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of the Regions**

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POINT 10 B

ANNUAL WORK PROGRAMME ON SUBSIDIARITY

Submitted by the secretary-general

FOR INFORMATION

SUMMARY

Bureau meeting: 212

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Point 10 b

ANNUAL WORK PROGRAMME ON SUBSIDIARITY

Type:

- Document for information / debate
- Document for decision
- Recommendation to the Assembly

Short description:

In accordance with the Subsidiarity Monitoring Strategy¹, the annual Subsidiarity Work Programme (SWP) is drawn up by the Subsidiarity Steering Group (SSG) on the basis of a contribution by the Subsidiarity Expert Group (SEG) and in coordination with all commissions to ensure a consistent approach to the subsidiarity monitoring of legislative initiatives. The SSG endorsed the present draft annual work programme for 2022 at its meeting of 20 January 2022.

Should the CoR Bureau agree at its meeting of 28 June 2022 to set up a Better Regulation and Active Subsidiarity Steering Group (BRASS) (see other agenda point), then the SWP would as of 2023 be drawn up by the BRASS.

The Bureau is asked to:

- adopt the **Annual Subsidiarity Work Programme 2022**

¹ Item 7 a) – Subsidiarity Monitoring – A revised strategy (R/CdR 606/2012)

1. Introduction

In accordance with the Subsidiarity Monitoring Strategy², the annual Subsidiarity Work Programme (SWP) is currently drawn up by the Subsidiarity Steering Group (SSG) on the basis of a contribution by the Subsidiarity Expert Group (SEG) and in coordination with all commissions to ensure a consistent approach to the subsidiarity monitoring of legislative initiatives.

The SWP is based on a priority list, i.e. an initial preselection of legislative initiatives included in the European Commission Work Programme 2022³ (ECWP) based on the following cumulative criteria⁴:

- initiatives should present a clear political interest for local and regional authorities;
- initiatives should touch on competences of local and regional authorities;
- initiatives should have a potential subsidiarity dimension;
- preference should be given to legislative proposals. Moreover, the preselection takes account of European Committee of the Regions (CoR) priorities and initiatives included in the commissions' work programmes.

This work programme provides guidelines for the work to be carried out in 2022 and therefore helps to ensure forward-looking and strategic planning of subsidiarity monitoring activities while also ensuring the necessary flexibility to adapt to changes in the institutional and political agenda.

In addition to the identification of a priority list of subsidiarity-relevant files, the SSG will also follow up on the **subsidiarity-related activities of the Conference on the Future of Europe** (Conference)⁵, which will also be part of the resolution on the follow-up to the Conference due to be adopted by the CoR plenary session on 30 June 2022.

The **10th Subsidiarity Conference, due to take place in Valencia on 9 September 2022**, will build on the momentum of the Conference on the Future of Europe to come forward with further proposals to make subsidiarity more operational, through a more circular approach to legislation, regulatory processes and EU spending programmes. It should also reflect on the "active subsidiarity" approach, its role within the EU decision-making process and how it can feed into the work of the European Commission and the European Parliament. Ten years after the adoption of the CoR's 2012 Subsidiarity Monitoring Strategy, the conference will charter the course towards a new strategy with a view to integrating all CoR instruments of the wider active subsidiarity concept (including the RegHub network, the participation in the Fit for Future platform and carrying out territorial impact assessments) into the abovementioned new governance scheme of the BRASS.

² Item 7 a) – Subsidiarity Monitoring – A revised strategy (R/CdR 606/2012)

³ The European Commission Work Programme 2022 is to be found here: https://ec.europa.eu/info/sites/default/files/com2021_645-annex_en.pdf

⁴ Criteria established by the SEG at its first meeting on 25 October 2012.

⁵ At an early stage of the Conference, the CoR outlined its subsidiarity-relevant questions on the Conference's digital platform: <https://futureu.europa.eu/processes/Democracy/f/6/proposals/114517>

2. Priority initiatives

Five priority initiatives consisting of legislative files were identified for the 2022 SWP. As in the Subsidiarity Work Programme 2021, most of these priority files relate to the Fit for 55 strategy.

