EUROPEAN UNION

Committee of the Regions

subsidiarity NETWORK

Subsidiarity Annual Report

2012

EUROPEAN UNION

Committee of the Regions

SUBSIDIARITY ANNUAL REPORT 2012

R/CdR 1335/2013

Subsidiarity Annual Report 2012

1. Introduction

As a response to the economic and financial crisis important steps were made to strengthen economic and financial governance at EU level while at the same time there is increased pressure for better coordination of fiscal, economic and even social policies between Member States. While this closer co-ordination is badly needed it is also essential to maintain a clear understanding of the division of competencies in a system of multi-level governance by taking decisions at the most appropriate level and as close as possible to the citizens. In other words, respect for subsidiarity is all the more important to enable a multilevel Europe to operate in a situation of crisis.

In 2012, the Committee of the Regions (CoR) has therefore strengthened its position as a point of reference for subsidiarity in the European Union. During this third year of implementation of the Lisbon Treaty and its new provisions regarding the principle of subsidiarity, the CoR has developed and refined its strategy and sharpened its monitoring tools. This third CoR Subsidiarity Annual Report highlights and summarises these new developments.

The right to bring an action before the Court of Justice of the European Union (CJEU) against an EU legislative act on grounds of subsidiarity breach is the most striking improvement for the CoR's institutional role with regard to subsidiarity[1]. However a number of other provisions adopted in Lisbon also reinforced the CoR's responsibility. The article of the Treaty referring to the subsidiarity principle explicitly refers to the local and regional dimensions[2] and thus underlines the necessity to respect the local and regional authorities' competences within the EU. As for the possibility for regional parliaments to be consulted in the subsidiarity early warning procedure by their national parliament[3], even though the CoR is not formally part, its institutional position calls for its support to regional parliaments. It is part of the natural role of the assembly representing local and regional authorities in the EU institutional set-up to ensure that decisions are taken at the appropriate level of authority (European, central, regional or local) and as close as possible to citizens.

---

1 See Article 8 of Protocol No 2 on the application of the principles of subsidiarity and proportionality, hereafter referred to as Protocol No 2.

2 See Article 5 (3) of the Treaty on European Union (TEU): *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.*

3 See Article 6, Protocol No 2.

The CoR has therefore adopted an approach covering not only the judicial review, but also the legislative phase. Any potential action before the Court of Justice should be understood as a last resort and the final step of a process which includes the whole decision-making process. Reaching this judicial stage would come down to acknowledging failure of the law-making process. The CoR seeks instead to strengthen cooperation with the other EU institutions in order to achieve the best possible legislation. It considers that its responsibilities include monitoring subsidiarity as early as possible, not only through regular consultative activities, but also throughout the whole policy cycle, i.e. in the conceptual phase when policies and legislation are being designed, as well as in the implementation and evaluation phases after the measures have entered into force.

This third CoR Annual Report on Subsidiarity reflects this comprehensive and cooperative approach. It covers the CoR's subsidiarity monitoring activities from 1 January to 31 December 2012. Main features of the revised strategy are first presented (part 2) and followed by implementation steps in 2012 (part 3). The impact is then assessed by examining the content of CoR opinions with regard to subsidiarity (part 4), although proper conclusions are difficult to draw from a transition year since the new strategy and tools were implemented only in the second part of 2012.

2. The adoption of a revised strategy for subsidiarity monitoring

In May 2012, the CoR Bureau adopted a new strategy[4] on monitoring the principle of subsidiarity. 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.

In particular, the new approach is aimed at:

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

2.1 Political Governance: the Subsidiarity Steering Group

First pillar of the new strategy, the Subsidiarity Steering Group is responsible for the political governance of the CoR's subsidiarity monitoring. The Steering Group ensures the proper coordination and political follow-up of subsidiarity monitoring activities throughout the year. In particular, it is responsible for identifying annual subsidiarity priorities and making proposals on the use of the most appropriate tools and procedures of the Subsidiarity Monitoring Network[5] in order to support the work of CoR rapporteurs in the legislative process.

4 Subsidiarity monitoring: a revised strategy for the committee of the regions, R/CdR 606/2012.

5 Impact assessment consultations, targeted and open consultations, use of the Action plan and use of REGPEX, see point 2.3.

2.2 Approach: A comprehensive subsidiarity monitoring system to follow the whole EU decision-making process

The revised strategy makes it clear that CoR subsidiarity monitoring activities commence in the pre-legislative phase. Based on an in-depth analysis of the work programme of the European Commission and its Roadmaps for the legislative process, the Subsidiarity Expert Group (officials chosen from the Subsidiarity Monitoring Network according to their expertise in terms of subsidiarity as well as a strong background in EU law) selects a number of EU initiatives of interest from a subsidiarity viewpoint. In view of this list, the Subsidiarity Steering Group then prepares its proposal for the CoR Subsidiarity Work Programme that is submitted to the CoR Bureau for adoption.

On the basis of this Work Programme, the CoR administration sets up an internal early flagging system to ensure the proper monitoring of EU legislative proposals, as well as non-legislative initiatives that might raise subsidiarity issues, that could require action by the CoR. As soon as such cases are identified, a process is launched in the CoR, involving all the relevant political and administrative stakeholders and leading to the identification and planning of the subsidiarity monitoring activities to be carried out throughout the year, both before and after the Commission adopts its proposals.

Content-wise, in order to allow for a common understanding of the principle and consistent assessment of EU proposals, the CoR strictly refers to the conditions laid down in the Treaties[6], i.e. that the EU must not intervene in any area of shared competence unless such action is deemed necessary and presents a clear added value. However, since the current Protocol No 2 does not provide any material criteria for assessing whether there is a breach of the subsidiarity principle, the CoR still relies on its Subsidiarity and Proportionality Assessment Grid[7] which refers to criteria set in the previous Protocol on the application of the principles of subsidiarity and proportionality (Protocol No 30 to the Treaty of Amsterdam). This grid is not limited to subsidiarity[8], but also stresses 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 principle[9], as well as the importance of taking into account elements related to "better law-making" when assessing EU initiatives.

---

6 See Article 5(3) TEU.

7 Available at www.cor.europa.eu/subsidiarity, under "Subsidiarity Toolkit". The grid was developed and refined since 2007 by the CoR administration, and recognised by, among others, the DGs of the European Commission and used by a number of institutional partners (see for instance the European Commission's Guidelines for impact assessment, SEC(2009) 92 and the 2009 Report of the Commission on Subsidiarity and Proportionality (16th Report *Better Lawmaking* 2008), COM(2009) 504 final).

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.

2.3 Implementation tools: the Subsidiarity Monitoring Network and its Expert Group

Set up in 2007, the Subsidiarity Monitoring Network (SMN) is now a sound tool which at the end of 2012 included 141 partners[10]. Its membership and representation base have increased again in 2012, mainly among regional parliaments (the German Saxony-Anhalt State Parliament and Hamburg Parliaments have joined, as well as the Spanish Regional Assembly of the Canary Islands, and for Italy the Conference of the Presidents of the Italian Regional Parliaments), but the strengthening of the participation of Dutch municipalities through their association (VNG) is also to be noted. The SMN now includes local and regional authorities and their associations from all over the EU, except for Estonia. It supports all CoR subsidiarity monitoring activities in order to provide CoR rapporteurs and members with quality input from a subsidiarity viewpoint, so that proper subsidiarity assessments can be included in CoR opinions.

