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137th MEETING OF THE COMMITTEE OF THE REGIONS BUREAU

– 2 MAY 2012 –

ITEM 7A) rev. 1

**SUBSIDIARITY MONITORING:
A REVISED STRATEGY FOR THE COMMITTEE OF THE REGIONS**

Submitted by the secretary-general

FOR DECISION

MEMO FOR CoR BUREAU MEMBERS

137th MEETING OF THE COMMITTEE OF THE REGIONS BUREAU

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Committee of the Regions**

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Introduction

The subsidiarity principle is one of the key pillars of the European Union (EU)'s legal and political architecture, regulating the exercise of non-exclusive EU competences in a system of multilevel governance involving the EU as well as the central, regional and local levels of Member States. This principle is designed to ensure that decisions within the EU are taken by the most appropriate level where the intended objective(s) can be most effectively achieved.

The documents adopted by the Bureau in Dunkirk in 2008¹ and Uppsala in 2009² reaffirmed the Committee of the Regions' (CoR's) commitment to mainstream subsidiarity within the EU decision making process and drew up the main lines for the further development and functioning of its Subsidiarity Monitoring Network. At present, more than two years after the entry into force of the Lisbon Treaty, the scenario has evolved. The article of the Treaty referring to the subsidiarity principle contains explicitly the local and regional dimensions³ and thus underlines the necessity to respect the local and regional authorities' competences within the EU.

Furthermore, the CoR is vested with the right to bring an action before the Court of Justice of the EU on grounds of subsidiarity⁴ and new actors (national and regional Parliaments involved in the Early Warning System⁵) are concerned by subsidiarity monitoring. Regional and local authorities throughout the EU are thus directly affected by the application of the subsidiarity principle and the Committee of the Regions (CoR) has the obligation to play an active role in guaranteeing the respect of this principle in EU legislation.

In an evolving phase and after a first period where its procedures and internal rules have been modified, the Committee is called now to further update its working methods concerning subsidiarity monitoring in order to improve the overall efficiency.

The present document intends to design a strategy for the CoR's subsidiarity monitoring activities⁶.

1 R/CdR 229/2008 item 8a).

2 R/CdR 196/2009 item 8a).

3 See Article 5 (3) of the Treaty on European Union (TEU); point 1 of this document.

4 Art. 8 of Protocol No 2 on the application of the principles of subsidiarity and proportionality, hereafter referred to as Protocol No 2.

5 Art. 6 and 7 of Protocol No 2; see also point 1.

6 On 14 February 2012, the Conference of Presidents adopted a reflection paper which resulted from meetings of the CoR inter-service group on Subsidiarity during the second half of 2011.

The overall objective of this strategy is for the CoR to become the point of reference in terms of subsidiarity within the EU, able to provide quality subsidiarity analyses mainly in its opinions, hence its input in the subsidiarity debate.

Particularly, it aims at

- establishing a comprehensive approach for monitoring subsidiarity during the whole EU decision-making process,
- reinforcing the governance structure of CoR's subsidiarity monitoring,
- involving relevant institutions in these activities and consolidating the CoR's readiness regarding a potential action before the Court of Justice.

Such a strategy has also to be seen in the wider context of multi-level governance. The subsidiarity strategy should be linked to the overall political governance and the Strategic Planning within the CoR including its political agenda set through resolutions and annual work programmes.

After recalling the subsidiarity principle as laid down in the Lisbon Treaty (1) and presenting the general approach for subsidiarity monitoring within the CoR (2), this document reviews the CoR's main tool, the Subsidiarity Monitoring Network (3) and describes the CoR's relations with other institutions (4). Finally, it highlights the importance of the CoR's Subsidiarity Conference (*Assises*, point 5).

The new elements of the revised strategy are indicated in bold.

1. The subsidiarity principle in the Lisbon Treaty

The subsidiarity principle as laid down in the Lisbon Treaty is the yardstick for assessing any possible violation invoked as the basis for any action brought before the Court of Justice:

Article 5(3) of the Treaty on European Union

Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The EU therefore must not intervene in any area of shared competence unless such action is deemed necessary and presents a clear added value.

