

EUROPEAN UNION



Committee of the Regions

SUBSIDIARITY ANNUAL REPORT 2010

Subsidiarity Annual Report 2010

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1. INTRODUCTION

After the entry into force of the Treaty of Lisbon on 1 December 2009, the institutional and political role of the Committee of the Regions (CoR) regarding the monitoring of the principle of subsidiarity has been strengthened. New responsibilities have been given to the CoR and thus new perspectives for implementing the subsidiarity principle have been opened.

This first subsidiarity report responds to the need for the CoR to reflect on its new role in this context and to present perspectives for the future. Moreover this 2010 edition aims to create a reference for future Subsidiarity Annual Reports.

It covers the CoR's activities concerning subsidiarity from 1 September 2009 to 31 December 2010¹ and analyses their new basis, the legal and institutional subsidiarity framework created by the Lisbon Treaty and its consequences for the CoR (*part II*).

Furthermore, the activities carried out by the CoR to monitor the respect of the principle of subsidiarity will be highlighted and further analyzed. Two main branches of action can be identified: the mainstreaming of subsidiarity analysis in CoR opinions and the development of the Subsidiarity Monitoring Network (SMN, *part III*) and local and regional authorities with special regard to the Early Warning System.

Moreover, the CoR's efforts for mainstreaming a subsidiarity culture will be examined and presented (*part IV*). In particular, the participation in territorial impact assessments, the Action Plan of the SMN and the relations with European, national and regional institutions will be described.

Finally, communication as well as events organised by the CoR in relation to subsidiarity will be presented (*part V*).

2. NEW LEGAL AND INSTITUTIONAL FRAMEWORK

2.1 Explicit acknowledgement of the local and regional levels by the Lisbon Treaty

The Lisbon Treaty makes explicit reference for the EU to respect regional and local self-government in the Member States². In addition, the new definition of the subsidiarity principle contains explicitly the local and regional dimensions³ which means that the EU has to respect the local and regional authorities' (LRA) competences when proposing and adopting new legislation based on shared competences. As a corollary of these new legal obligations, before proposing legislative acts, the European Commission's consultations shall, where appropriate, take into account the regional and

¹ The latest Activity Report was presented to the CoR Bureau in September 2009 in Uppsala, R/CdR 196/2009 item 8 a).

² See Art. 4(2) of the Treaty on European Union (TEU).

³ See Art. 5(3) TEU.

local dimensions of the action envisaged⁴. Furthermore, every EU draft legislative act has to contain an assessment of its potential impact, taking also into account the local and regional levels⁵.

Conclusions on the explicit acknowledgement of the local and regional levels by the Lisbon Treaty

- The local and regional levels and the importance of local self-government in the EU decision making process are for the first time explicitly acknowledged in the EU legal framework.
- As a consequence, the respect of the subsidiarity principle has been reinforced after the entry into force of the Lisbon Treaty.

2.2 Action before the Court of Justice of the EU on grounds of subsidiarity

The Lisbon Treaty has also set a new institutional context regarding subsidiarity and gives an important legal tool to the CoR. In fact, Article 8 of the Protocol No. 2 on the application of the principles of subsidiarity and proportionality, annexed to the Lisbon Treaty (*hereinafter referred to as "the Protocol"*), establishes the right of the CoR to bring an action before the Court of Justice of the EU (CJEU) for infringement of the subsidiarity principle.

The object of such an action is the annulment of a legislative act (Art 289 TFEU) on grounds of subsidiarity. Such a legal action has to be directed against a legislative act adopted in the framework of a policy domain for which the Treaty foresees that the CoR shall be consulted. The action has to be presented within two months following the publication of the legislative act.

This right granted to the CoR constitutes not only a novelty from a purely legal point of view, but enforces the CoR's position in the EU decision making process. To have this powerful option up its sleeve gives the CoR a stronger and more credible voice, not only defending the local and regional dimensions of subsidiarity, but being, together with the national parliaments, the "guardian" of the subsidiarity principle as a whole within the EU. This new institutional role requires an enhanced subsidiarity monitoring at all stages of the EU decision making process, including the pre-legislative phase. As a consequence, the CoR's Rules of Procedure have been adapted in order to make sure that CoR opinions contain systematically a reference to subsidiarity⁶. Furthermore, the SMN is an additional tool with which the CoR seeks to strengthen its role as subsidiarity watch by intensifying existing and developing new activities, which will be presented in this report⁷.

Given its new competences and responsibilities, it is essential for the CoR to get a comprehensive picture of this new situation and explore the way EU institutions involved in the decision-making process appreciate and understand the reinforcement of the subsidiarity principle, how they have consequently adapted or will adapt their procedures, and what could be the perspectives for the future

⁴ See Art. 2 of the Protocol.

⁵ See Art. 5 of the Protocol.

⁶ See part 3.1.

⁷ See parts 3. 2, 4 and 5.

for the CoR – possibilities for cooperation, potential gaps and areas for improvement. This will enable the CoR to better adjust to its new role in the context of subsidiarity.

Therefore, the CoR will launch in 2011 a study on the "Subsidiarity in the multilevel institutional framework of the Lisbon Treaty".

Conclusions on action before the Court of Justice of the EU on grounds of subsidiarity

- The Lisbon Treaty confers upon the CoR the role as "guardian" of the subsidiarity principle, not limited to defending only the respect of the competences of LRA, but also making sure that subsidiarity is respected in all stages of the EU decision making process, concerning all levels of governance.
- As a consequence of its new prerogatives, the CoR's subsidiarity monitoring activities should cover the whole EU decision making process.

3. THE CoR MONITORING THE PRINCIPLE OF SUBSIDIARITY IN THE EU DECISION-MAKING PROCESS

3.1 Mainstreaming subsidiarity analysis in CoR opinions

3.1.1 New methodology to prepare subsidiarity and proportionality assessments in CoR opinions

The new right for the CoR to bring an action before the CJEU on grounds of subsidiarity entails a number of adjustments for the internal organisation of the CoR. Indeed, in order to maximise its impact, a CoR action in this domain will have to rely on subsidiarity assessments prepared as early as possible in the EU decision-making process.

Consequently, new CoR Rules of Procedure have been adopted and entered into force on 10 January 2010. In addition to the procedure to initiate an action before the CJEU, now stated under Rule 53, Rule 51 stipulates that "*Committee opinions shall contain an explicit reference to the application of the subsidiarity and proportionality principles*". This Rule is a direct expression of CoR's new responsibility in watching that the balance between competences is well respected, and could eventually play a role as well for motivating future actions on subsidiarity grounds. It follows and enshrines a decision which was initially taken by the Bureau at its meeting in Dunkirk in 2008⁸ and reaffirmed in Uppsala in 2009⁹.

Since 2008, all policy analyses prepared by the CoR commissions' secretariats for rapporteurs should include a dedicated section to "subsidiarity, proportionality and better lawmaking", and this has become even more systematic since 2010. In order to facilitate and standardise the assessments to be

⁸ R/CdR 229/2008 item 8 a).

⁹ Op. cit. note 1.

carried out in this framework, an internal "Subsidiarity and Proportionality Assessment Grid" was developed by the CoR Subsidiarity Unit, on the basis of the external grid already made available through the Subsidiarity Monitoring Network website¹⁰. It is now being used by commissions' secretariats when drafting their subsidiarity analyses as part of the policy analysis provided to the rapporteurs.

The grid includes four blocks of key questions based on the constituting elements of the principles of subsidiarity and proportionality according to the Treaties. This tool aims to guide the assessment of whether an EU initiative respects these principles.

Furthermore, the grid refers commissions' secretariats to impact assessments performed by the European Commission. These contain important elements to evaluate the compliance of an EU initiative with the principle of subsidiarity¹¹.

Conclusions on the new methodology to prepare subsidiarity assessments in CoR opinions

- A Subsidiarity and Proportionality Assessment Grid is now available internally to provide harmonised subsidiarity assessments to CoR rapporteurs concerning EU legislative and non-legislative initiatives. It promotes a step by step analysis, including elements related to the pre-legislative phase.
- A similar tool is also available to partners of the SMN¹² in order to facilitate their subsidiarity assessments and encourage a common approach to subsidiarity.