Although a "Subsidiarity Newsletter" is published twice a year and partners have some opportunities to meet throughout the year, the Network operates mainly through its website which includes a section dedicated to regions endowed with legislative powers, particularly in the context of the Early Warning System: REGPEX. Consultations (be they open, i.e. relying on spontaneous partners' contributions, or targeted, i.e. launched upon request of a rapporteur) of SMN partners remain the main operating tool in the context of the preparation of a draft opinion by a CoR rapporteur. Consultations for impact assessments during the pre-legislative phase are a further way of cooperating with the European Commission in order to assess the impact on local and regional authorities of certain Commission proposals and prevent subsidiarity issues to arise at a later stage. The Action Plan, through which working groups of five to ten partners can be established, supplements consultations. It is a means of scrutinising certain policy areas in a more qualitative fashion.

In terms of tools though, the main innovation of the revised strategy is the setting up of a group of local and regional subsidiarity experts supporting the activities of the Subsidiarity Steering Group and the CoR's consultative activities in general. The Expert Group is meant to provide input for the Subsidiarity Annual Work Programme and is at the disposal of CoR rapporteurs if needed.

3. The strategy in practice: upstream monitoring, strengthened prioritisation, closer work with regional parliaments ad governments

Adopted in May, the revised strategy was implemented in the following months of 2012, with the following highlights.

3.1 Setting up of the Subsidiarity Steering Group and the Subsidiarity Expert Group

The Subsidiarity Steering Group was set up in September 2012. It includes one member per political group: Jean-François Istasse (BE/PES), Mark Hendrickx (BE/AE), Graham Tope (UK/ALDE), and Michael Schneider (DE/EPP), who is the chair and coordinator of the Subsidiarity Monitoring

10 See full list of partners as per 31 December 2012, appendix 1.

Network. It met for the first time on 30 November 2012 but had started to work immediately in September with the appointment of the 16 members of the Subsidiarity Expert Group.

As for the Subsidiarity Expert Group, 16 local and regional subsidiarity experts met for the first time on 25 October 2012. The objective was to select among initiatives listed in the Work Programme 2013 that the European Commission had just released, those that should be monitored with priority from a subsidiarity point of view. The presentation of the Work Programme by Commission officials was followed by a debate, which enabled the Expert Group to identify a number of initiatives, selected according to the following three cumulative criteria: initiatives should (1) present a clear political interest for local and regional authorities; (2) touch on the competences of local and regional authorities; and (3) have a potential subsidiarity dimension.

3.2 Preparations for a CoR Subsidiarity Work Programme 2013

The list drawn up by the Expert Group constituted an important basis for the Subsidiarity Steering Group to draft the CoR Subsidiarity Work Programme, which was eventually adopted by the Bureau on 30 January 2013. CoR subsidiarity monitoring activities in 2013 will be focused on five selected priorities[11]. It is however stressed that flexibility is essential and priorities may be reviewed throughout the year, in the light of the institutional calendar or the actual content of initiatives which was not fully known at the moment of selecting these priority areas.

3.3 REGPEX, the REGional Parliamentary EXchange

REGPEX is a sub-network of the existing Subsidiarity Monitoring Network, open to parliaments and governments of regions endowed with legislative powers. It was set up to support these regions in playing their part in the subsidiarity monitoring of EU legislation, particularly in the context of the post-Lisbon early warning system and their possible consultation by national parliaments. REGPEX was launched in February 2012. It mirrors and is linked to IPEX[12], the Platform for EU Interparliamentary Exchange which is dedicated to national Parliaments.

3.3.1 Main functionalities

REGPEX offers a search engine which links EU initiatives to their analysis by regional parliaments and governments. It also provides direct access to relevant sources of information that can sustain the drafting of subsidiarity analysis, such as impact assessments performed by the European Commission. It is a tool for selecting priorities for subsidiarity monitoring. "Early Warning Files" present background information on selected initiatives and consist in coordinated exercises where regional parliaments and governments are invited to share and publish their positions during the eight-week

11 Four initiatives foreseen in the EC Work Programme 2013 (E-invoicing in the field of public procurement, a Blue Belt for a single market for maritime transport, the Review of Waste Policy and Legislation, and the Environmental climate and energy assessment framework to enable safe and secure unconventional hydrocarbon extraction) as well as Urban Mobility.

12 www.ipex.eu

early warning phase. Such a file was presented in 2012 on the public procurement and concessions draft directives (COM(2011) 895, 896 and 897). In the context of these files, contributions of regional parliaments and governments were analysed and summarised in a report analysis forwarded to the CoR rapporteur.

3.3.2 From database to network

REGPEX is also a platform for coordination among regions in the EU. At the end of 2012, it included 39 parliaments and 28 governments from the 74 regions endowed with legislative powers in the EU. Detailed profiles of the 74 regional parliaments will soon be available online with relevant contact details. These profiles will be presented through a mapping of EU regions. A system of REGPEX regional correspondents will be tested in the coming months.

Regional parliaments and government partners of Regional Parliamentary Exchange (REGPEX) met for the first time on 12 December 2012 to assess the database operation, gather feedback from users, and discuss future developments, in the presence of representatives of the European Commission, the European Parliament, national Parliaments and IPEX. A clear message came out of the meeting: REGPEX should not just be seen as a technical database. Regional parliaments and governments are eager to have their voice heard in the EU legislative process and REGPEX is definitely perceived as a useful tool to this aim with a strong potential for exchanging information within time constraints and for coordination. The platform has also been welcomed by the other EU institutions. In particular, the European Commission receives subsidiarity contributions directly from regions, which provide valuable input even though there is no legal basis in the Treaties to formally integrate them into the legislative process. REGPEX can be an interesting focal point in this respect. It can also be a useful device to facilitate exchange of information between national and regional parliaments.

In 2013, the CoR will keep on developing the facility and encouraging regional parliaments and governments to exchange and publish their positions on REGPEX.

3.4 Consultations

Consultations have continued in 2012 to operate through the website of the Subsidiarity Monitoring Network. Targeted consultations are launched upon request of CoR rapporteurs and may also, since May 2012, be initiated by the Subsidiarity Steering Group. Two consultations of this kind have been carried out in 2012: on the *Connecting Europe Facility* (COM (2011) 659), upon request of Rapporteur Ivan Žagar (SI/EPP), from 29 November 2011 to 15 January 2012 and on the Communication of the European Commission on *Improving the delivery of benefits of EU environment measures: Building confidence through better knowledge and responsiveness (COM(2012) 95),* in the context of the preparation of the opinion *Towards a 7th Environment Action*

Programme (EAP) – better implementation of EU environment law by Rapporteur Nilgun Canver (UK/PES), from 25 May to 6 July 2012[13].

In addition, Network partners may also submit their subsidiarity analyses of any EU proposal. These are uploaded onto the website and whenever applicable forwarded to the relevant CoR rapporteur.

For the first time, a consultation of the Subsidiarity Expert Group was organised at the end of 2012. It was not related to an actual EU proposal but was organised upon the request of Mr Franz Schausberger (AT/EPP), in the context of the preparation of an own-initiative opinion for which he had been appointed rapporteur: *Devolution in the European Union and the place for local and regional self-government in EU policy making and delivery*. It ran from 21 November 2012 to 3 January 2013[14].

Finally, the CoR cooperated with the European Commission in the context of the preparation of the impact assessment of the 4th Railway Package. Firstly, the European Commission launched a consultation of local and regional authorities through the networks and platforms of the CoR, including the SMN and secondly, the CoR has submitted its own questions to local and regional authorities in this area, from 11 May 2012 to 21 June 2012. Despite the short notice and the consultation time, eleven contributions from authorities in seven Member States were received[15]. All contributions were forwarded to the European Commission together with a report of the consultation.