CoR members have a tool to assist them in meeting their responsibility of assessing EU initiatives in the relevant policy field in the light of the conditions laid down by the Treaty, namely a Subsidiarity and Proportionality Assessment Grid⁷. The grid was developed and refined since 2007 by the CoR

⁷ Available at www.cor.europa.eu/subsidiarity, under "Subsidiarity Toolkit".

administration and recognised by, among others, the departments of the European Commission and used by a number of institutional partners.

This grid is not limited to subsidiarity⁸, but stresses also the necessity to define the type of competence and the legal basis of EU action at the outset of a subsidiarity analysis and highlights the link to the proportionality principle⁹ as well as the importance of taking into account elements related to "better lawmaking" when assessing EU initiatives.

In addition to the prerogatives conferred upon the CoR in the Lisbon Treaty, the role of national Parliaments in safeguarding the subsidiarity principle is strengthened through the Early Warning System. Protocol No 2 annexed to the Treaty allows national Parliaments to object to an EU draft legislative act within eight weeks of its publication on the grounds that it breaches the principle of subsidiarity. Furthermore, *"It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional Parliaments with legislative powers"*.¹⁰ This clause has allowed the national Parliaments in the eight Member States concerned¹¹ to associate their regional Parliaments in the Early Warning System.

Even if the CoR has no formal role to play in this framework, it is in its interest and part of its responsibility to support regional parliaments in this process and to facilitate cooperation between assemblies of different Member States.

2. Subsidiarity Monitoring within the CoR

2.1 Political governance

Monitoring and ensuring compliance of EU proposals with the subsidiarity principle remain one of the main political endeavours and institutional commitments of the CoR after the entry into force of the Lisbon Treaty. Since then, the CoR has adapted its internal procedures to fulfil its new tasks in an efficient and comprehensive way, particularly with regard to its role in the legislative process.

In order to ensure coordination between administrative activities in the field of subsidiarity monitoring and the political activity of the CoR, each political group shall be called to appoint a subsidiarity coordinator who, together with the political coordinator of the SMN, will constitute the Subsidiarity Steering Group.

The Subsidiarity Steering Group should ensure proper coordination and political follow-up of subsidiarity monitoring activities throughout the year. In particular, it should submit the

⁸ Supposed to provide an answer to the question "Should the EU act?"

⁹ Supposed to provide an answer to the question "How should the EU act?" and to be applied also in the case of exclusive EU competences.

¹⁰ Art. 6 of Protocol No 2.

¹¹ Austria, Belgium, Germany, Finland, Italy, Portugal, Spain, the United Kingdom.

priorities contained in the Subsidiarity Work Programme¹² and proposals on the use of the most appropriate tools and procedures of the Subsidiarity Monitoring Network¹³ to the Bureau for decision, in order to support the work of CoR rapporteurs in the legislative process.

The steering group should monitor the implementation of the CoR's subsidiarity work programme throughout the year, as well as the overall political role of the CoR in the evolution of the subsidiarity principle in the EU decision-making process. Having an overview role, it should endorse the Subsidiarity Annual Report and present it to the CoR Bureau.¹⁴

The steering group should also liaise with commission chairs/secretariats, in order to feed the findings and priorities into the political programming of commissions and the individual planning of opinions and related actions.

Special attention should also be given to regularly inform the relevant Commissions of the CoR about the findings and the progress of the Subsidiarity Work Programme in their specific fields in order to receive their feedback and to ensure a coherent and reactive process.

Moreover, the Subsidiarity Steering Group should endorse the composition of a group of local and regional experts in terms of subsidiarity which will support its activities¹⁵.

Finally, the Subsidiarity Steering Group should be informed about the compliance of CoR opinions with Rule 51 of the CoR Rules of Procedure, the main findings of consultations of the Subsidiarity Monitoring Network as well as of reasoned opinions/subsidiarity analyses issued by national/regional Parliaments in the framework of the Early Warning System.

The Subsidiarity Steering Group will be chaired by the SMN political coordinator and will ensure the political governance of all subsidiarity monitoring activities carried out in the CoR.