3.1.2 The subsidiarity principle in CoR opinions since September 2009

Since the entries into force of both the Lisbon Treaty and the subsequent amendments to the CoR Rules of Procedure, an important number of opinions have been adopted which allow the identification of trends in the way subsidiarity is dealt with. To follow-up on the latest analysis of this kind¹³, the present analysis concentrates on opinions adopted from September 2009 until 31 December 2010.

¹⁰ See <http://www.cor.europa.eu/subsidiarity>, under "Subsidiarity Toolkit" and Part 3.2.2 of this Report.

¹¹ It is important to note that the CJEU also takes impact assessments into account in this context *See* Judgment C-58/08, *Vodafone and Others*, 8 June 2010, [OJ C 107 of 26.04.2008, p.17](#).

¹² See part 3.2.2.

¹³ Presented to the CoR Bureau in Uppsala in September 2009, *op. cit.* note 1, pp. 2-3.

a. Quantitative observations

Out of 64 opinions adopted¹⁴, 45 included an explicit reference to the application of the subsidiarity principle as requested by Article 51 of the CoR Rules of procedure. From these 45, 12 included an explicit assessment of the compliance of the EU initiative(s) at stake.

A closer look at the 19 opinions which did not include any such reference reveals that –

- For nearly all of them (17) the rapporteur had received from the CoR administration a policy analysis which included a subsidiarity, proportionality and better law-making section;
- Six opinions were actually adopted before the entry into force of the new Rules of Procedure;
- Seven were own-initiative opinions, which dealt with rather general political aspects and did not comment on concrete EU initiatives;
- The topic of some of the opinions indicated that the principle of subsidiarity had no significant relevance for the EU initiative at stake (e.g. initiatives including an international dimension such as enlargement policy).

Out of the aforementioned total 64 opinions, eight concerned legislative proposals, i.e. commented on proposed directives or regulations. Three out of these eight did not include an explicit assessment of the compliance of the proposal with the subsidiarity principle. In one case ("Proposal for a regulation on the citizens' initiative"), this can be explained by the topic of the opinion – the legal act here is actually the direct implementation of specific Treaty provisions, for which the subsidiarity principle does not apply. It is less straightforward for the two other cases, however for one it should be noted that the new Rules of Procedure were not yet enforced and the other one was adopted only just after their entry into force. Given the CoR's new prerogatives and responsibilities in subsidiarity monitoring, it would seem consistent to strive for a systematic appraisal of the compliance with the subsidiarity principle for all legislative proposals, unless the issue at stake in a given proposal clearly indicates that there is no subsidiarity relevance.

b. Qualitative observations

Beyond the fact that subsidiarity is becoming a systematic point of reference for the drafting of CoR opinions, looking at the contents of the references leads to the following observations.

No opinion found a direct violation of the subsidiarity principle. Concerning the principle of proportionality, one opinion (on Reinforcing economic policy coordination¹⁵) highlighted the issue in terms of proportionality entailed by the European Commission's initial proposal regarding means for ensuring compliance with the Stability Pact on the part of eurozone countries - i.e. that a Member State's non-compliance should result in the discontinuation of funding under cohesion policy and the common agricultural or fisheries policies, as this runs entirely counter to the principle of

¹⁴ See tables in Appendix 1 for more detailed information on the opinions arranged according to CoR commissions.

¹⁵ R/CdR 224/2010, on COM(2010) 250 and COM(2010) 367

proportionality, and would hit hardest those regions that are lagging behind in their development and that need jointly funded programmes to combat their structural weaknesses. With regard to the concept of better lawmaking, concerns have been expressed in most opinions concerning the level of consultation or involvement of local and regional authorities in the preparation of EU initiatives.

Without actually challenging the compliance of the scrutinised EU initiatives with the subsidiarity principle, opinions recurrently call for more involvement of local and regional authorities in the preparation of new policies and legislation, in the evaluation of their potential impact and in their implementation. Beyond the objective of preventing the infringement of the subsidiarity principle, monitoring subsidiarity would therefore be a way to favour the emergence of elements leading to a better way of producing norms and policies.

In the case of non-legislative documents (e.g. communications and especially forward-looking green papers) in particular, a vast majority of opinions encourage the EU to abide by the subsidiarity principle when translating envisaged actions into legislative proposals and have highlighted the difficulty in assessing the potential impact of measures the contents and legal nature of which are yet to be clearly defined. This tends to show that subsidiarity monitoring does not end with the adoption of opinions, but could open the door to a possible impact assessment.

The obligation that every EU draft legislative act shall contain "*a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality (...)*" is therefore significant for CoR's role as a subsidiarity watch. Furthermore, "*[t]his statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation*". Finally, administrative or financial burden "*falling upon (...) regional or local authorities (...)*"¹⁶ should be taken into account too. The requirement that opinions include such elements necessitates that CoR commission secretariat and rapporteurs have access to new sources of information in order to properly assess an EU legislative or policy initiative in terms of subsidiarity and proportionality.

It was noted by the Bureau in Uppsala¹⁷ that the CoR's comments on subsidiarity and proportionality lacked details and could rarely be backed by substantive data. Progress has been made since, with the development of consultations carried out by the SMN¹⁸, either directly in conjunction with the preparation of a CoR opinion or within the context of an impact assessment carried out by the European Commission. In any case, conclusions of these consultations are being forwarded to the rapporteurs as part of the information material for the drafting of the opinions. Over the observed period, results of eight such consultations have been provided to rapporteurs.

Apart from the analysis of the form and content of subsidiarity assessments included in CoR opinions, a close follow-up of EU initiatives is important. The monitoring of the development of EU initiatives

¹⁶ Art. 5 of the Protocol.

¹⁷ Op. cit. note 1, p. 2.

¹⁸ See parts 3.2.2. and 4.1. of this report.

in general and of the way CoR's positions are taken into account in particular in the next steps of the EU decision-making process are essential: one can imagine the case of a draft legislative act which would be substantially modified after the initial CoR consultation and would eventually raise issues in relation to subsidiarity. A close and proactive follow-up of the legislative process, as required by the Rules of Procedure, would ensure a more thorough subsidiarity monitoring exercise.

Conclusions on the subsidiarity principle in CoR opinions since September 2009

- Assessment of the compliance of EU legislative proposals with the subsidiarity principle is becoming a systematic part of CoR opinions. The subsidiarity, proportionality and "better lawmaking" dimensions are also increasingly taken into account in CoR opinions on EU non-legislative documents.
- No opinion found a direct violation of the subsidiarity principle. One opinion found a potential breach of proportionality in proposals from the European Commission concerning the reinforcement of economic policy coordination¹⁹. Concerns have been expressed in most opinions concerning the consultation or involvement of local and regional authorities in the preparation of EU initiatives.
- The credibility of CoR subsidiarity assessments would be reinforced with more concrete information on the potential impact of proposed measures at local and regional level. This can be improved through consultations of local and regional authorities via CoR networks, starting with the SMN, but also with information provided in EU draft legislative acts in accordance with Article 5 of the Protocol. The CoR also needs to develop the monitoring of subsidiarity in the EU law-making process after opinions are issued.

3.2 The Subsidiarity Monitoring Network

The Subsidiarity Monitoring Network (SMN) was launched in April 2007 as a technical consultative tool supporting the political activities of the CoR. The CoR bureau appointed a coordinator for the SMN in 2010, in the person of the CoR First Vice-President Mr Valcárcel Siso.

3.2.1 Membership

State of play

The membership of the SMN has more than doubled since its launch.

On 31 December 2010, the Network included **113 partners (see Appendix 2)**:

- 27 parliaments or assemblies representing regions with legislative powers;
- 21 governments or executives representing regions with legislative powers;

¹⁹ See above under 3.1.2.b.

- 32 local or regional authorities without legislative powers;
- 26 associations of local/regional authorities;
- In addition to the categories which were redefined by the Bureau in Uppsala in September 2009²⁰, the network's partners also include four CoR national delegations and three national parliaments (see appended list of partners).

Twenty partners have joined since September 2009: 2 regional parliaments (Regional Assemblies of Friuli-Venezia Giulia –IT- and Northern Ireland –UK), 2 regional governments (Murcia –ES- and Abruzzo -IT), 9 local government associations (2 European, 7 national), 6 individual local or regional authorities without legislative powers, and the Austrian Federal Council (*Bundesrat*).