3.5 SMN Action Plan

The Action Plan of the Subsidiarity Monitoring Network was launched in 2009 as a follow-up to the 4th Subsidiarity Conference. It encourages local and regional authorities to identify and exchange best practices in the implementation of EU policy goals in the spirit of the subsidiarity principle, with particular regard to the involvement of civil society organisations. It complements the SMN activities by the analysis of specific EU policy areas in the light of subsidiarity over a period of one year.

In 2012, the Network focused its Action Plan on the new TEN-T policy. In an analysis of this policy field from a subsidiarity and multilevel governance point of view, a group of local and regional authorities has been set up by the City of Gothenburg and the Västra Götaland Region. The group met for the first time in December 2011 and held an exchange of views with CoR COTER Commission members Mr Ivan Žagar (SI/EPP), Mr Väino Hallikmägi (EE/ALDE) and Mr Uno Silberg (EE/AE) during its second meeting at the end of February 2012.

The working group has finalised a report including an analysis of the new TEN-T policy from a subsidiarity and multilevel governance point of view, as well as a number of best practices presented

13 Consultation reports are published on the website of the Subsidiarity Monitoring Network, www.cor.europa.eu/subsidiarity, under "Activities", then "Consultations".

14 Idem.

15 Idem.

by the members of the group. Moreover, a number of policy conclusions aim at giving an overview of what local and regional authorities think about the new TEN-T policy and its implications. Some of these conclusions were presented during a dedicated Thematic Subsidiarity Workshop within the Open Days on 10 October 2012. The workshop was chaired by Michael Schneider (EPP/DE), Coordinator of the Subsidiarity Monitoring Network, and had as speakers Mr Ismail Ertug (MEP, DE/PES), Mr Jean-Eric Paquet (Director of the European Mobility Network, DG MOVE), the two CoR rapporteurs on the field, Mr Bernard Soulage (FR/PES) and Mr Ivan Žagar (SI/EPP), Mr Johan Nyhus (Deputy Mayor of the City of Gothenburg), Ms Mimmi von Troil (Regional Councillor of Västra Götaland) and Ms Anna Livieratou, representing the TEN-T Executive Agency.

For the first time, the Action Plan of the Network included a direct exchange with CoR members and allowed the members of the group to work closely with CoR rapporteurs.

4. Subsidiarity in CoR opinions

The CoR adopted 71 opinions in 2012[16]. Seventy per cent of these (49) included an explicit reference to the application of the subsidiarity principle as requested by Rule 51(2) of the CoR Rules of Procedure and forty-three per cent set out a clear position on the initiative's compliance with the principle.

About half of the opinions that did not include any reference to subsidiarity (22) were adopted either on non-legislative initiatives (Communications, Green Papers or Reports), or on the initiative of the CoR (own-initiative opinions) and upon request by the European Commission (outlook opinions); the two latter categories of opinions do thus not refer to a specific finalised document. However, six of the opinions which did not comply with Rule 51(2) of the Rules or Procedure were adopted on legislative proposals in policy fields where consultation of the CoR is mandatory, i.e. proposals which meet the formal criteria for a CoR judicial action for annulment on subsidiarity grounds.

The following opinions adopted by the CoR in 2012 are to be highlighted for their relevance from a subsidiarity point of view; some have raised concerns with regard to compliance with the subsidiarity and proportionality principles or have even invoked actual infringements: Own-initiative opinion: *Building a European culture of multilevel governance: follow-up to the Committee of the Regions' White Paper* (CdR 273/2011); Opinion on the *proposal for a Regulation on the funds covered by the Common Strategic Framework* (CdR 4/2012); Opinion on the *proposal for a Regulation on the ERDF* (CdR 5/2012); Opinion on the *proposal for a Regulation on the ESF* (CdR 6/2012); Opinion on the *Revision of the TEN-T Guidelines and Connecting Europe Facility* (CdR 648/2012); Opinion on the *Airport Package* (CdR 649/2012); Opinion on the *7th Environment Action Programme* (CdR 1119/2012); Opinion on the *Public Procurement package* (CdR 99/2012), Opinion on the *Data Protection package* (CdR 625/2012) and Opinion on the *posting of workers in the framework of the provision of services* (CdR 1185/2012)[17].

16 See appendix 2 for an overview of opinions adopted between 1 January and 31 December 2012.

17 See appendix 3 for more details on each of these CoR opinions.

In 2012 the number of opinions on legislative proposals (42) has increased significantly, which can be seen as continuation of the trend already observed in 2011. More than half of these commented on initiatives within policy areas of shared competences where consultation of the CoR is mandatory. Furthermore, compared to 2011 there is a steady growth of cases where the CoR opinions raise concerns with regard to subsidiarity compliance or even detect provisions in draft proposals that violate the subsidiarity principle.

As observed in previous years, subsidiarity is definitely becoming a point of reference for the drafting of opinions. However, given the CoR's new prerogatives and responsibilities, all opinions on legislative proposals in areas of mandatory consultation should include a systematic appraisal of compliance with the subsidiarity principle.

The quality of subsidiarity references in CoR opinions should benefit from the monitoring role played by the newly established Subsidiarity Steering Group, which may draw the attention of rapporteurs to possible gaps and may table amendments to sustain subsidiarity references in draft opinions submitted to the Plenary Sessions. The members of the Steering Group made use of this right at one occasion and tabled an amendment, supported by the Rapporteur, to the opinion on the posting of workers in the framework of the provision of services (CdR 1185/2012).

5. Conclusions

2012 was clearly a year of acceleration for CoR subsidiarity monitoring, with the launch of a new strategy. Relying on sound monitoring tools, the CoR reaffirmed its comprehensive approach, regarding subsidiarity monitoring as a responsibility throughout the whole policy-making cycle. It reinforced its cooperation with EU institutions – particularly in the framework of its Protocol of cooperation with the European Commission - and with other institutions involved in subsidiarity checks of EU initiatives, such as national or regional parliaments. Its opinions reflect more and more substantial assessments of compliance with the subsidiarity principle and make suggestions in order to improve law making.

The Subsidiarity Work Programme 2013 is the very first structured attempt to monitor EU initiatives upstream. Under the guidance of the Subsidiarity Steering Group and with the assistance of local and regional subsidiarity experts within the Subsidiarity Expert Group, it will certainly enable the CoR to further take up its responsibilities in the field, for the benefit of all EU citizens.

Time is needed for the new governance structure and new monitoring tools to fully bear their fruits. The organisation of the 6th Subsidiarity Conference in 2013, with the German Bundesrat in Berlin, will be a good opportunity for evaluation. Institutions at EU, national, regional and local level will be invited to join in assessing the status and impact of the subsidiarity principle on EU law-making in the post-Lisbon context.

Organising the next Subsidiarity Conference in cooperation with and in the premises of the Bundesrat is a clear signal. National Parliaments and the Committee of the Regions, as recognised guardians of the subsidiarity principle by the Treaties, should unite to assess EU initiatives from their different perspectives. The CoR is strongly committed to working in this direction and the Conference will explore avenues to this aim.