2.2 Subsidiarity monitoring before the EU initiative is issued

2.2.1 Subsidiarity Work Programme

In order to be better prepared and to fine-tune its Subsidiarity Monitoring strategy, the CoR should rely on an annual Subsidiarity Work Programme that should serve as a guide to inform about its activities in the field. Based on the outcome of an analysis of the work programme of the European Commission and its Road maps for the legislative process, it would be aimed at identifying a number of EU initiatives of potential interest from a subsidiarity point of view.

¹² See point 2.2.1.

¹³ Targeted and impact assessment consultations, use of the Action plan, priority dossiers in the context of the Early Warning System, see point 3.

¹⁴ See point 4.1.

¹⁵ See point 3.3.

The programme should set a number of priorities and be submitted by the Subsidiarity Steering Group to the Bureau for adoption. The programme would then be submitted to the European Commission, in accordance with the new Protocol on the cooperation between the European Commission and the CoR, defining priorities calling for a specific monitoring of subsidiarity and proportionality¹⁶. The programme could be adapted and revised, in case relevant issues come up during the year, that were not foreseeable at the planning stage.

On the basis of the Work Programme, the administration will set up an internal early flagging system to ensure proper monitoring of those EU proposals that could have subsidiarity issues that would require action by the CoR. As soon as those cases are identified, a clear and standardised process would be automatically launched in the CoR, involving all the relevant political and administrative stakeholders, including the Legal Service.

2.2.2 Impact assessments and subsidiarity monitoring

Before the European Commission proposes new initiatives it assesses the potential economic, social and environmental consequences that they may have as well as those on the regulatory burden for the private and the public sector.

Impact assessment is a set of logical steps which helps the Commission in this endeavour. It is a process that **prepares evidence for political decision-makers** on the advantages and disadvantages of possible policy options by assessing their potential impact. This exercise is part of the commitment of the European Commission for a better regulation. Impact assessment is aimed at listening to the entities and stakeholders that will be affected by the new policies; it is therefore of utmost importance for local and regional authorities.

Moreover, Protocol No 2 states that "before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged" (art. 2) and that "draft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality" (art. 5). The evaluation of the compliance of the envisaged legislative proposal with the subsidiarity principle is therefore a key element of an impact assessment.

The new Protocol on the cooperation between the European Commission and the CoR opens the door for the CoR to be further involved in impact assessments¹⁷ and thus to give its input also on subsidiarity-related aspects already during the pre-legislative phase.

¹⁶ Point 23 of the Protocol on the cooperation between the European Commission and the Committee of the Regions signed on 16 February 2012, R/CdR 39/2012 pt 7.

¹⁷ Point 23 of the Protocol of cooperation between the Commission and the CoR. The cooperation on impact assessments actually began already in 2009. Up until now, the CoR participated in four impact assessments (*Health Inequalities, Revision of the Drinking Water Directive, EU Biodiversity Strategy post 2010, EU LIFE + instrument.*).

Cooperation with the European Commission in the framework of this mechanism should be deepened in order to avoid conflicts regarding compliance with the subsidiarity principle at a very early stage in areas of key concern for the CoR.

To this aim, immediately after the signature of the new cooperation agreement (February 2012), the CoR Secretary General addressed a letter to the European Commission's Secretary General, proposing the cooperation of the CoR, through its networks, to the impact assessment of some legislative initiatives in preparation¹⁸.

Impact assessments may also be carried out at a later stage. The assessment of potential impacts of EU legislation is not only important during the pre-legislative process, but also once the legislative proposal has been issued. In this context, **impact assessments carried out by the European Parliament concerning its amendments to legislative proposals should be followed by the CoR too. Therefore, relations with the relevant Directorate in the European Parliament should be established**¹⁹.

Impact assessments on EU initiatives are also carried out within the Member States and their conclusions should be taken into account.

Altogether though, it has to be highlighted that subsidiarity monitoring is just one part of impact assessment which, as a tool for better regulation, covers other aspects and domains, such as the evaluation of the territorial impacts of an EU action. Therefore additional actions (involvement of its other platforms) are needed by the CoR to fully engage in impact assessment exercises.