With only one exception (Estonia), the network comprises partners from all EU Member States. New EU Member States though are still under-represented. Local and regional authorities from Spain, Germany, Austria and Italy are the best represented.

A new and swifter admission procedure was adopted by the Bureau in Uppsala. Thus, the CoR President and First Vice-President now jointly decide on applications, which are submitted to them coupled with a technical assessment by the Secretariat, and then inform the applicants by letter as soon as possible about the outcome of their application. The Bureau ratifies the composition of the network on an annual basis.

Evolution and latest enlargements

The CoR Bureau progressively streamlined membership criteria and categories by adopting guidelines on these aspects in Uppsala²¹.

Within these guidelines, a targeted call for applications was launched by the CoR President and First Vice-President in December 2010 towards parliaments and governments of regions with legislative powers, in accordance with the procedure adopted in Uppsala.

At the time of launching the call, 27 regional parliaments were already members of the network and their representative association, CALRE, was a member in its own right (see also point VI.B.).

²⁰ R/CdR 196/2009 item 8b), p.7.

²¹ Op. cit. note 20.

Conclusions on the membership of the SMN

- The new admission procedure set up after the Uppsala Bureau meeting has proved to be very efficient, clear and useful. Application requests can be treated rapidly, which is much appreciated by new applicants.
- The call for applicants launched in December 2010 towards regions with legislative powers is already producing results. At the same time, relations with associations of regional parliaments and governments, CALRE and REGLEG, are also being strengthened.

3.2.2 Activities of the SMN

Targeted Consultations

According to Dunkirk and Uppsala Bureau Decisions, thanks to the SMN, CoR rapporteurs are able to undertake targeted subsidiarity and proportionality consultations, which can be based on a standard Subsidiarity and Proportionality Assessment Grid²² or on tailored questionnaires that are submitted to relevant partners in the network. It should be noted here that the grid is available to SMN partners and more broadly to the public at large through the SMN website. This tool, which has recently been adapted to new provisions of the Lisbon Treaty, has proved very useful and had inspired the European Commission for its guidelines for impact assessment adopted in January 2009²³.

Drawing on the consultations' findings, a brief summary report is forwarded to rapporteurs before they submit their draft opinion. Rapporteurs may agree to publish the report on the network website and the CoR TOAD portal, and for it to be distributed to the members of the relevant CoR commission at the appropriate meeting. So far rapporteurs have consistently agreed to the reports being distributed in this way.

Since September 2009, six targeted consultations have been organised, receiving a total of 46 contributions. The first one focused on the EU Strategy for Youth²⁴, a dossier for which CoR member Anton Rombouts (EPP/NL) was the rapporteur. A targeted consultation on the European Commission Communication on an *Action Plan for Urban Mobility*²⁵, for which CoR member Sir Albert Bore was the rapporteur, was launched at the end of 2009.

An SMN consultation on the *implementation and effectiveness of the EIA and SEA Directives*²⁶, for which CoR member Mr Macario Correia (PT/EPP) was the rapporteur, was carried out between November 2009 and January 2010. As a follow up to this exercise and in line with its collaboration

²² See above part 3.1.1.

²³ See SEC(2009) 92 of 15.1.2009, quoted in the Report of the Commission on Subsidiarity and Proportionality (16th Report "Better Lawmaking"2008), COM(2009) 504 final.

²⁴ COM(2009) 200

²⁵ COM(2009) 490

²⁶ COM(2009) 378 and COM(2009) 469. EIA: Environmental Impact Assessment. SEA: Strategic Environmental Assessment

with the European Commission, the SMN announced on its website in July 2010 the launching of a Commission stakeholder consultation on the revision of the EIA Directive.

In July 2010, Mr Adam Banaszak (PL/EA) decided to consult the SMN on a CoR own initiative opinion on the *Role of local and regional authorities in the implementation of the Health Strategy 2008-2013*²⁷ for which he had been appointed CoR rapporteur.

The targeted consultation on the *Reinforcement of Economic Policy Coordination*²⁸ was submitted to the SMN by Mr Konstantinos Tatsis (EL/EPP) and in December 2010 a targeted consultation on Road Safety²⁹, for which CoR member Johan Sauwens (BE/EPP) was the rapporteur, was launched.

According to the experience, targeted consultations face two major constraints to collect more contributions: the short delays to receive contributions from SMN partners and the lack of a working programme of the Network allowing SMN partners to foresee which consultations will take place during the year. Once a CoR rapporteur is nominated, he or she is offered the possibility to submit a consultation to the SMN. The report of the consultation has to be ready one week before the rapporteur submits his/her first working document to the competent Commission. This way, many SMN partners are not able to send their contributions in due time. Less tight deadlines could certainly help increasing the number of contributions received.

On the other hand, consultations are announced only when the competent rapporteur has given his/her agreement, that is few days before they are launched. This prevents preparedness from SMN partners and proper publicity for the consultations.

These two major constraints could be overcome with the establishment of a work programme for the SMN and the extension of the deadlines for receiving contributions from 8 to 12 weeks. These considerations need, however, to be balanced against the need to ensure that the result of SMN consultations can feed into the work of the CoR rapporteurs in good time.

Open contributions (open consultations)

Network partners have also submitted their opinions on subsidiarity and proportionality through open contributions. All contributions received are uploaded onto the SMN website and sent to the relevant CoR commission secretariat.

In this context the CoR's own-initiative opinion on Combating Functional Illiteracy, for which Ms Lacombe (FR/PES) was the rapporteur, received three contributions from network partners.

It should be stressed, that a greater interest in open consultations has been detected after the entry into force of the Lisbon Treaty. In fact, some Network Partners have increased their activity regarding the

²⁷ COM(2007) 630

²⁸ COM(2010) 250 and COM(2010) 367

²⁹ COM(2010) 389 The report on this consultation exercise is available on the Subsidiarity Monitoring Network website

subsidiarity analysis, especially national and regional parliaments in the context of the Early Warning System, and have found out also that the SMN can act as a perfect channel to give publicity to their subsidiarity analysis. The SMN received a total of 20 open contributions commenting 16 EU initiatives.

Conclusions on targeted and open consultations

- Targeted consultations are an excellent means for CoR rapporteurs to gain direct access to quantitative and qualitative data from network partners, enabling them to assess the compliance of a given EU initiative with the principles of subsidiarity and proportionality.
- In order to improve participation in the consultations, a work programme for the SMN is presented to the CoR Bureau in March 2011. It identifies a range of dossiers potentially interesting from a subsidiarity point of view that thus could be object of consultations during the year.

4. THE CoR MAINSTREAMING A SUBSIDIARITY CULTURE IN THE PRE-LEGISLATIVE PROCESS

4.1 Territorial Impact Assessments (TIA)

Impact Assessments (IA) are a crucial tool for better regulation and the CoR's involvement will contribute significantly to the achievement of a clearer and more effective regulatory environment, through the added value of specific local and regional points of view. This added value has been acknowledged as a priority in the *Agreement governing cooperation between the European Commission and the Committee of the Regions*³⁰, which explicitly mentions the participation of the CoR in IA exercises carried out by the Commission.

Following the Dunkirk Bureau decision, the CoR intends to carry out TIA exercises "*on specific dossiers, which will be identified as provided for under point 8 of the Cooperation agreement between the European Commission and the CoR*".³¹ As such, CoR's contributions to specific TIAs reflect a technical input from the local and regional stakeholders' point of view, and can constitute a valuable source of information for CoR members as well as for all stakeholders.

Thanks to their participation in the SMN, LRA are able to express their views on future EU initiatives before the legislative process starts. This mechanism helps to avoid conflicts regarding compliance with the subsidiarity principle at a very early stage in the pre-legislative process.

In 2009, the CoR and the European Commission launched their cooperation on IA. As a first step a pilot test was carried out in March 2009 in connection with a *Commission initiative on the reduction*

³⁰ R/CdR 86/2007 item 3 a).

³¹ op. cit. Note 8.

of health inequalities³².

A second pilot test was launched concerning a future *Directive on the quality of water intended for human consumption replacing council directive 98/83/EC* at the end of October 2009.