Appendix 1

List of partners
The CoR Subsidiarity Monitoring Network

141 partners at 31 December 2012

Parliaments or assemblies representing regions with legislative powers

Lower Austria State Parliament	Austria
Burgenland State Parliament	Austria
Carinthia State Parliament	Austria
Tyrol State Parliament	Austria
Vorarlberg State Parliament	Austria
Flemish Parliament	Belgium
Walloon Parliament	Belgium
Brussels-Capital Region Parliament	Belgium
French Community Parliament	Belgium
Åland Parliament	Finland
Bavarian State Parliament	Germany
Baden-Württemberg State Parliament	Germany
Hesse State Parliament	Germany
North Rhine-Westphalia State Parliament	Germany
Lower Saxony State Parliament	Germany
Saxony-Anhalt State Parliament	Germany
Schleswig-Holstein State Parliament	Germany
Thüringen State Parliament	Germany
Hamburg City Parliament	Germany
Emilia Romagna Regional Legislative Assembly	Italy
Marche Regional Legislative Assembly	Italy
Sardinia Regional Legislative Assembly	Italy
Tuscany Regional Legislative Assembly	Italy
Trento Autonomous Province Legislative Assembly	Italy
Friuli – Venezia Giulia Regional Assembly	Italy
Abruzzo Regional Assembly	Italy
Calabria Regional Assembly	Italy
Piedmont Regional Assembly	Italy
Azores Legislative Assembly	Portugal
Madeira Legislative Assembly	Portugal
Asturias Legislative Assembly	Spain

Basque Regional Parliament	Spain
Canary Islands Regional Assembly	Spain
Catalan Regional Parliament	Spain
Extremadura Regional Assembly	Spain
Galician Regional Parliament	Spain
Navarre Regional Parliament	Spain
Welsh National Assembly	United Kingdom
Northern Ireland Assembly (NIA)	United Kingdom

Governments or executives representing regions with legislative powers

Lower Austrian State Government	Austria
Vienna City Municipal Executive	Austria
Steiermark State Government	Austria
Vorarlberg State Government	Austria
Upper Austrian State Government	Austria
Flemish Government	Belgium
Bavarian State Government	Germany
Hesse State Government	Germany
Lower Saxony State Government	Germany
Saxony State Government	Germany
Rhineland-Palatinate State Government	Germany
Hamburg City Senate	Germany
Abruzzo Regional Government	Italy
Bolzano/Bozen – South Tyrol Provincial Government	Italy
Lombardy Regional Government	Italy
Piedmont Regional Government	Italy
Veneto Regional Government	Italy
Emilia Romagna Regional Government	Italy
Azores Regional Government	Portugal
Madeira Regional Government	Portugal
Basque Government	Spain
Canary Islands Government	Spain
Galicia Regional Government	Spain
Madrid Regional Government	Spain
Valencia Regional Government	Spain
Murcia Regional Government	Spain
Asturias Regional Government	Spain
Scottish Government	United Kingdom

Local or regional authorities without legislative powers

Sofia City	Bulgaria
Zlín City	Czech Republic
Auvergne Regional Council	France
Dunkirk Urban Community	France
Eure General Council	France
Augsburg City	Germany
Erlangen Municipality	Germany
Patras Municipality	Greece
Budapest City	Hungary
Alessandria Province	Italy
Radviliškis District Municipality	Lithuania
Flevoland Provincial Government	Netherlands
Twente Network City – (inc. municipalities of Almelo, Borne, Hengelo, Enschede and Oldenzaal)	Netherlands
Overijssel Province	Netherlands
Łódż City	Poland
Łódż Region Marshal's office	Poland
Wielkopolska Region Marshal's office	Poland
Pomeranian Regional Parliament	Poland
Masovian Region Marshal's office	Poland
Silesian Region Government	Poland
Tavira City	Portugal
Hunedoara City	Romania
Galaţi County Council	Romania
Košice Autonomous Region Government	Slovakia
Nitra Self Governing Region	Slovakia
Izola City	Slovenia
Barcelona Provincial Council	Spain
Ceuta Autonomous City	Spain
Madrid City	Spain
Gothenburg	Sweden
Västra Götaland County	Sweden
Skåne Regional Government	Sweden

Associations of regional and/or local authorities

Arco latino	European association
Assembly of European Regions	European association
Association of European Border Regions	European association
Conference of European Regional Legislative Assemblies (CALRE)	European association
Council of European Municipalities and Regions (CEMR)	European association
Eurocities	European association
REGLEG	European association
Austrian State Governors' Conference	Austria
Union of Cyprus Municipalities	Cyprus
Danish Regions	Denmark
Denmark Local Government	Denmark
Association of Finnish Local and Regional Authorities	Finland
Association of Mayors and Elected Representatives of Lozère	France
Conference of Atlantic Arc Cities	France
French Regions Association	France
German Association of Towns and Municipalities	Germany
German County Association	Germany
Association of Prefectoral Authorities of Greece (ENAE)	Greece
AICCRE - Italian Section of the Council of European Municipalities and Regions	Italy
Conference of the Presidents of the Italian Regional Parliaments	Italy
Union of Italian Provinces (UPI)	Italy
Latvian Association of Local and Regional Governments	Latvia
Lithuanian Association of Local Authorities	Lithuania
Association of the Provinces of the Netherlands (IPO)	Netherlands
Association of Netherlands Municipalities (VNG)	Netherlands
Association of Romanian Municipalities	Romania
Association of Romanian Cities	Romania
National Union of County Councils	Romania
Association of Municipalities of Aragon	Spain
Federation of Provinces and Municipalities of Extremadura	Spain
Association of Swedish Local and Regional Authorities (SALAR)	Sweden
Convention of Scottish Local Authorities (COSLA)	United Kingdom

CoR national delegations

Irish Delegation to the CoR	Ireland
Luxembourg Delegation to the CoR (Syvicol)	Luxembourg
Maltese Delegation to the CoR	Malta
Romanian Delegation to the CoR	Romania
United Kingdom Delegation to the CoR (LGA)	United Kingdom

National Parliaments

Austrian Federal Council (Bundesrat)	Austria
French Senate	France
Hellenic Parliament	Greece
Italian Senate	Italy
Portuguese Assembly of the Republic	Portugal

Appendix 2: Overview of opinions adopted between 1 January and 31 December 2012

CoR commission	Number of opinions adopted from 1 January 2012 to 31 December 2012	Number of opinions on legislative proposals	Number of opinions containing an explicit reference to subsidiarity (Rule 51(2))*	Number of opinions containing an assessment of compliance with subsidiarity principle	Related SMN consultation	Number of opinions adopted in a policy area of mandatory CoR consultation	
						Legislative proposals	Non-legislative initiatives
CIVEX	12	5	10	3	1	0	0
COTER	14	10	9	6	1	10	2
ECOS	13	9	8	5	3	2	1
EDUC	10	7	10	8	0	4	2
ENVE	12	4	9	7	3	4	7
NAT	9	6	3	2	0	2	1
BUDG	1	1	0	0	0	0	0
TOTAL	**71**	**42**	**49**	**31**	**8**	**22**	**13**

* Rule 51(2) of the Rules of Procedure of the CoR, which states that "Committee opinions shall contain an explicit reference to the application of the subsidiarity and proportionality principles", entered into force on 10 January 2010.

CIVEX

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[18]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking
Own-initiative opinion CdR 273/2011 fin (CIVEX)	16 February 2012	Building a European culture of multilevel governance: follow-up to the Committee of the Regions' White Paper	No	No	No	N/A[19]	Yes (subsidiarity, proportionality, better law-making, multi-level governance)
COM(2011) 274 final of 18 May 2011 COM(2011) 275 final of 18 May 2011 COM(2011) 276 final of 18 May 2011 CdR 197/2011 fin (CIVEX)	16 February 2012	Opinion on the Victims' Package	Yes	No	No	No	Yes (subsidiarity, proportionality)
COM(2011) 455 final CdR 199/2011 fin (CIVEX)	15 February 2012	New European Agenda For Integration	No	No	Yes[20]	No	Yes (subsidiarity, proportionality, better law-making, multi-level governance)

18 During the legislative procedure.

19 The opinion is an assessment of multilevel governance in the EU, therefore the principle of subsidiarity is an overall concern and an assessment of compliance of the latter is not relevant.