2.3 Subsidiarity monitoring after the EU initiative is issued

2.3.1 The subsidiarity principle in CoR opinions

According to Rule 51.2 of the CoR Rules of Procedure, "*Committee opinions shall contain an explicit reference to the application of the subsidiarity and proportionality principles*". Compliance with Rule 51 is of paramount importance for the successful process of subsidiarity monitoring in the CoR and for its institutional credibility, particularly in the perspective of a possible judicial action. **It is therefore indispensable to reinforce the visibility of subsidiarity in CoR opinions where there are clear subsidiarity issues at stake.**

In the case of opinions related to legislative proposals, positions on subsidiarity should lead to concrete amendments to the draft legislative act and /or substantiate, where appropriate, why a given EU initiative is violating the subsidiarity principle.

¹⁸ 7th Environmental Action Programme, Blueprint to safeguard Europe's Water Resources, "rail package", "ports package". The CoR's real participation in impact assessments concerning these dossiers will depend on concrete aspects related to timing, coordination with the European Commission's relevant Directorate General and so on..

¹⁹ See also point 4.2.

To that end, CoR rapporteurs will continue to be provided with subsidiarity analyses by the administration. **Moreover, in order to make full use of all available information in the field of subsidiarity monitoring, CoR members will have access to a comprehensive "Subsidiarity portal", accessible via TOAD, which will include relevant sources related to the EU initiative from a subsidiarity point of view, e.g. activities of the Subsidiarity Monitoring Network, to IPEX, REGPEX and European Commission's impact assessments.** This "portal" could be used by CoR members in the preparation of draft opinions and amendments based on subsidiarity concerns.

The Subsidiarity Steering Group **shall receive punctual information regarding compliance of draft opinions with Rule 51 and if necessary, shall draw the attention of rapporteurs in view of possible amendments.**

Finally, adequate and timely use of the procedure contained in Rule 52 regarding the adoption of revised opinions in the light of the evolution of the legislative procedure should be further explored. This is all the more important that it may give an opportunity to raise subsidiarity issues resulting from amendments to the legislative proposal subsequent to the CoR opinion. Special attention should be paid in this context to the cooperation with the European Parliament, particularly concerning its impact assessments²⁰.

In the planning process for each opinion where subsidiarity issues have been identified, and where it has been agreed to take action in this regard, specific reference to subsidiarity can be made in the analysis notes prepared by the administration and the subsidiarity question can be mentioned among the concrete objectives to be pursued in the context of the opinion. This will also ensure a systematic follow-up and monitoring of the inter-institutional decision-making process by the CoR administration.

2.3.2 Action before the Court of Justice

By virtue of Article 8 of the Protocol No 2 and in accordance with the rules laid down in Article 263 of the Treaty on the Functioning of the European Union, the CoR may bring an action before the Court of Justice of the European Union (CJEU) against legislative acts on grounds of infringement of the principle of subsidiarity by a legislative act, for the adoption of which the Treaty on the Functioning of the European Union provides that it be consulted.

The CoR has already adopted rules for taking the appropriate judicial steps. Such actions may be proposed to the Plenary Assembly either by the President or by the competent commission acting in accordance with Rules 53. The Legal Service has prepared a Handbook which describes a "modus operandi" that should be followed in the event of bringing an action before the Court of Justice on grounds of subsidiarity.

²⁰ See also point 2.2.2.

Having in mind that the CoR has adopted not only a judicial, but a legislative approach to subsidiarity, any potential action before the Court of Justice should be understood only as a last resort and the final step of a process.

In this regard, the monitoring of legislative proposals that could be the object of action before the Court of Justice should be coordinated by the legal service and the subsidiarity unit.

The mechanisms for an ongoing subsidiarity control starting with subsidiarity monitoring in the pre-legislative phase, taking into account the findings of the Early Warning System and the contributions received through the Subsidiarity Monitoring Network, being reflected in the relevant CoR opinions and finally relying on the advice of the legal service and external consultancy if need be, will be based on a close co-operation between the subsidiarity unit, the legal service and the Directorate for Consultative Works. In the case of legislative proposals in policy areas of mandatory consultation though, the CoR must be able to provide a full dossier containing all subsidiarity monitoring activities related thereto when preparing a case to take to the European Court of Justice.

3. Subsidiarity Monitoring Network

Since 2007, the Subsidiarity Monitoring Network has grown as a precious tool to support the CoR's subsidiarity monitoring. It has been further developing its membership and activities in the post-Lisbon Treaty context, and recently adopted a new logo to accompany new developments. Consultations remain the core activity and a number of adjustments will further improve their operation.