In 2010, the CoR launched a consultation on the territorial impacts of the EU post 2010 Biodiversity Strategy. The consultation was conducted through the following CoR platforms: the SMN, the EU2020 Platform and the EGTC Expert Group. All contributions received together with a report on the consultation were sent to the European Commission on 10 November 2010³³.

These exercises have proved to be useful because they have raised awareness among EC officials of the need and importance of taking into account the local and regional perspective in their analyses. The Secretary General of the European Commission, Ms Catherine Day, sent a letter to all Directors General encouraging them to contact the Committee of the Regions and stating "*that in both cases the services found that cooperation with the Committee was effective and the outcome useful*"³⁴.

Conclusions on Territorial Impact Assessments

- Impact Assessment Consultations are an excellent means for LRA to have their opinions taken into account by the European Commission already during the pre-legislative phase.
- The CoR via its Networks is contributing to the dissemination of a subsidiarity culture in the pre-legislative phase through territorial impact assessments. With the enlargement of the SMN consultation base, the CoR will reinforce its credibility and can become a privileged partner for the relation between the European Commission and LRA in this pre-legislative phase.

4.2 The Action Plan of the Subsidiarity Monitoring Network

As a follow-up to the 4th Subsidiarity Conference held in Milan in May 2009, the CoR President and First Vice-President invited network partners to participate in the first SMN Action Plan³⁵.

As reported by the President and First Vice-President to the Bureau in September 2009³⁶ in Uppsala, the aim of the Action Plan is to identify experiences and best practices in the application of the subsidiarity principle in Europe's regions and cities. It complements the SMN's activities and analyses a range of EU policy domains in the light of subsidiarity.

³² Communication on Solidarity in health: Reducing Health inequalities in the EU, a joint DG SANCO and DG EMPL initiative [2009/SANCO+/031].

³³ "Analysis responses of CoR survey – Assessment of Territorial Impacts of the EU Post-2010 Biodiversity Strategy"
http://portal.cor.europa.eu/subsidiarity/SiteCollectionDocuments/order%203075_biodiversity%20survey_FINAL_with%20changes.pdf

³⁴ Letter dated 8 March 2010 (SG C2 AK/lb)

³⁵ Letter dated 29 June 2009, PCab/EG/JB/ff/D/1808/2009

³⁶ Op. cit. note 20, pp. 9-10.

The added value provided by the Action Plan was highlighted by the Uppsala Bureau Decision: "(...) *the voluntary grouping together of partners with similar interests can help create an easily identifiable specialised consultation base, which would be easier to use when launching a particular network activity*"³⁷.

In line with the announcement made by the Uppsala Bureau, the Action Plan has been divided into pillars corresponding to policy areas where the application of the subsidiarity principle is perceived as being especially relevant and where examples of best practices exist at the level of local and regional authorities. The policy fields chosen for the first edition of the Action Plan are as follows: integration of immigrants; fighting climate change; social policies and rights; health policy and innovation. Within each policy area, the corresponding working groups have selected specific subject matters to work on.

The reports of the working groups will contain analyses of the way competences are shared between the different levels in the respective policy field, best practices at local and regional level providing a practical and concrete vision of the application of the subsidiarity principle, conclusions and policy suggestions, particularly concerning the sharing of competences in the policy area concerned. Each report has a section dedicated to the subsidiarity principle, in which the members of the working groups have included their views and reflections on subsidiarity within the specific subject matter.

A first working group, led by the Regional Government of the Basque Country focused on "*social innovation*". Other members of this working group were the Wielkopolska Region, Flanders and the Veneto Region. Two members of this working group (Wielkopolska Region and Basque Government) also participated in the Thematic Subsidiarity Workshop organised during the Open Days³⁸.

The second group, led by the Regional Government of Vorarlberg worked on "*involving the public in sustainable energy solutions*". The other members of this working group are the following SMN partners: the Basque Regional Government, the City of Gothenburg, the Municipality of Erlangen and Network Stad Twente, represented by the Municipality of Hengelo.

The third working group was set up on "*integration of immigrants in urban areas*" and was led by the Catalan Parliament. Other members of this working group were the Finnish Association of Local Authorities, the German Association of Towns and Municipalities and the Municipality of Patras. The Swedish Association of Local Authorities and Regions (SALAR) and the Union of Italian Provinces also expressed interest in this group and followed its work without having the possibility, resource-wise, to actively participate. Given the possibility of linking the work of this working group with the consultative activity of the CoR and the impact assessment exercise foreseen by the European Commission for 2011 in this subject matter, there is a possibility that the group may continue working on this theme also in 2011.

³⁷ Op cit. note 20.

³⁸ See also Part. 5.2.

A fourth working group of the Action Plan has been led by Lombardy Region and has focused on "*health inequalities*". The Valencia Region, the Finnish Association of Local Authorities and the Swedish Region of Västmanland were the members of this working group. Health Inequalities have been a subject matter on which the CoR has worked from several approaches³⁹.

The fifth working group has focused on "*fight against poverty*", and has been led by Arco Latino. The other members of this working group were: the Wielkopolska and Veneto Regions and the Union of Cyprus Municipalities. The European year of fight against poverty has provided an excellent scenario to the working group on social policies and rights to focus on this subject matter.

The results of the working groups will be presented during the forthcoming Subsidiarity Conference on next 21 March 2011. This conference is to gather all participants in the Action Plan and to serve as an occasion to present the results of their work as it was suggested after the last Subsidiarity Conference in Milan.

Conclusions on the SMN Action Plan

- The first Action Plan of the SMN has been implemented and results will be presented during the forthcoming Subsidiarity Conference
- The Action Plan has responded to the goals set out in the Uppsala Bureau decision:
 - By creating a pool of expertise within the network that can be drawn upon for specialised consultations relating to the network's activities.
 - By providing concrete examples of the application of the subsidiarity principle within various policy areas, the Action Plan can be used as an additional source of information and ideas which can be used to back up CoR opinions and fed into Thematic Subsidiarity Workshops.
- The second edition of the SMN Action Plan will be announced during the forthcoming Subsidiarity Conference.

4.3 Relations with regional Parliaments in the context of the Early Warning System

The Early Warning System (EWS)⁴⁰ has been put in place by the Treaty of Lisbon and involves national Parliaments for the first time in the EU legislative process insofar as they can issue reasoned opinions concerning the non-compliance of an EU draft legislative act with the subsidiarity principle. In this framework, "*it will be for each national Parliament or each chamber of national Parliament to consult, where appropriate, regional parliaments with legislative powers.*"⁴¹

³⁹ First, the CoR participated in the assessment of territorial impacts of an EC initiative on Health Inequalities. A final report on this consultation was sent to the European Commission in May 2009. After the European Commission issued its proposal in this policy field, in October 2009³⁹, the CoR issued an opinion on this dossier, for which Mr Dave Wilcox (UK/PES) was rapporteur.

⁴⁰ See also next point.

⁴¹ Art. 6 of the Protocol.

This possible involvement in the EWS is a matter of concern for several regional Parliaments with legislative powers which are exploring ways to adapt their structures in order to take full advantage of their new prerogatives regarding subsidiarity. In this context, representatives of several regional Parliaments which are members of the SMN have sought guidance and advice on how to adapt their internal structures and draw up their subsidiarity analysis on time.

Within the framework of the CoR CIVEX Commission's activities, it was decided that a study on the role of regional Parliaments within the EWS should be launched. Specifically, representatives of the Assembly of Wales, the Assembly of Extremadura and the Bavarian State Parliament had expressed interest in the findings of the study and the activities of the SMN in this area. The aim of this study, carried out by the European Institute for Public Administration (EIPA, Barcelona) is to provide background information for the partners of the SMN and all other regional Parliaments with legislative powers on what their role can be within the context of the new EWS as well as analysing how the SMN could optimize its functionality for its members which are concerned by this mechanism. The study contains a full description of the mechanisms set up at national and regional levels in the eight Member States having regional Parliaments with legislative powers (AT, BE, DE, ES, FI, IT, PT, UK) as well as the description of information channels and coordination mechanisms between these levels and EU institutions. It also gathers already existing best practices in this field.