20 Although not technically taking place within the context of an impact assessment, the aim of this consultation was to provide the European Commission (DG HOME) with input from local and regional authorities with regard to the Second European Agenda on Integration, which was then being drafted. The report of the consultation together with all contributions received was transmitted to the European Commission via a letter from the CoR Secretary General on 25 May 2011. The results of the consultation were also used by Mr Kalogeropoulos (EL/EPP) in the preparation of his draft opinion.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[18]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking
COM(2011) 637 final of 13 October 2011 CdR 364/2011 fin (CIVEX)	16 February 2012	Increasing the impact of EU Development Policy: an Agenda for Change	No	No	No	No	Yes (better governance)
COM(2011) 666 final CdR 365/2011 fin (CIVEX)	3 May 2012	Opinion on The enlargement strategy and main challenges 2011-12 (Communication)	No	No	No	No	Yes (subsidiarity, multi-level governance)
COM(2011) 735 final CdR 10/2012 fin (CIVEX)	3 May 2012	Opinion on Family reunification (Green Paper)	No	No	No	No	Yes (subsidiarity, proportionality, multi-level governance)
COM(2011) 743 final CdR 9/2012 fin (CIVEX)	18 July 2012	Opinion on the Communication from the Commission on The Global Approach to Migration and Mobility	No	No	No	No	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011) 835 final CdR 11/2012 fin (CIVEX)	18 July 2012	Opinion on the Communication from the Commission on enhanced intra-EU solidarity in the field of asylum – An EU agenda for better responsibility-sharing and more mutual trust	No	No	No	Yes	Yes (subsidiarity, proportionality)
COM(2011) 749 final COM(2011) 750 COM(2011) 751 COM(2011) 752 COM(2011) 753 CdR 12/2012 fin (CIVEX)	18 July 2012	Opinion on EU financial instruments in Home Affairs	Yes	No	No	No	Yes (better law-making, multi-level governance)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[18]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking
COM(2011) 758 COM(2011) 759 COM(2011) 884 CdR 13/2012 fin (CIVEX)	18 July 2012	Opinion on the EU financial instruments in Justice and Citizenship	Yes	No, except for Art. 168(4) (safety measures for public health)	No	Yes (compliance)	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 837, 838, 839, 840, 842, 843, 844, 865 final CdR 732/2012 (CIVEX)	9 October 2012	Opinion on Global Europe: a new approach to financing EU external action	Yes	No	No	No	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011)293, 308 final COM(2012) 85 final CdR 1269/2012 (CIVEX)	10 October 2012	Opinion on the Package on protection of the licit economy	Yes	No	No	Yes	Yes (subsidiarity)

COTER

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[21]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 610 final CdR 371/2011 (COTER)	15 February 2012	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and implementation of such groupings	Yes	Yes	No	No	Yes (better law-making, multi-level governance)
COM(2011) 615 final CdR 4/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the funds covered by the Common Strategic Framework	Yes	Yes	No	Yes (non-compliance)	Yes (subsidiarity, proportionality, better law-making, multi-level governance)
COM(2011) 614 final CdR 5/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the ERDF	Yes	Yes	No	Yes (calls on the European Commission to review the draft regulation, taking greater account of the principles of subsidiarity and proportionality)	Yes (subsidiarity, proportionality, better law-making)

[21] During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[21]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 607 final CdR 6/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the ESF	Yes	Yes	No	Yes (non-compliance)	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 612 final CdR 7/2012 (COTER)	3 May 2012	Opinion on the proposal for a Regulation on the Cohesion Fund	Yes	Yes	No	No	Yes (subsidiarity, multi-level governance)
COM(2011) 650 final CdR 8/2012 (COTER)	3 May 2012	Opinion on the Community Guidelines for the development of the trans-European transport network	Yes	Yes	No	Yes (compliance)	Yes (proportionality)
Outlook opinion CdR 650/2012 (COTER)	19 July 2012	Opinion on Future cities: environmentally and socially sustainable cities	No	No	No	No	Yes (multi-level governance)
COM(2011) 611 final – 2011/0273 (COD) CdR 647/2012 (COTER)	19 July 2012	Opinion on the Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal	Yes	Yes	No	No	Yes (better law-making)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[21]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM (2011) 665 and COM (2011) 659 CdR 648/2012 (COTER)	19 July 2012	Opinion on the Proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility	Yes	Yes	Yes (targeted consultation from 29 November 2011 to 15 January 2012, mentioned in the opinion)	Yes (compliance)	Yes (subsidiarity)
COM(2011) 823 final COM(2011) 828 final COM(2011) 824 final COM(2011) 827 final CdR 649/2012 (COTER)	19 July 2012	Opinion on the Airport Package	Yes	Yes	No	Yes (non-compliance)	No
COM(2012) 128 final CdR 1272/2012 (COTER)	10 October 2012	Opinion on the Revised EU strategy for the Baltic sea region	No	Yes	No	No	Yes (multi-level governance)
SWD(2012) 106 final CdR 1683/2012 (COTER)	29 November 2012	Opinion on the Code of Conduct on Partnership	No	No	No	No	Yes (subsidiarity, proportionality, multi-level governance)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[21]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
CdR 1684/2012 (COTER)	29 November 2012	Opinion on Community led local development	No	Yes[22]	No	No	Yes (subsidiarity)
COM(2012) 496 final CdR 2027/2012 (COTER)	29 November 2012	Opinion on a Common strategic framework	Yes	Yes	No (consultation of the Europe 2020 Platform)	No	Yes (proportionality, multi-level governance)

22 As far as economic, social and territorial cohesion are concerned; will depend on each legal basis of possibly forthcoming legislative proposals.

ECOS

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[23]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
Own-initiative opinion COM(2011) 594 final CdR 332/2011 (ECOS)	15 February 2012	A common system of financial transaction tax and amending Directive 2008/7/EC	Yes	No	No	Yes (compliance)	No
Referral letter from the Commission of 28 October 2011 Outlook Opinion CdR 333/2011 (ECOS)	15 February 2012	Child Poverty	No	Yes	No	No	No
Outlook Opinion CdR 56/2012 (ECOS)	4 May 2012	Opinion on Active Ageing: Innovation – Smart Health – Better Lives	No	No	No	Yes (compliance)	Yes (proportionality, multi-level governance)
COM(2011) 609 final CdR 335/2011 (ECOS)	3 May 2012	Opinion on EU Programme for social change and innovation	Yes	Yes	No	No	No

23 During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[23]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
Outlook Opinion Proposal for a Regulation of the European Parliament and of the Council on *the European Globalisation Adjustment Fund for the period 2014-2020* COM(2011) 608 final CdR 334/2011 (ECOS)	3 May 2012	Opinion on European Globalisation Adjustment Fund for the period 2014-2020	Yes	Yes	No	No	Yes (multi-level governance)
COM(2011) 685 final COM(2011) 684 final COM(2011) 683 final COM(2011) 681 final CdR 14/2012 (ECOS)	19 July 2012	Opinion on the responsible businesses package	Yes	No	No	No	Yes (subsidiarity, proportionality, better law-making, administrative burdens)
COM(2011) 897 final CdR 100/2012 (ECOS)	19 July 2012	Opinion on the award of concessions contracts	Yes	No	Yes (first Early Warning System consultation through REGPEX)	No	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 834 final CdR 98/2012 (ECOS)	9 October 2012	Opinion on the Programme for the competitiveness of enterprises and small and medium-sized enterprises (2014-2020)	Yes	No	No	No	No

