Aide-mémoire

for the subsidiarity and proportionality check

on the Commission proposal for

the full accomplishment of

the Internal Market for Postal Services

Prepared by the COSAC Secretariat
following the decisions taken by COSAC
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Background:

The XXXIV COSAC in London in October 2005 agreed in paragraph two of the Conclusions that:
"The XXXIV COSAC, recalling the existing scrutiny role of national parliaments, the provisions on subsidiarity in the Amsterdam Treaty and the fact that the Protocol on the Role of National Parliaments gives COSAC a role specifically in relation to subsidiarity, decided to encourage national parliaments to conduct a subsidiarity and proportionality check on a forthcoming EU legislative proposal or proposals. The check should be carried out with due respect for national parliaments’ internal work programmes, legal frameworks and traditions. COSAC agreed that, for those national parliaments which wish to participate, the check should operate as follows:

i. "Within two weeks after the examination by national parliaments of the European Commission’s annual work programme, as envisaged in the initiative “Raising European Awareness”, participating national parliaments should inform the COSAC Presidency of the proposals they wish to be subject to the subsidiarity and proportionality check; they may also make additional proposals at any time; the Presidential Troika should designate the most frequently mentioned proposals to be subject to the check; the list will be distributed to the national parliaments and the European Parliament;

ii. "the IPEX database should, if possible, be used in connection with the subsidiarity and proportionality check;

iii. "participating national parliaments should seek to complete their scrutiny within a six-week period;

iv. "the six-week period should begin when the proposal has been published in all languages;

v. "participating national parliaments or chambers should send any comments on subsidiarity or proportionality directly to the Commission, the European Parliament and the Council within the six-week period, copying those comments to the COSAC Presidency; and

vi. "it would be helpful if national parliaments could indicate clearly whether their comments relate to subsidiarity or proportionality."

According to paragraph 2(i) of the COSAC conclusions cited above, national parliaments who wished to participate in the subsidiarity and proportionality check should have informed the COSAC Presidency of the proposals they wish to be subject to the check within two weeks after 16 December (i.e. 30 December 2005). The Austrian Presidency received written proposals from 18 national parliaments or parliamentary chambers (from 14 Member States).

Based on the proposals from national parliaments, the COSAC chairpersons in their meeting on 20 February 2006 in Vienna agreed to carry out a subsidiarity and proportionality check of the two most frequently-mentioned legislative proposals, which in this case were:
• Proposal for a Regulation on the applicable law and jurisdiction in divorce matters (2005/JSL/187); and
• Proposal for the full accomplishment of the Internal Market for Postal Services (2006/MARKT/006).
SECOND SUBSIDIARITY AND PROPORTIONALITY CHECK:

1. Procedure of check on the Commission Proposal for the full accomplishment of the Internal Market for Postal Services

Timing

The Protocol on the role of national parliaments in the EU attached to the Amsterdam Treaty provides that six weeks shall elapse between a proposal being made available in all languages to the European Parliament and the Council by the Commission and the date when it is placed on a Council agenda for decision (either for the adoption of an act or for adoption of a common position). It therefore requests that national parliaments participating in the check should, if possible, seek to complete their examination of the proposal, by 13 December.

Cooperation with IPEX

The IPEX website has been launched to provide national parliaments with a platform for the electronic exchange of EU documents and information. All Commission proposals will be available on the IPEX website in English and French – with links to other language versions.

Each parliamentary chamber has its own IPEX page for individual proposals. This will include the proposal for the full accomplishment of the Internal Market for Postal Services. It will be possible to directly upload and exchange parliamentary documents and information on IPEX. In order to enhance the exchange of information between parliaments during the subsidiarity check, national parliaments are encouraged to share information on the IPEX website. In addition, if problems concerning subsidiarity are found, specific symbols can be assigned to the dossier by the individual parliamentary chambers.

For more information concerning how to upload national documents to IPEX, please contact your parliament’s IPEX Correspondent, or contact the IPEX Central Support (central.support@ipex.eu).

The IPEX website: www.ipex.eu
Username and password: ipexguest

Comments on the proposal

Participating national parliaments or chambers should send any comments on subsidiarity or proportionality directly to the Commission, the European Parliament and the Council in six weeks time – if possible – starting when all official language versions are available. The comments should also be copied to the COSAC Presidency.