The findings of the study, to be presented during the Fifth Subsidiarity Conference, will contribute to adjustments of the structure and functioning of the SMN.

As a further response to the results of the study, it could be envisaged to create a specific database for regional Parliaments in the context of the EWS within the SMN website in the near future ("REGPEX"). Such a database could act as the equivalent of the IPEX website used by national Parliaments to exchange information on EU initiatives, including subsidiarity issues.

Conclusions on relations with regional parliaments

- Some regional Parliaments which legislative powers which are partners of the SMN have expressed their wish to have more guidance from the SMN regarding the subsidiarity checks to be performed under the EWS.
- A tailored database for regional Parliaments, REGPEX, could be operative in the near future. This database would facilitate the exchange of information and the communication between regional Parliaments in the context of the EWS.
- The new work programme of the SMN will identify a number of dossiers which could be the object of a subsidiarity check under the EWS. Test exercises on the identified dossiers could be launched by the SMN.
- In the framework of the EWS, relations with CALRE and its members are being strengthened.

4.4 Relations with National Parliaments

The role of national Parliaments in subsidiarity monitoring has been enshrined in the Lisbon Treaty. In concrete terms, the new EWS places national parliaments at the forefront of the process for assessing compliance of draft EU legislation with the subsidiarity principle.

The above-mentioned study on the role of regional parliaments within the EWS includes a whole section dedicated to national Parliaments and their relations with regional Parliaments in the context of the EWS. According to results of the study, regular contacts and exchanges of information with a number of national Parliaments have been established and will continue.

Conclusions on relations with national parliaments

- National parliaments are at the forefront of the process of subsidiarity monitoring in the context of the EWS
- The identification of National Parliaments' procedures of consultation with regional Parliaments in the framework of the EWS is a priority for the SMN

4.5 Relations with EU Institutions

4.5.1 European Commission

The European Commission has routinely referred to CoR's subsidiarity monitoring activities in its annual reports on Better Lawmaking and the application of the subsidiarity and proportionality principles.⁴² From the 14th report on Better Lawmaking⁴³ onwards, the Commission has referred directly to the activities of the CoR SMN along with the subsidiarity-related activities of other players, such as national Parliaments.⁴⁴

On 5 May 2010, the CoR sent its contribution to the European Commission which was used for the Commission's report on subsidiarity and proportionality for 2009⁴⁵. The contribution takes account of all the activities carried out by the SMN in 2009 as well as the most relevant activities relating to subsidiarity monitoring within the CoR.

Furthermore, since 2009 the network has participated in three IA exercises carried out by the European Commission⁴⁶.

⁴² Reports pursuant to Art. 9 of the Protocol.

⁴³ COM(2007) 286 fin.

⁴⁴ See for example 15th report on Better Lawmaking, COM(2008) 586 final.

⁴⁵ COM(2010) 547 final, Report from the Commission on Subsidiarity and Proportionality (17th Report on Better Lawmaking covering the year 2009).

⁴⁶ See part 4. 1.

As foreseen by their Cooperation Agreement⁴⁷, the CoR regularly supports, through its SMN, the activity of the European Commission during the pre-legislative phase. In concrete, the SMN has collaborated with the Commission in announcing public consultations and redirecting them towards LRA. This collaboration has already received a positive feedback and is very likely to grow in intensity in the future.

Conclusions on relations with the European Commission

- The cooperation with the European Commission through the CoR's participation in IA exercises is to be further developed and improved, according to the Cooperation Agreement, including for the CoR's contribution to the Commission's annual report on Better Lawmaking.

4.5.2 European Parliament

Following the entry into force of the Lisbon Treaty, the European Parliament adapted its rules of procedure so that it can now take CoR opinions that oppose EU draft legislative acts on the grounds of infringement of the principle of subsidiarity into account.⁴⁸ Under the said rule, such opinions will be referred to the relevant parliamentary committees and may be used as the basis for recommendations to be put to the vote prior to the completion of the first reading.

Following the introduction of the above-mentioned changes, the subsidiarity references contained in CoR opinions shall take into account the fact that they will be examined and further scrutinized by the European Parliament. The CoR will also follow-up and examine the European Parliament's subsidiarity monitoring⁴⁹.

The extension of the co-decision procedure under the Treaty of Lisbon has increased the number of cases in which the European Parliament co-legislates. In this scenario, it is important for the Parliament to identify accurately the existing distribution of competences in the Member States for a given policy domain. The CoR could explore, together with the European Parliament, the possibility to request that the European Commission identifies which dossiers are likely to affect local and/or regional competences already at the IA stage.

Speakers from the European Parliament have been regularly invited to the subsidiarity events organised by the CoR and its SMN. This will be the case also for the Subsidiarity Conference 2011, in an attempt to strengthen contacts and fully inform the Parliament of the activities carried out by the

⁴⁷ R/CdR 86/2007 item 3a.

⁴⁸ New Rule 36a, as set out in the European Parliament report on the adaptation of the Rules of Procedure to the Treaty of Lisbon, adopted by the Committee on Constitutional Affairs on 27 April 2009, Amendment 4 to the European Parliament Rules of Procedure, rapporteur: Mr Richard Corbett (PES/UK), A6-0277/2009.

⁴⁹ A letter from the CoR's Secretary General to European Parliament's Secretary General (11 October 2010) suggested the following: a) The association of the CoR to the revision of the interinstitutional agreement regarding IAs; b) A closer cooperation between the CoR and the European Parliament to deepen territorial aspects of European Commission's IA; c) A cooperation during the post-legislative phase, for an *ex post* evaluation of the implementation of EU legislation by LRA.

CoR in the field of subsidiarity monitoring.

Conclusion on relations with the European Parliament

- Contacts and cooperation with the European Parliament are to be pursued in the future, with special regard to IA during the pre-legislative phase and to subsidiarity monitoring
- Further cooperation with the European Parliament could be explored regarding the implementation of EU legislation and ex-post evaluation
- The participation of the European Parliament in the Subsidiarity Conference 2011 will foster the cooperation with the CoR in the field of subsidiarity monitoring.

5. COMMUNICATION AND EVENTS

5.1 SMN Website

The Bureau reaffirmed in Uppsala, that "rolling out the new Subsidiarity Monitoring Network website is a priority for the Committee of the Regions"⁵⁰. Indeed, the SMN website is the network's main tool. SMN activities essentially take place via electronic communications and the Internet – consultations, publication and exchange of documents, particularly within the working groups of the Action Plan.

The SMN's new website was launched in December 2010. It will reinforce the visibility of the network and its activities, both within the CoR and beyond, vis-à-vis EU institutions and local and regional authorities.

This makeover was also a good opportunity to update the website with the latest web management tools⁵¹.

The development of the SMN website continues and a number of new functions are to be developed in 2011:

- A dedicated section (REGPEX⁵²) to regions with legislative powers will allow regional parliaments to upload their subsidiarity analyses, in particular within the Early Warning procedure, to exchange with their counterparts in other Member States, and to be abreast of

⁵⁰ Op. cit. note20, p. 11.

⁵¹ The website is now based on a web 2.0 technology (Sharepoint), which means that interactivity is much easier for SMN partners. The new website includes the following functions: a) Call for new membership via an "online form" on the SMN website; b) After being admitted, new partners receive a personal login and password enabling them to access the SMN website, including the tool kit (with access to the updated subsidiarity and proportionality grid that reflect changes introduced by the Lisbon Treaty), and all information available on the platform; c) Search functions are improved, allowing to get to documents published by the European Commission, to follow the legislative process (link to PRELEX and to the European Parliament OEIL database) and consult the status of related consultations within the SMN;

Members are able to subscribe to RSS feeds and stay abreast of the latest news, events, impact assessments, consultations, etc.

⁵² See above, part 4. 3. of this report.

developments within national parliaments through a link to IPEX, the database used by national parliaments to exchange information on EU documents;

- Profiles of SMN partners will be developed, with links to their own websites;
- Special fora on thematic issues, for instance to allow the working groups of the Action Plan to exchange directly within dedicated sections with restricted access.

Besides the SMN website, it is important that SMN activities be integrated into the CoR's wider communication tools and drives, since the SMN is a part of CoR's consultative work. Invitations to participate in consultations are to be disseminated through all available communication tools. Events such as conferences, workshops within the Open Days, meetings of SMN partners with associations, regional offices etc. are also to be used to promote SMN activities.