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[23]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2012) 55 final CdR 747/2012 (ECOS)	10 October 2012	Opinion on the White paper – an agenda for adequate, safe and sustainable pensions	No	No	No	Yes (compliance)	Yes (proportionality)
COM(2011) 895 & 892 final CdR 99/2012 (ECOS)	9 October 2012	Opinion on the Public Procurement Package	Yes	No	Yes (first Early Warning System consultation through REGPEX)	Yes (non-compliance)	Yes (subsidiarity, proportionality, better law-making, administrative burdens)
COM(2012) 209 final CdR 1528/2012 (ECOS)	29 November 2012	Opinion on EU State Aid Modernisation (SAM)	No	No	No	No	Yes (better law-making)
COM(2012) 131 final COM(2012) 130 final CdR 1185/2012 (ECOS)	29 November 2012	Opinion on the posting of workers in the framework of the provision of services	Yes	No[24]	Yes[25]	Yes (non-compliance)	Yes (subsidiarity, proportionality)
COM(2012) 35 final CdR 1364/2012 (ECOS)	29 November 2012	Opinion on the Statute for a European Foundation (FE)	Yes	No	No (however, publication of positions on REGPEX)	No	Yes (subsidiarity, better law-making)

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

25 Letter of 9 July 2012 from the rapporteur to SMN members asking them to respond to a number of questions.

EDUC

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[26]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
Own initiative opinion CdR 191/2011 (EDUC)	15 February 2012	The future of the European capital of culture	No	Yes	No	No	Yes (subsidiarity)
COM(2011) 567 final CdR 290/2011 (EDUC)	16 February 2012	Modernisation of higher education	No	Yes	No	Yes (compliance)	Yes (subsidiarity, proportionality)
COM(2011) 788 final CdR 400/2011 (EDUC)	4 May 2012	Opinion on Erasmus for all – Proposal for a Regulation	Yes	Yes	No	No	Yes (subsidiarity, better law-making)
COM(2011) 657 final CdR 399/2011 (EDUC)	4 May 2012	Opinion on Trans-European telecom networks – Proposal for a Regulation	Yes	Yes	No	Yes (compliance)	Yes (proportionality)
COM(2011) 785 final CdR 401/2011 (EDUC)	19 July 2012	Opinion on the Creative Europe Programme	Yes	Yes	No	Yes (compliance)	Yes (subsidiarity, proportionality, better law-making)
COM(2011) 809 final CdR 402/2011 (EDUC)	19 July 2012	Opinion on Horizon 2020 (The Framework Programme for Research and Innovation)	Yes	No	No	Yes (compliance)	Yes (proportionality, better law-making))

26 During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[26]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2012) 9, 10, 11 final CdR 625/2012 (EDUC)	10 October 2012	Opinion on the Data Protection package	Yes	No	No, however publication of positions of Regional Parliaments on REGPEX	Yes (non-compliance)	Yes (subsidiarity, proportionality)
COM(2011) 877 & 882 final CdR 626/2012 (EDUC)	10 October 2012	Opinion on the Review of the directive on re-use of public sector information and open data	Yes	No	No, however publication of positions of Regional Parliaments on REGPEX	Yes (compliance)	Yes (subsidiarity, proportionality, multi-level governance)
COM(2012) 60 final CdR 1112/2012 (EDUC)	30 November 2012	Opinion on Innovating for Sustainable Growth: A Bioeconomy for Europe	No	No[27]	No	Yes (compliance)	Yes (multi-level governance)
COM(2012) 407 final CdR 2077/2012 (EDUC)	30 November 2012	Opinion on the Proposal for a Decision establishing a Union action for the European Capitals of Culture for the years 2020 to 2033	Yes	Yes	No	Yes (compliance)	No

27 As far as research/innovation, agriculture, competitiveness of industry are concerned. Mandatory consultation for environment; will depend on each legal basis of possibly forthcoming legislative proposals.

ENVE

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[28]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 321 final CdR 190/2011 (ENVE)	16 February 2012	Report from the Commission to the European Parliament and the Council on the implementation of the Environmental Noise Directive in accordance with Article 11 of Directive 2002/49/EC	No	No	No	No	Yes (subsidiarity, proportionality, multi-level governance)
Referral by the Danish Presidency of 12 January 2012 CdR 85/2012 (ENVE)	4 May 2012	Opinion on Energy efficiency in cities and regions incl. a focus on the differences between rural districts and cities	No	Yes	No	No	No
Letter from the European Commission vice-president of 19 July 2011 CdR 329/2011 (ENVE)	3 May 2012	Outlook opinion on Review of EU Air Quality and Emissions Policy	N/A (not yet, the legislative proposals are still to come)	Yes	Yes (targeted consultation from 18 October to 2 December 2011, mentioned in the opinion)	No	Yes (multi-level governance)

28 During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[28]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 874 final – 2011/0428 COD CdR 86/2012 (ENVE)	19 July 2012	Opinion on the establishment of the Programme for the Environment and Climate Action (LIFE)	Yes	Yes	Yes (in the framework of an impact assessment consultation during the pre-legislative phase in 2011)	Yes	Yes (proportionality, better law-making, multi-level governance)
COM(2011) 658 final - 2011/0300 (COD) CdR 20/2012 (ENVE)	19 July 2012	Opinion on the Proposal for a Regulation on Guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC	Yes	Yes	No	Yes (compliance)	No
COM(2011) 789 final CdR 87/2012 (ENVE)	19 July 2012	Opinion on the Proposal for a Regulation on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change	Yes	Yes	No	Yes (compliance)	Yes (proportionality, better law-making, multi-level governance)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[28]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 885 final – CdR 88/2012 (ENVE)	10 October 2012	Opinion on the Energy Roadmap 2050	No	Yes[29]	No	No	Yes (better law-making, multi-level governance)
Own-initiative opinion CdR 89/2012 (ENVE)	10 October 2012	Opinion on Regional-specific approaches to climate change in the EU based on the example of mountainous regions	No	Yes[30]	No	No	Yes (subsidiarity)
Presidency referral CdR 1751/2012 (ENVE)	10 October 2012	Opinion on Adaptation to climate change and regional responses: the case of coastal regions	No	Yes[31]	No	Yes (compliance)	Yes (proportionality, multi-level governance)

29 As far as energy- or environment-related issues are concerned – will depend on each legal base of possibly forthcoming legislative proposals.

30 As far as energy- or environment-related issues are concerned – will depend on each legal base of possibly forthcoming legislative proposals.