3.1 Membership

3.1.1 Quantitative strengthening of the network - Endorsement of new partners

Since its meeting in Uppsala in 2009, the Bureau shall endorse the network's composition annually. At present, the network has 136 partners – *see appended list*. This is a significant increase by comparison to the latest situation of December 2010²¹, when the network included 113 partners. Most of the membership growth result from a membership drive directed to regional parliaments and governments at the end of 2010, further supported by the strengthening of relationships with associations of regional parliaments and governments, the Conference of European Regional Legislative Assemblies (CALRE) and the Conference of Regions with legislative power (REGLEG) and the development of REGPEX.

²¹ As presented to the Bureau on 4 March 2011, CdR 57/211 item 5.

3.1.2 Qualitative strengthening - Composition of the network

The network includes the four following main categories of membership:

- parliaments or assemblies representing regions with legislative powers (37);
- governments or executives representing regions with legislative powers (28);
- local or regional authorities without legislative powers (32);
- associations of local/regional authorities (30);

In addition, five CoR national delegations and four national parliaments are also registered partners. National delegations actually participate in the network through their national association of local and regional authorities. It is therefore proposed that these national associations be grouped with their counterparts in the category "associations of local/regional authorities". Further, the particular effort to attract parliaments and governments representing regions with legislative powers will be pursued.

Furthermore, there is the ambition to extend the Network to local and regional authorities of CoR members in order to promote a culture of subsidiarity throughout the EU.

3.2 Consultations

Consultations of the Subsidiarity Monitoring Network should concern dossiers identified by the Subsidiarity Steering Group in its work programme, and focus on subsidiarity and proportionality issues. Depending on the policy area, broader and more content-related questions may be circulated to other networks and platforms (Europe 2020, European Grouping of Territorial Cooperation – EGTC -, contact list of regional offices in Brussels), in more general consultations which could complement "physical" stakeholders consultations. **In the same way, whenever appropriate, the participation of the Subsidiarity Monitoring Network in broader stakeholder consultations could be envisaged.**

3.2.1 Targeted consultations

In line with the political governance structure proposed for the Subsidiarity Monitoring Network, the proposal for a consultation related to an opinion is made by the Subsidiarity Steering Committee, to be decided by the responsible rapporteur. In order to enhance the visibility and use of the output of Network consultations, reports should be made available on TOAD and mentioned in the overview table presented at the end of opinions. This would enable all members to use arguments developed by partners, should they deem this appropriate. Eventually, this could be a way to stimulate participation in the consultations.

Consultations are carried out within a period of maximum 12 weeks, depending on the circumstances and the subject matter concerned, as well as on the time frame set for the specific CoR opinion in this field.

For dossiers already identified and agreed at an earlier stage, consultations should take place before the rapporteur submits the draft opinion to the commission for discussion.

In accordance with the revised Protocol on cooperation between the Commission and the CoR, consultation reports are also to be shared with the European Commission²².

3.2.2 Impact assessment consultations

The Subsidiarity Monitoring Network is also a useful tool for consultations in the context of CoR's participation in impact assessments, along with the Europe 2020 Monitoring Platform and the EGTC Platform²³.

3.2.3 Open contributions (open consultations)

Partners of the Subsidiarity Monitoring Network are invited to send to in their open contributions to any EU initiative for which a subsidiarity analysis is relevant. These open contributions are published on the Network's website and forwarded to rapporteurs whenever they are related to an initiative on which the CoR is preparing an opinion.

3.3 Subsidiarity Monitoring Network-Expert Group

A group of local and regional subsidiarity experts should be set up in order to support the activities of the Subsidiarity Steering Group and the CoR's consultative activities in general. The Expert Group should give input to the Subsidiarity Annual Work Programme and be at the disposal of rapporteurs and CoR commissions if needed.

The input the experts can give to the CoR consultative activities could make the link to the subsidiarity debate in the Member States, strengthen the mutual comprehension and thus bring the CoR closer to its local and regional partners.