In addition, **three non-legislative files are considered to be very relevant** and are recommended for close monitoring in application of the new Rule 54.2 of the CoR's Rules of Procedure, which enlarges the scope of the CoR's subsidiarity scrutiny to legal acts⁶, i.e. including recommendations.

Finally, with a view to ensuring consistency between the CoR's different better regulation tools, it is proposed that **two items of the REFIT initiatives for 2022**, presented in Annex II of the European Commission Work Programme, would be "under special observation" and be subject to coordination with the CoR representatives in the Fit for Future platform, thereby reflecting the new integrated BRASS governance.

The priority list could be subject to changes based on the institutional and political agenda, once the content of the European Commission initiatives is known and if the Commission submits other initiatives outside its Work Programme that could be relevant in terms of subsidiarity.

Furthermore, the CoR will continue to closely follow the subsidiarity monitoring activities carried out by regional and national parliaments, particularly via its SEG and REGPEX⁷, the internet platform dedicated to regional parliaments and governments.

Any change in priority files or any additions of relevant dossiers will be made in agreement with the SSG (or BRASS as of 28 June), taking account of the work programme of the relevant CoR commission.

2.1 Zero pollution package (ECWP item 1)

b) Integrated water management of EU ambient air quality legislation

c) Revision of EU ambient air quality legislation

(legislative, incl. impact assessment, Article 192 TFEU, b) Q3 2021 and c) Q3 2022)

Both the proposals on b) Integrated water management and c) the Revision of EU ambient air quality legislation will most likely cover aspects of competences held by local and regional authorities. The proposals need to be examined with regard to measures that are already being taken at Member State level and with regard to the added value of any initiative at EU level in comparison with national and regional measures. The priority setting is also consistent with the Subsidiarity work programme 2021, in which the "Zero pollution action plan for water, air and soil" was flagged as an "additional priority".

⁶ "Committee opinions on proposals for legal acts in areas not falling within the Union's exclusive field of competence shall express a view on the proposal's compliance with the principles of subsidiarity and proportionality."

⁷ <http://portal.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx>.

2.2 Climate measures package (ECWP item 2)

d) Carbon removal certification

(legislative, incl. impact assessment, Article 192.1 TFEU, Q4 2022)

As the proposal is key for contributing to the EU-wide climate-neutrality target by 2050, it may raise issues of proportionality. The proposal is also linked to the implementation of the LULUCF Directive and thus indirect specifications for the calculability of changes in land use (reforestation, lowering, deforestation, use of grassland areas, etc.) on the carbon household and thus the greenhouse gas effects. The new legal framework may have an impact in terms of costs and effects of legal measures.

2.3 Biodiversity and Farm to Fork Sustainable use of pesticides – revision of the EU rules (ECWP item 5)

(legislative, incl. impact assessment, Article 192.1 TFEU, Q1 2022)

Within a common European framework for pesticides, the question may arise of whether Member States will be able to set their own national targets, which are themselves broken down at regional level, with timetables and criteria for reducing the quantities used.

2.4 Multimodal digital mobility services (ECWP item 12)

(legislative, incl. impact assessment, Article 91 TFEU, Q4 2022)

Given experiences in the past with the PSI Directive, the proposal could establish rules on the provision of local and regional public transport and data collection. Therefore, the proposals should be screened with a focus on subsidiarity and proportionality and furthermore the guarantee of local and regional self-governance should be enshrined in Art. 4(2) TEU.

2.5 Equality Bodies (ECWP item 32)

(legislative, Articles 19 and 157 TFEU, Q3 2022)

Legislation on equality bodies will be particularly sensitive for local and regional authorities given their key role in promoting equality and non-discrimination, in particular in interacting with public employment services and schools. Another relevant issue is the accessibility of equality bodies and the availability of equality data at local and regional levels.

3. Additional relevant initiatives

3.1 Digital in education and skills (ECWP item 10)

(non-legislative, Q3 2022)

The a) Recommendation on improving the provision of digital skills in education and training and the b) Recommendation on the enabling factors for digital education could cover aspects of education and higher education in particular, both of which are competences of regional authorities in certain federal Member States.