31 As far as energy- or environment-related issues are concerned – will depend on each legal base of possibly forthcoming legislative proposals.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[28]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2012) 95 final CdR 1119/2012 (ENVE)	30 November 2012	Opinion "Towards a 7th Environment Action Programme: Better implementation of EU environment law"	No	Yes	Yes (targeted consultation of the SMN which ran from 25 May to 6 July 2012)	Yes	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011) 876 final – 2011/0429 (COD) CdR 1120/2012 (ENVE)	30 November 2012	Opinion on priority substances in the field of water policy	Yes	Yes	No (however, publication of positions on REGPEX)	Yes (compliance)	Yes (proportionality)
COM(2012) 46 final CdR 1121/2012 (ENVE)	30 November 2012	Opinion on The implementation of the Soil Thematic Strategy and ongoing activities	No	Yes	No	Yes	Yes (subsidiarity, proportionality, better regulation, administrative burdens)

NAT
Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[32]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 709 final CdR 67/2012 (NAT)	4 May 2012	Opinion on the proposal for a regulation on "Health for Growth, the third multi-annual programme of EU action in the field of health for the period 2014-2020	Yes	Yes	No	Yes (compliance)	Yes (better law-making, administrative burdens)
COM(2011) 707 final CdR 66/2012 (NAT)	4 May 2012	Opinion on the Proposal for a Regulation of the European Parliament and of the Council on a consumer programme 2014-2020	Yes	No	No	No	Yes (better law-making)

32 During the legislative procedure.

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[32]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 625 final/2, COM(2011) 626 final/2, COM(2011) 627 final/2, COM(2011) 628 final/2, COM(2011) 629 final, COM(2011) 630 final, COM(2011) 631 final CdR 65/2012 (NAT)	4 May 2012	Opinion on the proposals on the reform of the Common Agricultural Policy and the Rural Development Policy after 2013	Yes	No	No	Yes	Yes (subsidiarity, better law-making, multi-level governance)
COM(2011) 416 final - COM(2011) 417 final - COM(2011) 418 final - COM(2011) 424 final - COM(2011) 425 final CdR 239/2011 (NAT)	4 May 2012	Opinion on the Proposals on the reform of the common fisheries policy	Yes	No	No	No	Yes (proportionality, good governance)
COM(2011) 934 final CdR 740/2012 (NAT)	19 July 2012	Opinion on Union Civil Protection Mechanism	Yes	No	No	No	Yes (better law-making, multi-level governance)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[32]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better lawmaking?
COM(2011) 804 final CdR 34/2012 (NAT)	9 October 2012	Opinion on the European Maritime and Fisheries Fund (EMFF)	Yes	Yes	No	No	Yes (better law-making, multi-level governance)
COM(2011) 782 final CdR 741/2012 (NAT)	9 October 2012	Opinion on Developing a maritime strategy for the Atlantic Ocean area	No	Yes[33]	No	No	Yes (multi-level governance)
COM(2012) 79 final CdR 1749/2012 (NAT)	30 November 2012	Opinion on the European Innovation Partnership: Agricultural Productivity and Sustainability	No	No	No	No	Yes (multi-level governance)
COM(2012) 225 final CdR 1750/2012 (NAT)	29 November 2012	Opinion on A European Consumer Agenda – boosting confidence and growth	No	No	No	No	Yes (subsidiarity, proportionality)

33 As far as territorial cohesion is concerned – will depend on each legal base of possibly forthcoming legislative proposals.

BUDG

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory[34]	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion	Other reference to subsidiarity / proportionality / better lawmaking in the opinion
COM(2012) 42 final COM(2012) 388 final CdR 1777/2012 (BUDG)	9 October 2012	Opinion on The new multiannual financial framework post-2013	Yes	No	No	No	Yes (better law-making)

34 During the legislative procedure.

Appendix 3

KEY OPINIONS ADOPTED IN 2012 WITH REGARD TO SUBSIDIARITY AND PROPORTIONALITY

1. Own-initiative opinion: Building a European culture of multilevel governance: follow-up to the Committee of the Regions' White Paper
(CdR 273/2011, adopted on 15 February 2012)

This opinion confirmed the CoR's political commitment expressed in its White Paper on Multilevel Governance adopted on 17 June 2009[35] and highlighted a number of political principles and directions to ensure that its project for Building Europe in partnership is achieved.

It particularly developed the concept of multilevel governance as "*based on coordinated action by the EU, the Member States and regional and local authorities according to the principles of subsidiarity and proportionality and in partnership, taking the form of operational and institutionalised cooperation in the drawing-up and implementation of the European Union's policies*". Furthermore, it stressed the link between multilevel governance and subsidiarity, the latter relating to the remits of the various tiers of government and the former focusing on their interaction.

In the opinion, the CoR pointed out that it has taken the initiative of creating a Multilevel Governance Scoreboard at European Union level which will help to measure annually to what extent the main principles and mechanisms of this type of governance have been taken into account in the European Union's political cycle. Also, the CoR has undertaken to draw up its European Union Charter for Multilevel Governance, which will seek to incorporate a shared understanding of European governance into the European Union's core values and should lead to greater participation by local and regional authorities in the exercise of European democracy.

2. Opinion on the proposal for a Regulation on the funds covered by the Common Strategic Framework
(COM(2011) 615 final, CdR 4/2012, adopted on 3 May 2012)

In the opinion, the CoR welcomed the fact that "*the ESF will remain in the sphere of cohesion policy as a key instrument for jobs, for improving people's skills and for social inclusion*" but insisted "*however that in accordance with the subsidiarity principle regional and competent local authorities should be responsible for choosing investment priorities and distributing the Structural Funds between the ERDF and the ESF*".

One of the amendments to the Commission's proposal thus specified that "[i]*n accordance with the subsidiarity principle, the managing authorities shall autonomously choose the thematic objectives and investment priorities on which overall EU support shall be concentrated.*" In the reason for the

35 CoR White Paper on Multilevel Governance, CdR 89/2009 fin.

amendment it is explained that although the CoR endorses the principle of concentrating the bulk of resources on a limited number of thematic objectives/investment priorities it considers that "*the choice of objectives and priorities should be left to the managing authorities which will adapt the goals of the Europe 2020 strategy and the Common Strategic Framework to local conditions.*"

In the opinion, the CoR furthermore "*reject*[ed] *the proposed accreditation of management and control authorities. The implementation of cohesion policy by the Member States is in line with the subsidiarity principle in the EU. Accreditation of state authorities by other state authorities has no basis in administrative law in some Member States and interferes in the organisational sovereignty of Member States.*"

3. Opinion on the proposal for a Regulation on the ERDF
(COM(2011) 614 final, CdR 5/2012, adopted on 3 May 2012)

The opinion stated the CoR's view that "*the European Commission's draft regulation overly restrict*[ed] *the ERDF's scope for funding and* [did] *not allow Member States and regions the necessary room for manoeuvre in terms of regional and structural policy to meet the goals of the treaty and the Europe 2020 strategy with tailor-made territorial measures*" and that "[i]*t restrict*[ed] *the scope for using the ERDF to support the introduction of integrated territorial development strategies which take account of the respective territorial strengths and needs and in so doing make a major contribution to boosting economic growth and employment*".

More generally, the opinion called for greater account to be taken of the principles of subsidiarity and proportionality in the negotiations so that ERDF support "*does not become centralised, overregulated and highly bureaucratic*". It called on the European Commission to review the draft regulation accordingly in consultation with the Council and the European Parliament.

4. Opinion on the proposal for a Regulation on the ESF
(COM(2011) 607 final, CdR 6/2012, adopted on 3 May 2012)

In the opinion, the CoR raised concerns regarding a number of points in the Commission proposal, such as for instance those relating to thematic concentration, "*because they will limit scope to tailor ESF support to the needs and particularities of individual regions, which raise issues of conflict with the subsidiarity and proportionality principles*".

The CoR then recalled that "*the Commission is bound under the Treaties to respect the subsidiarity principle and that this is a matter of particular interest to the CoR, since Article 2 of the* Protocol on the application of the principles of subsidiarity and proportionality *stipulates that consultations conducted during the process of enacting legislation should* 'take into account the regional and local dimension of the action envisaged'; *furthermore, Article 5 of the same protocol specifies that justification must be provided for Commission proposals. Since the present proposal simply invokes in the usual general and vague terms the need for ESF interventions to be effective, it can hardly be said to meet this specification*".