Members of the Expert Group should be selected within the Subsidiarity Monitoring Network, according to their expertise in terms of subsidiarity as well as their strong background in EU law. The Subsidiarity Steering Group should endorse the final composition of the group. Funding of this new activity will require reallocation of funds already foreseen for the activities of the Subsidiarity Monitoring Network, without incurring any additional expense.

²² Point 23 of this Protocol.

²³ See also point 2.2.2.

3.4 Action Plan

The Subsidiarity Monitoring Network's Action Plan was launched in 2009 and has entered its second phase in the summer of 2011, in accordance with the Network's 2011 work programme. The first Action Plan allowed Network Partners to create working groups of experts and exchange best practices and opinions regarding the implementation of EU policies and subsidiarity on a range of concrete policy fields. The Second edition of the Action Plan has focused on subsidiarity and multilevel governance in the framework of TEN-T policy and allowed direct exchange between CoR members and rapporteurs and the members of the working group.

In the future the Action Plan will be the instrument to implement the priorities laid down in the Subsidiarity Work Programme adopted by the Bureau. It will also be a tool for qualitative thematic consultations on subsidiarity/multilevel governance issues, involving the active monitoring of dossiers from the pre-legislative to the legislative phase through the set-up of specialised working groups open also to CoR members.

The actions proposed in the Action Plan should also be discussed within the internal strategic planning process and, where appropriate, in the commissions of the CoR, in order to integrate relevant items in the annual work programmes and other planning of the commissions and other Directorates.

3.5 REGPEX

The Lisbon Treaty introduced an Early Warning System which gives the right to all national parliaments to get involved in the EU legislative process. Regional parliaments with legislative powers can be associated in the process²⁴. In the light of these new prerogatives and responsibilities and in order to facilitate the exchange of information in the framework of the Early Warning Process, the CoR has launched REGPEX, a subsection of the Subsidiarity Monitoring Network website consisting of a database designed to assist EU regions with legislative powers with regard to the Early Warning phase. Concretely, it provides access to the complete catalogue of European Commission proposals and links to relevant websites in order to perform a proper subsidiarity scrutiny. Through REGPEX, regional parliaments have access to tailored files containing all available information related to a number of issues identified as especially relevant with regard to the Early Warning System²⁵.

²⁴ See introduction.

²⁵ A first test file of REGPEX was organised between December 2011 and March 2012, on the proposals for directives on public procurement and concessions (COM (2011) 895, 896 and 97). A background note was commissioned by the CoR and made available on REGPEX ahead of the publication of the proposals for directives, highlighting potential subsidiarity and proportionality issues. Then, positions of five regional parliaments (Extremadure, Emilia Romagna, Thuringe, Bavaria and Wales), one regional government (Scotland), one national parliament (Austrian Bundesrat) and four national LRA associations have been uploaded on REGPEX during the EWS time-frame (11-12 January – 7-8 March 2012), in parallel to reasoned opinions adopted by national parliaments and published on IPEX. They have been passed on to the commissions' secretariat for CoR rapporteurs, Mr Henk KOOL (NL/PES, for concessions) and Mrs SEGERSTEN-LARSSON (SV/EPP).

Altogether, REGPEX is a way to support regions with legislative powers to have an input in the EU law-making process during the Early Warning phase and keep CoR rapporteurs informed regarding the results of the subsidiarity scrutiny performed in this context.

The Subsidiarity Work Programme should include references to priority dossiers in the context of the Early Warning System and the Subsidiarity Steering Group should be kept informed accordingly.

4. Relations with other institutions

4.1 Relations with the European Commission

The new Protocol on the cooperation between the CoR and the European Commission²⁶ recognised the new institutional position of the CoR and the privileged relationship between the two with regard to subsidiarity monitoring²⁷. To ensure a scrupulous respect of this principle, it should be taken into account at the earliest phase of the legislative process. Therefore, the agreement reaffirmed the possibility for the European Commission to ask for the support from the Committee in preparing impact assessments²⁸.

Moreover, the European Commission and the CoR are called to "share information regarding subsidiarity monitoring on a regular basis, in particular as regards opinions of national and regional Parliaments"²⁹.

Finally, since 2010, the CoR has published its own **Subsidiarity Annual Report**, recapitulating all subsidiarity-related activities of the Committee; it represents the Committee's contribution to the Commission's "Better Lawmaking" report and should be **endorsed by the Subsidiarity Steering Group**.