Conclusions on the new SMN Website

- The new SMN website is now operational and should facilitate further quantitative (more partners) and qualitative (more participation and interaction among the partners) participation in the Network.
- The SMN website will continue to refine tools offered to SMN partners, in order to optimise the possibilities offered by the Lisbon Treaty in terms of subsidiarity monitoring.
- The SMN and its consultations should systematically form part of the general CoR communication strategy, just like they integrate in the drafting process of the opinions.

5.2 Thematic Subsidiarity Workshops

In line with the Uppsala Bureau Decision⁵³, Thematic Subsidiarity Workshops (TSW) involving network partners are regularly organised. The topics discussed relate to the priorities of the EU legislative agenda and are specially linked with the activities of the Network.

The purpose of TSWs is to direct the subsidiarity debate towards practical issues in policy making within specific sectors, i.e. policy domains where decisions are mostly made at the local, regional or national levels. The TSW encourage a dialogue between the relevant players (EU Institutions, local and regional authorities represented in the SMN, think tanks, etc.) focusing on one or more EU initiatives.

In October 2009, a TSW was organised during the Open Days. The workshop focused on innovation and subsidiarity and was a success both in terms of participation and the interest shown by network partners and the general public. SMN partners had the opportunity to meet representatives from the European Commission and European Parliament and discuss about subsidiarity in the field of innovation and research.

⁵³ Op. cit. note 20.

Another TSW was held during the Open Days in October 2010. This workshop focused on social innovation and in particular, on how local and regional authorities can provide innovative solutions in order to achieve more social cohesion. In connection with the above-mentioned Action Plan of the SMN, representatives of two working groups took part in the workshop and presented their proposals in the field of "social innovation" and "fight against poverty and social exclusion". This TSW provided an excellent opportunity to put already forward some of the results of the two working groups mentioned and to analyse how the application of the subsidiarity principle can lead to successful projects in those policy fields.

In 2011, a new TSW is to be organised within the context of the Open Days, in relation to the general theme around the Europe 2020 strategy. Since the SMN now has a coordinator at political level, the workshop could involve more politicians and CoR members.

Conclusions on the Thematic Subsidiarity Workshops

- TSW are an important tool to improve the visibility of the SMN and to communicate the concept of subsidiarity to network partners and the general public.
- They have also proved to be a very useful instrument for fostering a culture of subsidiarity among network partners and the EU Institutions.

6. GENERAL CONCLUSIONS

2010 has been the first year of implementation of the new provisions introduced by the Lisbon Treaty. As a consequence of the new legal and institutional framework, the CoR is facing considerable challenges to monitor the application of the principle of subsidiarity throughout the entire policy-making process.

One of the major novelties brought by the Lisbon Treaty, the right for the CoR to bring an action before the CJEU on grounds of subsidiarity has made the Committee one of the points of reference in monitoring the application of the principle of subsidiarity. Therefore the CoR has adapted its rules of procedure accordingly and efforts have been increased to assess compliance with the principle of subsidiarity: the new subsidiarity and proportionality grid is only one example of the improvements made in 2010.

The CoR SMN has also experienced major changes since 1 December 2009. Today, three years after its creation the evolution in the number of SMN partners is clear and all changes introduced by the Bureau in Uppsala seem to be effective, the same applies to the call for applications launched in 2010. The SMN membership is growing steadily, and it should be stressed that a number of governments and Parliaments representing regions with legislative powers became new partners of the SMN. The further enlargement of the Network continues to be one of its priorities for 2011.

During 2010, the SMN has continued to respond to all demands from CoR rapporteurs either in the

form of targeted or open consultations. In 2011, the Network will adopt for the first time a work programme for the year, in order to focus on those dossiers which can be most relevant in terms of subsidiarity and thus to allow Network partners to better prepare their participation in the consultations. The objective of increasing participation in its consultations will be one of the biggest challenges for the SMN in 2011.

2010 has also seen how the Action Plan of the Network has responded to the goals set up by the Bureau in Uppsala⁵⁴: "to create an easily identifiable specialised consultation base, which would be easier to use when launching a particular network activity" through "the voluntary grouping together of partners with similar interests", and also how cooperation with the European Commission continues to grow in the form of CoR's participation in IA exercises. Both activities will continue growing in 2011.

Special attention should be paid to one of the major novelties brought by the Lisbon Treaty: the EWS. According to the new scenario, contacts with regional Parliaments have been strengthened in 2010 and the SMN has started to be a reference for them in this context. This relation is to be further developed in the future and the SMN is offering all its support to its partners concerned by the EWS, notably through the REGPEX database.

In the next future the SMN will direct its efforts towards reinforcing the participation of SMN partners in its consultations, for which the adoption of an annual work programme together with the enlargement of the SMN could be two valuable options.

Another important objective is to clarify the relation with the European Commission both regarding the participation of the CoR in territorial impact assessments, according to what is foreseen in their Cooperation Agreement; and the contributions from the CoR to the Annual report on the application of the subsidiarity and proportionality principles prepared by the European Commission.

The intensification of the relationship between the SMN and the main actors concerned by the Early Warning System is also a point for attention in the future. The SMN could provide regional parliaments with the necessary support that could lead in a second step to an improved coordination of the works of the European affairs committees of the regional parliament, and this at a European level.

Finally, this first Subsidiarity Annual Report shows how seriously the CoR takes its reinforced role concerning subsidiarity. The present report will be sent to all EU institutions and partners of the SMN as an expression of the CoR's commitment to the principle of subsidiarity contributing thus to a more democratic European Union.

⁵⁴ Op cit. note 20.

EUROPEAN UNION



Committee of the Regions

SUBSIDIARITY ANNUAL REPORT 2010

Subsidiarity Annual Report 2010 – Appendix 1

Overview of opinions adopted between 1 September 2009 and 31 December 2010

CoR Commission	Opinions from September 2009 to December 2010			Opinions containing explicit reference to subsidiarity			Opinions containing assessment of compliance with subsidiarity principle			Related SMN Consultation			Opinions on legislative proposals		
	Before 10 Jan 2010*	After 10 Jan 2010*	Total	Before 10 Jan 2010*	After 10 Jan 2010*	Total	Before 10 Jan 2010*	After 10 Jan 2010*	Total	Before 10 Jan 2010*	After 10 Jan 2010*	Total	Before 10 Jan 2010*	After 10 Jan 2010*	Total
CIVEX + ex CONST-IV)	4	10	14	4	4	8	1	0	1	0	0	0	1	1	2
COTER	3	8	11	1	8	9	0	1	1	0	1	1	1	0	1
ECOS	3	9	12	2	5	7	1	1	2	0	1	1	1	1	2
EDUC	2	8	10	1	5	6	0	3	3	0	2	2	0	1	1
ENVE (+ ex DEVE)	4	6	10	4	6	10	1	1	2	0	2	2	1	0	1
NAT (+ ex DEVE)	3	4	7	1	4	5	1	2	3	0	2	2	0	1	1
TOTAL	19	45	64	13	32	45	4	8	12	0	8	8	4	4	8

* Rule 51(2) of the Rules of Procedure of the Committee of the Regions, 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 September 2009 and 31 December 2010

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making
CIVEX	COM (2010) 171	2-Dec-10	Action Plan Stockholm Programme	No	No	No	Yes. Subsidiarity principle invoked for involvement LRAs in Action Plan implementation, for future legislation, including in IA
CIVEX	Own initiative	2-Dec-10	Eastern Partnership - Belarus	No	No	No	No
CIVEX	Own initiative	2-Dec-10	Eastern Partnership - Armenia	No	No	No	No
CIVEX	Own initiative	6-Oct-10	Local & Regional government in Georgia	No	No	No	No
CIVEX	Own initiative	6-Oct-10	Eastern Partnership - Moldova	No	No	No	No
CIVEX		10-Jun-10	Local & Regional Cooperation for Right of the child	No	No	No	Yes. Necessity to respect subsidiarity & proportionality in future action.
CIVEX	COM (2010) 119	10-Jun-10	Citizens' initiative	Yes	No	No. Legislative act = direct implementation of treaty provisions, subsidiarity principle does not apply	Yes. Reminder that EU legislative acts in sectors that do not fall within excl. competence must comply with subsidiarity; initiatives to comply with subsidiarity as condition of admissibility.
CIVEX	COM (2010) 159, 163, 127, 126, 128, SEC(2010) 121 & 265	9-Jun-10	Spring package: Action Plan Millennium Goals	No	No	No	No
CIVEX	COM (2009) 533	9-Jun-10	Enlargement strategy - potential candidate countries	No	No	No	No
CIVEX	COM (2009) 533	14-Apr-10	Enlargement strategy - candidate countries	No	No	No	Yes. Necessity to respect subsidiarity & proportionality in future action.
CIVEX (ex CONST-IV)	COM (2009) 15 & 17 COM (2008) 32 & 33 & 586	3-Dec-09	Better Lawmaking Package 2007-2008	No	No	No	Yes. Opinion where subsidiarity principle is central.