Furthermore, the CoR found that the proposal was not in compliance with the principle of subsidiarity as regards the chosen method and procedure for pursuing the aim of thematic concentration: "*while welcoming the aim of thematic concentration, is against the Commission's chosen method and procedure for pursuing this goal, as set out in Article 4(3) of the proposal for a Regulation: prescribing very high rates of concentration for allocations to each operational programme, ranging from 80% to 60% depending on the category of region, in up to four of the total 18 investment priorities, is incompatible with the principles of subsidiarity and proportionality, as this may not prove adequate to cover the particular needs and priorities of each region*".

5. Opinion on the Revision of the TEN-T Guidelines and Connecting Europe Facility
(COM (2011) 665 and COM (2011) 659, CdR 648/2012, adopted on 19 July 2012)

In 2012, the Action Plan of the Subsidiarity Monitoring Network focused on these two opinions, allowing for the first time direct exchange between CoR rapporteurs and members of the Network. Moreover, a targeted SMN consultation on the Connecting Europe Facility took place at the beginning of the year. Finally, the Thematic Subsidiarity Workshop held during the Open Days 2012 was attended by Mr Soulage (FR/PES) and Mr Zagar (SL/EPP), both CoR rapporteurs for the above mentioned opinions. The CoR has expressed its support to these two initiatives and has recalled the importance of involving local and regional authorities in all phases of the different procedures.

6. Opinion on the Airport Package
(COM(2011) 823 final, COM(2011) 828 final, COM(2011) 824 final, COM(2011) 827 final, CdR 649/2012, adopted on 19 July 2012)

In the opinion, the CoR found that several points of the Commission's proposal were in breach with the principle of subsidiarity.

The CoR agreed "*that in line with the Balanced Approach, the most cost-efficient measure should be chosen in order to achieve noise abatement objectives but considers that the proposed right of scrutiny for the Commission exceeds its powers according to the principle of subsidiarity. Operating restrictions must be imposed by regional authorities with due regard to the local situation and to local specifics. An additional right of scrutiny for the Commission is neither necessary nor proportionate*".

Consequently, the CoR deleted Article 10 on operating restrictions from the Commission's proposal considering that, "*as currently worded,* [the relevant provision] *could call regional mediation agreements into question. These agreements between airports, the relevant region and citizens are often reached after years of difficult and exhausting negotiations. The German Bundesrat, Austrian Bundesrat, French Senate and Dutch First Chamber concluded that the Commission's right of scrutiny under Article 10 is in breach of the European Union's principle of subsidiarity*."

Furthermore, the CoR considered that "*the proposed right of the European Commission to designate individual* 'network airports'*, whereby it can require Member States to treat individual airports distinctly and separately, exceeds its powers according to the principle of subsidiarity.*"

7. Opinion "Towards a 7th Environment Action Programme (EAP) – better implementation of EU environment law"

(COM(2012) 95 - Improving the delivery of benefits of EU environment measures: Building confidence through better knowledge and responsiveness (COM), CdR 1119/2012, adopted on 30 November 2012)

The rapporteur of this opinion, Ms Canver (UK/PES), was able to use the outcome of a targeted consultation of the SMN which ran from 25 May to 6 July 2012. In its opinion, the CoR noted that the Commission makes no assessment of the various options set out in its communication (COM(2012) 95), in terms of their compatibility with the principle of subsidiarity. Furthermore, the CoR considered that the options presented in the communication are "*insufficiently well-developed for the CoR to form a definitive view, with much depending on whether (and how) the European Commission decides to take some of these forward.*"

With this reservation, the opinion referred to the consultation of the SMN, noting that the contributions "*generally indicate that the options in the Communication, when fully formulated, are unlikely to constitute a significant breach of subsidiarity*" and highlighted "*however, that whereas there is support for an upgrade of the existing framework for inspections, there may be some resistance in the SMN to this being made binding and to the creation of an EU inspection body. Similarly, whereas there is support for criteria for handling of complaints by Member States, some SMN members may prefer for these to be non-binding recommendations. There appears to be an acceptance that the EU should define the conditions for efficient and effective access to national courts on EU environment law.*"

8. Opinion on the Public Procurement Package and Opinion on the award of concessions contracts

(COM(2011) 895 and 896 final, CdR 99/2012, adopted on 9 October 2012; and COM(2011) 897 final, CdR100/2012, adopted on 19 July 2012)

The two opinions benefited from the first coordinated exercise organised by the CoR with regional parliaments and governments through REGPEX. Partners were invited to share their positions during the early warning phase, from 11 January to 8 March 2012. A report, analysing and summarising the contributions of twelve SMN partners and referring to reasoned opinions adopted by national parliaments during the same period, was drawn up and forwarded to the two CoR rapporteurs appointed on this legislative package, Mr Kool (NL/PES) for concessions and Ms Segersten-Larsson (SV/EPP) on public procurement.

Eventually, the opinion on concessions made a general statement to the effect that the proposal "*must show due regard for the subsidiarity principle: local and regional authorities should remain free to*

choose whether they will carry out works and services themselves or outsource them to third parties". The opinion on public procurement went further in expressing concern. It pointed out that "*the proposal contravenes the Member States' right to organise their own administration and is in breach of the subsidiarity principle*".

9. Opinion on the Data Protection package
(COM(2012) 9, 10, 11 final, CdR 625/2012, adopted on 10 October 2012)

The opinion acknowledged that "*insofar as it concerns the private sector, there is good reason to try to fully harmonise parts of European data protection law by replacing it with a regulation*". However, it noted that the package of the General Data Protection Regulation and the Directive relating to the police and justice attracted objections concerning its compliance with the principles of subsidiarity and proportionality. Indeed, a number of regional parliaments and governments have expressed concerns.

The opinion questioned the choice of instrument for the General Data Protection Regulation, i.e. a rather abstract regulation giving the Commission some power for delegated acts, including in essential matters. It considered that processing by public authorities of personal data and the sphere of employment law should continue to be governed by a directive. Furthermore, it also expressed doubts as to "*whether regulation of exclusively national-level data processing by way of a proposal for a directive relating to the police and justice falls within the legislative competence of the European Union or complies with the principles of subsidiarity and proportionality*".

10. Opinion on the posting of workers in the framework of the provision of services
(COM(2012) 131 final; COM(2012) 130 final; CdR1185/2012, adopted on 29 November 2012)

This opinion was adopted after the Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services ("Monti II") was withdrawn by the Commission as a result of the activation of the "Yellow card" procedure by national parliaments. However, the CoR stated in the opinion that it shared the view that the right to strike is clearly excluded of the scope of EU legislation and that the proposal lacked a legal basis in this area.

Moreover, the opinion stressed that "*if the Commission had maintained its proposal for a regulation, in the light of reasoned opinions adopted by national parliaments as well as positions expressed at regional level through the CoR, the latter could have considered taking the necessary steps to lodge an ex-post appeal against it for breaching the principle of subsidiarity in terms of both the choice of legal basis and insufficient evidence of the added value of EU action in this area*". The opinion also pointed out that the CoR will continue to monitor these matters very closely.

_____

For further information please contact:

Unit E2 - Subsidiarity

subsidiarity@cor.europa.eu
www.cor.europa.eu/subsidiarity

EUROPEAN UNION

Committee of the Regions