Comments should be sent to following addresses:
Commission: sg-national-parliaments@ec.europa.eu
European Parliament: ep-np@europarl.europa.eu
Council: sgc.cosac@consilium.europa.eu
COSAC Presidency: grand.committee@parliament.fi
2. **Direct transmission of Commission documents**

Following on its commitment from the Communication to the European Council "A Citizens' Agenda - Delivering Results for Europe" of 10 May 2006, the Commission started at the beginning of September 2006 electronic transmission of new proposals and consultation papers to the National Parliaments.

The Commission has also put in place an internal procedure for handling of Parliaments' opinions. It should assure a coherent and timely response to them under the authority of the Vice-President responsible for relations with the National Parliaments. The procedure will facilitate that opinions of the National Parliaments are heard and their contributions are taken into account in the ongoing process of assessing initiatives.

3. **Openness in the Council:**

The meeting of COSAC Chairpersons on 20 February 2006 discussed the proposal of the Dutch Senate related to the subsidiarity and proportionality check. The Dutch senate proposed that the Council deliberations on the proposals should be conducted in public, in accordance with the specific measures taken by the Council in December 2005 in order to improve the openness and transparency of its formal meetings and to reach the widest public possible. The Chairpersons agreed that the Austrian Presidency should write to the President of the Council accordingly.

The letter from the Austrian Presidency and the answer from the President of the Council are published on the COSAC website and can be found via following link: [http://www.cosac.eu/en/meetings/vienna2006/ordinary/](http://www.cosac.eu/en/meetings/vienna2006/ordinary/)

The letter from the President of the Council states that "... (the proposal on) "Postal services" is a matter to be decided by the co-decision procedure. Hence, the presentation in Council, the final deliberations by Council and the voting procedure in Council take place in public according to Article 8.1 of the Council Rules of Procedure.

4. **Report from national parliaments on experience of the subsidiarity and proportionality check:**

The COSAC chairpersons agreed on 20 February 2006 that national parliaments upon completion of the examination of the commission proposal would draw up a short report summarising how they had set about the subsidiarity and proportionality check project and any lessons learnt. The reports should be submitted to the COSAC secretariat by 13 December. The report can be forwarded to the secretariat on: secretariat@cosac.eu in either English or French.

The Presidency has asked for the following points to be covered in the reports from national parliaments:

*Procedures:*

1. Which committees were involved in examining the Commission proposal for a Regulation on the applicable law and jurisdiction in divorce matters and what role did each committee play?
2. Was your plenary involved?
3. Were any other administrative services of your parliament involved in the process?
4. Could you describe the procedure used for the examination from start to finish with regard to the committees involved and other actors and the chronology of their involvement?

5. Did your government provide any information as part of the scrutiny process?

6. Did your national parliament consult regional parliaments with legislative powers?

7. Were any other external actors involved in the examination?

8. In case of a bicameral system, did you coordinate your examination with the other parliamentary chamber?

9. Was the procedure used for this project in accordance with the procedure your parliament plans to use following the Constitutional Treaty’s entering into force?

Findings:

10. Did you find any breach on the subsidiarity principle?

11. Did you find any breach on the proportionality principle?

12. Did you adopt a reasoned opinion for non-compliance? (If yes please enclose a copy with your report to the COSAC secretariat)

13. Did you find the Commission’s justification with regard to the subsidiarity principle satisfactory?

14. Did you find the Commission’s justification with regard to the proportionality principle\(^1\) satisfactory?

15. Did you encounter any specific difficulties during the examination?

16. Any other comments?

What to do now: Key dates

- **Commission proposal**: 18 October 2006
- **Official launch of the check**: when all languages are available (according to the information from the Commission by the end of October)
- **Send comments to the institutions**: if possible within 6 weeks time of the launch
- **Send the report and a copy of comments to the COSAC Secretariat**: 13 December

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\(^1\) The protocol on subsidiarity and proportionality does not stipulate an explicit legal obligation for the Commission to include a justification with regard to proportionality in the explanatory memorandum of a legislative proposal. However, according to the interinstitutional agreement on better lawmaking of 2003 the Commission "will also explain in its explanatory memorandum how measures proposed are justified in the light of the principles of subsidiarity and proportionality" (Art. 15)