Aide-mémoire
for the subsidiarity check
under the provisions of
the Treaty of Lisbon
on the Commission proposal
for the Directive
of the European Parliament and the Council
on standards of quality and safety
of human organs
intended for transplantation

Prepared by the COSAC Secretariat

1. Background

Based on the proposals from national parliaments, the COSAC Chairpersons in their meeting on 7 July 2008 in Paris agreed to carry out the second subsidiarity check of 2008 on the Proposal for a Directive of the European Parliament and the Council on standards of quality and safety for the donation, procurement, testing, preservation, transport and characterisation of human organs\(^1\). This decision was confirmed by the XL COSAC Meeting on 3-4 November 2008 in Paris\(^2\).

The check is to be conducted under the provisions of Protocol 2 on the Application of the Principles of Subsidiarity and Proportionality as attached to the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community\(^3\) (hereinafter referred to as "the Protocol").

The COSAC Secretariat was asked to prepare all necessary arrangements for the subsidiarity check on the Proposal.


2. Procedure for the subsidiarity check

The subsidiarity check should be carried out by national parliaments according to their own rules and procedures.

However, the Protocol stipulates a certain framework for the conduct of subsidiarity checks by national parliaments. Under Article 6 of the Protocol, any national parliament or any chamber of a national parliament may, within the period of eight weeks, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of

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**subsidiarity.** It will be for each national parliament or any chamber of a national parliament to consult, where appropriate, regional parliaments with legislative powers.

**Timing**

The check will be conducted by national parliaments within **eight weeks** of the publication of the Proposal in all official languages of the EU. The evaluation of the results of this subsidiarity check will take place during the incoming Czech Presidency, i.e. at the XLI COSAC Meeting, which is due to take place on 11-12 May 2009 in Prague.

**Making use of IPEX**

In its Conclusions the XL COSAC considered IPEX to be the most appropriate platform to transmit at early stage information on subsidiarity and the official decisions of national parliaments on this matter.

In order to enhance the exchange of information during the subsidiarity check, national parliaments are **encouraged to share information on the IPEX website.** Availability of timely and precise information from national parliaments on the IPEX website will allow an early exchange of information, *inter alia,* on subsidiarity concerns of national parliaments and will allow those interested to follow the results of the subsidiarity check in real time.

For more information, please contact your parliament’s IPEX Correspondent, or contact IPEX Central Support (centralsupport@ipex.eu).

**Reasoned opinions**

National parliaments participating in the current subsidiarity check are asked to transmit their **reasoned opinions** explicitly stating the reasons why it considers that the draft in question does not comply with the principle of subsidiarity to the above mentioned EU Institutions and to the COSAC Secretariat.

For that purpose, the following e-mail addresses should be used:

- **Commission:** sg-national-parliaments@ec.europa.eu
- **European Parliament:** ep-np@europarl.europa.eu
- **Council:** sgc.cosac@consilium.europa.eu
- **COSAC Secretariat:** secretariat@cosac.eu

**3. Evaluation of the subsidiarity check**

To facilitate the evaluation of the subsidiarity check during the Czech Presidency, national parliaments are, on behalf of the French Presidency, kindly asked to reply to the following questions and send their answers to the COSAC Secretariat (secretariat@cosac.eu).

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Procedures:

1. Which parliamentary committees were involved in the subsidiarity check and how?
2. Was the plenary involved?
3. At which level the final decision was taken and who signed it?
4. Which administrative services of your parliament were involved and how (please specify)?
5. Did your government provide any information on the compliance of the Proposal with the principle of subsidiarity?
6. In case of a bicameral parliament, did you coordinate the subsidiarity check with the other chamber?
7. Did you consult your regional parliaments with legislative powers?
8. Did you consult any non-governmental organisations, interest groups, external experts or other stakeholders?
9. What was the chronology of events?
10. Did you cooperate with other national parliaments in the process? If so, by what means?
11. Did you publicise your findings? If so, by what means?
12. Has your parliament introduced any procedural changes with regard to subsidiarity check mechanism since September 2008? If so, please specify how.

Findings:

13. Did you find any breach of the principle of subsidiarity?
14. Did you adopt a reasoned opinion on the Proposal? (If so, please enclose a copy)
15. Did you find the Commission’s justification with regard to the principle of subsidiarity satisfactory?
16. Did you encounter any specific difficulties during this subsidiarity check?
17. Any other comments?

Key dates:

- Publication of the Proposal: 8 December 2008.
- Launch of the subsidiarity check: when translations of the Proposal into all the official languages of the EU are available.
- Reasoned opinions should be sent to the EU Institutions within eight weeks of the launch of the check.
- Reasoned opinions and answers to the above questions should be sent to the COSAC Secretariat within eight weeks of the launch of the check.

The COSAC Secretariat will inform national parliaments of the exact dates of the launch and the finish of the subsidiarity check.