4.2 Relations with the European Parliament

The subsidiarity scrutiny must be effective during all phases of the legislative process. Amendments adopted by the European Parliament could lead to substantial modifications of a legislative proposal and thus, to a possible infringement of the subsidiarity principle. **Therefore, close relations and cooperation between the CoR and the European Parliament should be ensured during the legislative phase. In this regard, a closer follow-up of the activities of the European Parliament's committees should be ensured. Moreover, close relations with the European Parliament's**

²⁶ Op. cit. footnote No. 15.

²⁷ Pt. 22 to 24 of the cooperation Protocol.

²⁸ See point 2.2.2 of this document.

²⁹ Pt. 23 of the cooperation Protocol.

Directorates responsible for impact assessments and for Relations with national Parliaments should be established.

To ensure a smooth cooperation and facilitate exchange of information, the administration of the CoR should take part in the "Monday morning meetings" which gather the national Parliaments' permanent administrative representatives at the European Parliament every week.

This closer relation with the European Parliament would allow to strengthen the CoR's position on subsidiarity in the EU institutional framework and to have also a stronger influence on the European Commission's initiatives.

4.3 Relations with national Parliaments

With the Early Warning System, the Lisbon Treaty bestowed new responsibilities to national Parliaments. This involvement in the EU legislative process with a special emphasis on subsidiarity should lead to closer relations between the CoR and national Parliaments (particularly their second chambers). **Relations should be strengthened, both at administrative and political level, in particular with the eight Member States whose regions enjoy legislative powers.**

Contacts and exchange of information should be developed bilaterally or through the Conference of Parliamentary Committees for Union Affairs of the European Union (COSAC), as well as through the European Parliament (participation in "Monday morning meetings"). On the basis of the Subsidiarity Work Programme, the CoR could then take an active role even ahead of the Early Warning phase.

4.4 Relations with regional Parliaments

Relations with regional Parliaments are of utmost importance to ensure the respect of the subsidiarity principle, especially with the new provisions of Protocol No 2. Close cooperation between the CoR and the Conference of European Regional Legislative Assemblies (CALRE) is thus very important. Therefore the two entities signed an Annex to their Common Action Plan in December 2011 in order to strengthen their relations with regard to subsidiarity monitoring.

With the support of CALRE, the CoR should invite all 74 regional Parliaments with legislative powers to get involved in the activities of the Subsidiarity Monitoring Network, particularly with regard to the Early Warning System. The common use of REGPEX would allow a regular exchange of information and enable regional parliaments to play a more active role in the EU legislative process.

5. Subsidiarity Conference (*Assises*)

With the involvement of all relevant institutional players in the field of subsidiarity, the CoR should make the Subsidiarity Conference (*Assises*) a key feature of the EU's institutional agenda, just as the subsidiarity principle has become a key feature of the democratic framework of the EU.

The Subsidiarity Conference (*Assises*) is the Committee of the Regions' key event on subsidiarity, gathering representatives from local and regional authorities and from EU institutions. Organised on a regular basis (18 to 24 months), the Subsidiarity Conference strengthens the indispensable inter-institutional dynamic of subsidiarity scrutiny and should allow a true dialogue between all actors involved in the subsidiarity monitoring process.

The Subsidiarity Conference should focus on a dossier selected from the Subsidiarity Work Programme which reflects the CoR's political priorities. It will be based on the presentation of case studies related to legislative proposals analysed from a subsidiarity point of view.

The Subsidiarity Conference should ideally evolve into an inter-institutional event and be co-organised with the European Parliament, CALRE and the COSAC in order to foster coordination and boost the subsidiarity and MLG culture throughout different stakeholders with a view to study specific cases where single regional or national parliament have experienced concerns on subsidiarity throughout the whole process.

On a smaller scale, Thematic Subsidiarity Workshops remain a useful tool to organise a dialogue between Subsidiarity Monitoring Network partners, CoR members and other institutions to reflect on subsidiarity issues in relation to specific policy fields. Such workshops can be organised within the Open Days, as was done in 2010 and 2011, and is foreseen in 2012, around the work carried out by the Action Plan working groups. Others could focus on the practical use and possible improvement of the Subsidiarity and Proportionality Assessment Grid, or aim at providing guidelines on subsidiarity monitoring. They could also be a place to stimulate an exchange on the identification of subsidiarity priorities in forthcoming EU initiatives.