3.2 Minimum income (ECWP item 18)

(non-legislative, Q3 2022)

The issue of minimum income is a deeply social issue, where the Member States and also local and regional authorities have extensive legal and, above all, administrative / operational responsibilities. The Commission is planning a legally non-binding "recommendation" (similar to the non-legislative Recommendation for a European Child Guarantee, which was flagged as relevant in the Subsidiarity Work Programme 2021).

3.3 European care strategy (ECWP item 24)

(non-legislative, Q3 2022)

The Communication on a European care strategy, accompanied by the revision of the Barcelona targets and a proposal for a Council Recommendation on long-term care, will affect the competences of several European regions in terms of legislation and implementation.

4. REFIT initiatives under special observation

4.1. Revision of the urban wastewater treatment directive

(Legislative, incl. impact assessment Article 192 TFEU Q2 2022)

This directive is very relevant for the local and regional levels, given their sometimes legislative and/or administrative/operational responsibilities in this policy area. More and denser reports, albeit electronic/digital, are to be expected; these usually mean additional work and costs, at least in the transition phase. It is therefore necessary to question the proportionality and also whether the stricter tightening and greater transparency are actually of benefit to the public and justify the additional expenditure.

4.2. Proposal for an EU government interoperability strategy

(Legislative, incl. impact assessment Articles 114, 172, 188 and/or 197 TFEU Q2 2022)

This initiative will evaluate the current European interoperability framework and assess its support in setting up interoperable digital public services, which obviously also include public services carried out or supervised by local and regional authorities.

5. Cooperation with other institutions, organisations, bodies and associations

Based on the Protocol on cooperation between the CoR and the European Commission⁸, the CoR will build on its privileged relationship with the Commission concerning subsidiarity monitoring. As per the European Commission Communication⁹ on strengthening the role of subsidiarity and proportionality, the CoR should facilitate communication between sub-national levels and the European level. Moreover, in accordance with the cooperation agreement, close relations and cooperation between the CoR and the European Parliament should be ensured as early as possible in the legislative phase, namely with the JURI and AFCO committees. Progress was made in Spring 2022 when the European Parliament adopted CoR-sensitive amendments in relation to active subsidiarity in the draft JURI report by Tiemo Wölken (DES&D) on Better Law-Making. Furthermore, the CoR will pursue close cooperation with the Conference of European Regional Legislative Assemblies (CALRE) in terms of subsidiarity monitoring.

6. Adoption procedure and implementation

The SWP is prepared in parallel to the work programmes of all CoR commissions. The adoption procedure comprises several steps: first, the SEG and CoR commission chairs preselect initiatives on the basis of the 2022 Commission Work Programme. Next, the SEG discusses this preselection, then the draft SWP is drawn up and submitted to the SSG for decision. The SSG chair presents the draft SWP to the CIVEX commission. Finally, the Bureau adopts the final SWP together with the work programmes of all commissions, making sure that they have the necessary flexibility to adapt to changes in the institutional and political agenda.

Given that the CIVEX commission oversees subsidiarity and proportionality monitoring, and in light of the emphasis placed by the European Commission on ensuring that the principle of subsidiarity is fully upheld, the CIVEX commission cooperates closely with all other commissions on the implementation of the work programme, making use of all synergies and available resources. For this purpose, CIVEX relies on the guidance of the SSG, the work of the SEG and assessments from members of the Subsidiarity Monitoring Network.

This procedure would be retained in the future, with the BRASS taking over the role carried out to date by the SSG.

PROPOSAL:

The Bureau is asked to adopt this annual work programme on subsidiarity for 2022.

⁸ Point 23 of the *Protocol on cooperation between the European Commission and the Committee of the Regions* signed on 16 February 2012, OJ C 102, 5.4.2012.

⁹ COM (2018) 703 final, *The principles of subsidiarity and proportionality: Strengthening their role in the EU's policymaking*.