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making
CIVEX (ex CONST-IV)	COM (2009) 135 & 136	3-Dec-09	Combating sexual abuse of children & human trafficking	Yes	No	Yes, although paragraph in the opinion refers more to proportionality	No
CIVEX (ex CONST-IV)	COM (2009) 262 & 263	7-Oct-09	Stockholm Programme	No	No	No	Yes. Necessity to respect subsidiarity & proportionality in future action.
CIVEX (ex CONST-IV)	COM (2008) 360 & 815 & 820 & 66	7-Jul-09	Future common European Asylum System II	No	No	No	Yes. Necessity to respect subsidiarity & proportionality in future action.

COTER

Overview of opinions adopted between 1 September 2009 and 31 December 2010

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
COTER	COM (2010) 110	2-Dec-10	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Cohesion policy: Strategic Report 2010 on the implementation of the programmes 2007-2013	No	No	No	Yes
COTER	Outlook opinion	5-Oct-10	Contribution of cohesion policy to the Europe 2020 strategy	No	No	No	Yes
COTER	Own initiative	5-Oct-10	Own-initiative Opinion of the CoR on "A Strategy for the North Sea-Channel area"	No	No	No	Yes
COTER	Outlook	9-Jun-10	The role of urban regeneration in the future of urban development in Europe	No	No	No	Yes
COTER	COM (2009) 248	15-Apr-10	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the European Union Strategy for the Baltic Sea Region	No	No	No	Yes
COTER	Outlook opinion	15-Apr-10	Outlook opinion on the future of cohesion policy	No	No	No	Yes
COTER	COM (2009) 490	15-Apr-10	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Action Plan on Urban Mobility	No	Yes	Yes	Yes

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
COTER	COM(2009) 295	10-Feb-10	Report from the Commission to the European Parliament and the Council: Sixth progress report on economic and social cohesion	No	No	No	Yes
COTER	COM(2009) 279	4-Dec-09	Commission Communication on a sustainable future for transport: towards an integrated, technology-led and user friendly system	No	No	No	Yes
COTER	COM (2009) 44	7-Oct-09	Green Paper. TEN-T: A policy review. Towards a better integrated trans-European transport network at the service of the common transport policy	No	No	No	No
COTER	COM(2008) 852	7-Oct-09	Proposal for a Regulation of the European Parliament and of the Council concerning a European rail network for competitive freight	Yes	No	No	No

ECOS

Overview of opinions adopted between 1 September 2009 and 31 December 2010

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
ECOS	COM (2010) 133	14-Dec-10	The Social and Economic Integration of the Roma in Europe	No	No	Yes	Yes
ECOS	COM (2010) 250 and 367	7-Dec-10	Reinforcing Economic Policy Coordination	No	Yes	No	Yes
ECOS	COM (2009) 615	20-Oct-10	Developing private public partnerships	No	No	No	Yes
ECOS	Own initiative opinion	20-Oct-10	Combating Homelessness	No	No	No	Yes
ECOS	COM (2009) 614	8-Sep-10	The interconnexion of business registers	No	No	No	Yes
ECOS	COM (2009) 180	22-Apr-10	Opinion Impact on an aging population	No	No	No	No
ECOS	Own initiative opinion	10-Feb-10	Coordinated and sustainable responses to meet the challenges facing the European automotive sector and to strengthen its links to the regions	No	No	No	No
ECOS	Own initiative opinion	10-Feb-10	The future of the Lisbon Strategy post 2010	No	No	No	No
ECOS	COM(2009) 254 final	10-Feb-10	Opinion CoR European Year of Volunteering	Yes	No	No	No
ECOS	COM(2008) 868	3-Dec-09	New skills for new jobs - anticipating and matching labour market and skills needs	No	No	No	No
ECOS	COM (2009) 333	9-Nov-09	Progress microfinance facility	Yes	No	Yes	No
ECOS	Own initiative opinion	7-Oct-09	Priorities for regional and local authorities to prevent violence against women and improve support for victims	No	No	No	Yes

EDUC

Overview of opinions adopted between 1 September 2009 and 31 December 2010

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
EDUC	COM (2010) 245	6-Oct-10	A Digital Agenda for Europe	No	No	Yes	Yes. Explicit mention of necessity to respect subsidiarity & proportionality in future action taken - for conception/implementation/ governance of measure taken
EDUC	COM (2010) 76	9-Jun-10	European Heritage Label	Yes	No	Yes	Yes. On the basis of subsidiarity, call to have LRAs involved in selection of candidate projects for label.
EDUC	COM (2009) 586 & 479	15-Apr-10	Digital dividend/public-private partnership on Future Internet	No	No	No	Yes. On the basis of subsidiarity, call to have LRAs deciding on the use of radio-spectrum sub-band, but also recognition of need for coordination at EU level (for economies of scale for investment & efficient use of the spectrum)
EDUC	COM (2009) 512 & 607	14-Apr-10	Common Strategy for KET	No	No	Yes	No
EDUC	Own-initiative	10-Feb-10	Combating functional illiteracy	No	Yes. Open consultation. 3 contributions. Not explicitly mentioned in the opinion, but used as input with "exchanges with grassroots players"	No	No
EDUC	COM (2009) 278 & 212	10-Feb-10	Internet of Things - Action Plan for Europe, Re-use Public Sector	No	No	No	No

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
			Info				
EDUC	COM (2009) 329	10-Feb-10	Green Paper - promoting learning mobility of young people	No	No	No	No
EDUC	COM (2009) 200	10-Feb-10	EU strategy for youth	No	Yes. Targeted consultation. 5 contributions. Explicitly mentioned in the opinion.	No	Yes. On the basis of subsidiarity, call to have LRAs involved to inspire, stimulate and support new and existing initiatives.
EDUC	Own-initiative	3-Dec-09	Media Literacy and Media Education in EU educational policy	No	No	No	Yes. Explicit mention of necessity to respect subsidiarity & proportionality in future action taken.
EDUC	COM (2009) 116 & 184 & 108	3-Dec-09	ICT infrastructures for e-science & strategy for ICT R&D and innovation	No	No	No	No

ENVE

Overview of opinions adopted between 1 September 2009 and 31 December 2010

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
ENVE	outlook opinion	1-Dec-10	The EU energy action plan for 2011-2020	No	No	No	Future EU initiatives shall respect subsidiarity principle
ENVE	COM (2010) 86	1-Dec-10	International climate policy post-Copenhagen	No	No	No	Future EU initiatives shall respect subsidiarity principle, particularly "advocates close monitoring of the tension between the comprehensive approach of an integrated energy and climate policy and the subsidiarity principle."
ENVE	COM (2009) 433	5-Oct-10	Measuring Progress - GDP and beyond	No		Compliance	No
ENVE	outlook opinion on request of Spanish EU Presidency	5-Oct-10	The role of Local and Regional Authorities in future environmental policy	No	No	No	"Commits to feed grassroots experience from practitioners of local and regional administrations into the drafting of its opinions. This includes targeted consultations of the CoR's specific networks, the CoR's Subsidiarity Monitoring Network and EU2020 Monitoring Platform, as well as organising hearings with local and regional associations"
ENVE	COM (2010)4	10-Jun-10	EU and international biodiversity policy beyond 2010	No	IA Consultation, 09-Sept - 5-Nov-2010, 16 contributions from 10 MS	No	Future EU initiatives shall respect subsidiarity principle

