringsgruppe for nærhedsprincippet kan via sin overvågningsrolle bidrage til kvaliteten af henvisningerne til nærhedsprincippet i Regionsudvalgets udtalelser. Gruppen kan gøre ordførere opmærksom på mulige huller og kan indgive ændringsforslag for at underbygge henvisninger til nærhedsprincippet i forslag til udtalelser, der fremlægges på plenarforsamlinger. I et

¹⁷

Se bilag 3 for flere detaljer for hver enkelt udtalelse.

enkelt tilfælde benyttede styringsgruppens medlemmer sig af denne ret og indgav et ændringsforslag med støtte fra ordføreren til udtalelsen om udstationering af arbejdstagere som led i udveksling af tjenesteydelser (CdR 1185/2012).

5. Konklusioner

2012 var klart et år, hvor Regionsudvalgets nærhedsovervågning tog fart i kølvandet på lanceringen af den nye strategi. Ved at sætte sin lid til nyttige overvågningsværktøjer har Regionsudvalget stadfæstet sin brede tilgang til nærhedsovervågning som en opgave, der omfatter hele den politiske beslutningscyklus. Udvalget har styrket sit samarbejde med EU-institutionerne – især inden for rammerne af samarbejdsprotokollen med Kommissionen – og med andre institutioner, der udfører kontrol af nærhedsprincippet i forbindelse med EU-initiativer, såsom nationale og regionale parlamenter. Regionsudvalgets udtalelser indeholder i stadig højere grad omfattende analyser af lovforslagenes overensstemmelse med nærhedsprincippet og kommer med forslag til at forbedre lovgivningen.

Nærhedsarbejdsprogrammet for 2013 er det første strukturerede forsøg på en forudgående overvågning af EU-initiativer. Med vejledning fra styringsgruppen for nærhedsprincippet og bistand fra lokale og regionale nærhedsekspertter fra ekspertgruppen for nærhedsprincippet vil det bestemt være muligt for Regionsudvalget at leve op til sit ansvar på området, hvilket vil være til fordel for alle EU-borgere.

Der vil gå noget tid, inden vi får resultaterne af den nye forvaltningsstruktur og nye overvågningsværktøjer at se. Afholdelsen af den 6. konference om nærhedsprincippet i 2013 sammen med det tyske Bundesrat i Berlin vil være en god lejlighed til at foretage en evaluering. Den første evalueringsmulighed Europæiske, nationale, regionale og lokale institutioner vil blive inviteret til at deltage i evalueringen af nærhedsprincippets gennemførelse og indvirkning på EU's lovgivningsproces i tiden efter Lissabontraktatens ikrafttrædelse.

Afholdelsen af den næste konference om nærhedsprincippet i samarbejde med Bundesrat og i Bundesrats lokaler sender et klart signal. De nationale parlamenter og Regionsudvalget, der i henhold til traktaterne er anerkendt som vogtere af nærhedsprincippet, bør gå sammen om at vurdere EU-initiativer fra deres respektive perspektiver. Regionsudvalget prioriterer dette arbejde meget højt, og på konferencen vil mulighederne herfor blive undersøgt nærmere.

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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

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²⁵	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2012) 55 final CdR 747/2012 (ECOS)	10 October 2012	Opinion on the White paper – an agenda for adequate, safe and sustainable pensions	No	No	No	Yes (compliance)	Yes (proportionality)
COM(2011) 895 & 892 final CdR 99/2012 (ECOS)	9 October 2012	Opinion on the Public Procurement Package	Yes	No	Yes (first Early Warning System consultation through REGPEX)	Yes (non-compliance)	Yes (subsidiarity, proportionality, better law-making, administrative burdens)
COM(2012) 209 final CdR 1528/2012 (ECOS)	29 November 2012	Opinion on EU State Aid Modernisation (SAM)	No	No	No	No	Yes (better law-making)
COM(2012) 131 final COM(2012) 130 final CdR 1185/2012 (ECOS)	29 November 2012	Opinion on the posting of workers in the framework of the provision of services	Yes	No ²⁶	Yes ²⁷	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 During the legislative procedure.

²⁶ Following the legal basis chosen by the Commission (Art. 352 TFEU).

²⁷ 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 mandatory ²⁸	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)

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During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ²⁸	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 ²⁹	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

²⁹

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 mandatory³⁰	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)

³⁰ During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ³⁰	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 ³⁰	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 ³¹	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 ³²	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 ³³	No	Yes (compliance)	Yes (proportionality, multi-level governance)

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.

³³ 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 ³⁰	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 ³⁴	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)

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During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ³⁴	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 ³⁴	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 ³⁵	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)

³⁵

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 mandatory³⁶	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)

³⁶ 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 2009³⁷ 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

³⁷ 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.