FOR DECISION

Political governance

A Subsidiarity Steering Group, comprising of one subsidiarity coordinator per political group and chaired by the SMN political coordinator, will ensure the political governance of CoR's subsidiarity monitoring activities throughout the year, in full respect of the competences of CoR rapporteurs and governing bodies.

Subsidiarity Work Programme

An annual Subsidiarity Work Programme will be adopted, based on an analysis of the annual legislative and work programme and the Roadmaps of the European Commission by the Subsidiarity Steering Group, for an early identification of subsidiarity priorities for the CoR.

On the basis of the Work Programme, the administration will set up an internal early flagging system to ensure proper monitoring of those EU proposals that could have subsidiarity issues that would require action by the CoR.

The Work Programme will be aligned with the overall political planning of the CoR (resolutions, annual work programmes of commissions)

Impact Assessments

The cooperation with the European Commission concerning impact assessments will be deepened.

Relations with the European Parliament's Directorate responsible for impact assessments will be established.

Subsidiarity monitoring in CoR opinions

Compliance with Rule 51 of the CoR rules of procedure is of paramount importance for the successful process of subsidiarity monitoring in the CoR; the visibility of subsidiarity in CoR opinions has thus to be reinforced.

A "Subsidiarity portal" will be developed to facilitate members' access to relevant sources related to the EU initiative from a subsidiarity point of view. It will be accessible through TOAD and will build on the website of the Subsidiarity Monitoring Network.

The follow-up of CoR opinions could bring about the need for a revised opinion, such as in cases where the evolution of the legislative process has given rise to new subsidiarity issues.

Action before the Court of Justice

Special attention will be paid to legislative dossiers which could be the object of an action before the Court of Justice by the CoR on grounds of violation of the subsidiarity principle.

Subsidiarity Monitoring Network

Membership

The Bureau is invited to endorse the appended list of partners.

In order to further rationalise categories of membership, national associations of local and regional authorities participating as CoR national delegations will be grouped within the "Associations of local and regional authorities" category.

Targeted consultations

The Subsidiarity Steering Group can propose launching a targeted consultation related to an opinion, for decision by the responsible rapporteur.

Consultations are carried out within a period of maximum 12 weeks.

Consultation reports are shared with all members of the CoR - included in commission's documents available on TOAD and mentioned in the overview table presented at the end of opinions.

Subsidiarity Monitoring Network's Expert Group

A group of local and regional subsidiarity experts (administrative level of Network partners) will be established in order to support the activities of the Subsidiarity Steering Group and the CoR's consultative activities in general. The decision on the final composition of this Expert Group will be taken by the Subsidiarity Steering Group.

Action Plan

In the future the Action Plan will be the instrument to implement the priorities laid down in the Subsidiarity Work Programme adopted by the Bureau. By decision of the Subsidiarity Steering Group the Action Plan will lay out the thematic consultations on subsidiarity/multilevel governance issues, involving the active monitoring of concrete dossiers from the pre-legislative to the legislative phase, in accordance with the CoR overall political planning.

REGPEX

The development of the REGPEX section of the Network's website, dedicated to regional parliaments and the Early Warning System is to be pursued in 2012. Early Warning System files will be endorsed by the Subsidiarity Steering Group, as part of the Subsidiarity Work Programme.

Relations with other institutions

With the involvement of all relevant institutional players in the field of subsidiarity, the CoR should make the Subsidiarity Conference (*Assises*) a key feature of the EU's institutional agenda, just as the subsidiarity principle has become a key feature of the democratic framework of the EU.

6. List of partners - The CoR Subsidiarity Monitoring Network (136 partners at 7 March 2012)

Parliaments or assemblies representing regions with legislative powers³⁰

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
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
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

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The organisations mentioned in bold have joined the network since 1st January 2011.

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
ŁódźCity	Poland
Łódź Region Marshal's office	Poland
Masovian Region Marshal's office	Poland
Wielkopolska Region Marshal's office	Poland
Pomeranian Regional Parliament	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	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 (IPO)	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