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
ENVE	COM (2009) 378 & 469	15-Apr-10	Improving the EIA and SEA Directives	No	targeted, 24-Nov-2009 - 8-Jan-2010, 6 contributions from 4 MS; opinion does not mention consultation	No	Future EU initiatives shall respect subsidiarity principle
ENVE ex-DEVE	COM (2008) 809 & 810	4-Dec-09	Restriction on the use of hazardous substances in EEE and the treatment of WEEE	Yes	No	Compliance	No
ENVE ex-DEVE	own initiative opinion	4-Dec-09	Forest Policy: The 20/20/20 targets	No	No	No	Future EU initiatives shall respect subsidiarity principle
ENVE ex-DEVE	COM (2009) 147	7-Oct-09	White Paper Adapting to climate change: Towards a European Framework for Action	No	No	No	Future EU initiatives shall respect subsidiarity principle
ENVE ex-DEVE	COM (2009) 82	7-Oct-09	A Community approach on the prevention of natural and man-made disasters	No	No	No	Future EU initiatives shall respect subsidiarity principle

NAT

Overview of opinions adopted between 1 September 2009 and 31 December 2010

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
NAT		2-Dec-10	The role of local and regional authorities in the implementation of the Health Strategy 2008–2013	No	Yes. Targeted consultation, 7 contributions; No explicit mention of the consultation but numerous conclusions have been taken into account	Recall of the principle but no real evaluation	As it is a mid-term evaluation of the strategy, there is an evaluation of LRA's role in its implementation. Important improvements have to be made to better involve LRA
NAT	COM (2009) 466 final	10-Jun-10	Towards an integrated maritime policy for better governance in the Mediterranean	Yes	No	Subsidiarity (explicit mention) and proportionality ok	Important improvements have to be made to better involve LRA
NAT	None	9-Jun-10	The future of CAP after 2013	No	No	No (exclusive competence of the EU)	Reaffirms the subsidiarity principle in its practical meaning of administration which is as close as possible to the citizen. Several recalls to better involve LRA to assure an efficient MLG
NAT	COM (2009) 567 final	14-Apr-10	Solidarity in Health: reducing health inequalities in the EU.	No	Yes Impact assessment. SMN contribution to the impact assessment is not mentioned in the opinion	Subsidiarity (explicit mention) and proportionality ok	Claim for a greater involvement of LRA in the policy making phase
NAT	COM(2009) 162 final and COM(2009) 163 final	4-Dec-09	Green Paper – Reform of the Common Fisheries Policy and Building a sustainable future for aquaculture	No	No	No	No

CoR Commission	Opinion Reference #	Date	Title	Legislative Proposal?	SMN Consultation	Assessment of compliance with Subsidiarity Principle in the opinion?	Other mention of subsidiarity / proportionality / better law making?
NAT	COM(2009) 128 final	7-Oct-09	A simplified CAP for Europe - a success for all	No	No	No	Draws attention to the importance of better consultations with local and regional authorities and the need to include the CAP in the process of multi-level governance
NAT ex-DEVE	COM(2008) 662 final COM(2008) 663 final COM(2008) 664 final COM(2008) 665 final COM(2008) 666 final COM(2008) 668 final	7-Oct-09	Opinion of the CoR on the pharmaceutical package	No	No	Yes	The proposed directive is of direct relevance to local and regional authorities in that in many Member States they are responsible for health and healthcare services. The Commission proposal does not consider the local and regional role in this regard. The principle of subsidiarity should be preserved. Important improvements have to be made to better involve LRA

EUROPEAN UNION



Committee of the Regions

SUBSIDIARITY ANNUAL REPORT 2010

Subsidiarity Annual Report 2010 - Appendix 2

List of partners The CoR Subsidiarity Monitoring Network As per 31 December 2010

Parliaments or assemblies representing regions with legislative powers

Lower Austria State Parliament	Austria
State Parliament of Burgenland	Austria
State Parliament of Carinthia	Austria
State Parliament of Vorarlberg	Austria
Flemish Parliament	Belgium
Walloon Parliament	Belgium
Parliament of the Brussels-Capital Region	Belgium
Parliament of the French Community	Belgium
Åland Parliament	Finland
Bavarian State Parliament	Germany
State Parliament of Baden-Württemberg	Germany
State Parliament of North Rhine-Westphalia	Germany
State Parliament of Lower Saxony	Germany
State Parliament of Schleswig-Holstein	Germany
Legislative Assembly of the Region of Emilia Romagna	Italy
Legislative Assembly of the Region of the Marches	Italy
Legislative Assembly of the Region of Sardinia	Italy
Legislative Assembly of the Region of Tuscany	Italy
Regional Assembly of Friuli – Venezia Giulia	Italy
Regional Assembly of Abruzzo	Italy
Legislative Assembly of the Autonomous Region of Madeira	Portugal
Legislative Assembly of the Principality of Asturias	Spain
Basque Autonomous Parliament	Spain
Parliament of Catalonia	Spain
Assembly of Extremadura	Spain
National Assembly for Wales	United Kingdom
Northern Ireland Assembly (NIA)	United Kingdom

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

Austrian State Governors' Conference	Austria
State Government Lower Austria	Austria
Magistrate of the City of Vienna	Austria
State Government Vorarlberg	Austria
Government of Flanders	Belgium
Bavarian State Government	Germany
Government of the State of Hesse	Germany
Government of the State of Lower Saxony	Germany
Government of the State of Saxony	Germany
Government of the Region of Abruzzo	Italy
Government of the Autonomous Province of Bozen – South Tyrol	Italy
Government of the Region Lombardia	Italy
Government of the Region of Piemonte	Italy
Government of the Region Veneto	Italy
Regional Government of the Azores	Portugal
Basque Government	Spain
Government of the Canary Islands	Spain
Xunta of the Autonomous Community of Galicia	Spain
Regional Government of the Community of Madrid	Spain
Regional Government of the Community of Valencia	Spain
Region of Murcia	Spain

Local or regional authorities without legislative powers

City of Sofia	Bulgaria
City of Zlín	Czech Republic
Regional Council of Auvergne	France
Urban Community of Dunkirk	France
General Council of Eure	France
City of Augsburg	Germany
Municipality of Erlangen	Germany
Municipality of Patras	Greece
City of Budapest	Hungary
Province of Alessandria	Italy
Radviliskis District Municipality	Lithuania
Government of the Province of Flevoland	Netherlands
Network City of Twente – Comprising of the municipalities of Almelo, Borne, Hengelo, Enschede and Oldenzaal	Netherlands

Province of Overijssel	Netherlands
City of Lodz	Poland
Marshal of the Lodzkie Region	Poland
Marshal of the Masovian Region	Poland
Marshal of the Wielkopolska Region	Poland
Regional Parliament of Pomerania	Poland
Silesian Region Government	Poland
City of Hunedoara	Romania
City of Tavira	Portugal
Galati County Council	Romania
Government of the Autonomous Region of Košice	Slovakia
Nitra Self Governing Region	Slovakia
City of Izola	Slovenia
Diputacio of Barcelona	Spain
Autonomous City of Ceuta	Spain
City of Madrid	Spain
City of Gothenborg	Sweden
County of Västra Götaland	Sweden
Government of the Region of Skåne	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
Union of Cyprus Municipalities	Cyprus
Danish Regions	Denmark
Local Government Denmark	Denmark
Association of Finnish Local and Regional Authorities	Finland
French Regions Association	France
Association of Mayors and Elected Representatives of Lozère	France
German Association of Towns and Municipalities	Germany
German County Association	Germany
Association of Prefectoral Authorities of Greece	Greece
AICCRE – Italian Section of the Council of European Municipalities and Regions	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	Netherlands
Association of Romanian Municipalities	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	Sweden
Convention of Scottish Local Authorities (COSLA)	United Kingdom

CoR national delegations

Irish Delegation to the CoR	Ireland
Luxembourg Delegation to the CoR	Luxembourg
Maltese Delegation to the CoR	Malta
United Kingdom Delegation to the CoR	United Kingdom

National Parliaments

Austrian Federal Council (Bundesrat)	Austria
French Senate	France
Hellenic Parliament	Greece