

AMENDMENT FORM

Suggestion for amendment to Protocol: SUBSIDIARITY

By: Mr. FARNLEITNER

Status: - Member

(...)

4. The Commission shall justify its proposal with regard to the principles of subsidiarity **and proportionality**. Any legislative proposal should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity **and proportionality**. This statement should contain some assessment of the proposal's financial impact and, in the case of a framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level **and that the scope and form of the proposed legal act is consistent with satisfactory achievement of its objective and the need for effective enforcement** must be substantiated by qualitative and, wherever possible, quantitative indicators. The Commission shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.
5. Any national parliament of a Member State may, within six weeks from the date of transmission of the Commission's legislative proposal, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the proposal in question does not comply with the principle of subsidiarity. It will be for each **Member State** ~~national parliament to entitle make the internal arrangements for consulting each chamber of its national parliament~~ in the case of bicameral parliaments **to send such a reasoned opinion** and/or, where appropriate, **to make the internal arrangements providing for a consultation of** regional parliaments with legislative powers.

(...)

8. Under Article [~~current Article 230~~] of the Constitution, the Court of Justice shall have jurisdiction to hear actions brought by **a national parliament, where appropriate by one of its chambers in the case of bicameral parliaments, as well as actions on such grounds by regional authorities with own legislative competences brought under the authority of their respective Member State**. ~~Member States on grounds of infringement of the principle of subsidiarity. , where appropriate at the request of a chamber of their national parliaments and/or regional parliaments with legislative powers, in accordance with their respective constitutional rules.~~ Under the same Article of the Constitution, the Committee of the Regions may also bring such actions as regards legislative acts on which it was consulted.

9. The Commission shall submit each year to the European Council, the European Parliament and the Council a report on the application of Article 87(3) of the Constitution. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.

Explanation:

*I highly welcome the references to the regional and local dimension of subsidiarity (and proportionality) in par. 2 and 4. **Such a reference should be also inserted in Art.8 (3) of the Constitution** (see my amendment to this Article).*

*As the Protocol deals – according to its title – with subsidiarity and proportionality and Art.9 (3) of the Constitution states that also the principle of proportionality shall be applied as laid down in the Protocol, **some wording on proportionality should be added to par.4**.*

Par.5** should make clear that it is for each Member State to determine the role of each chamber of its national parliament and the mechanisms for consultation of regional parliaments with legislative powers in the early warning system. **If a Member State wishes so, each chamber should be entitled to send a reasoned opinion.

*With regard to **par.6** I wish to stress that **only a non-blocking early warning mechanism** which allows national parliaments to issue ‘yellow cards’ (but not ‘red cards’) **is acceptable to me.***

***Par.8:** National parliaments – in the case of bicameral systems each chamber - should have an own right to bring actions to the Court of Justice.*

Regional authorities with legislative competences should enjoy the same right under the authority of their respective Member State. (In any case, there is an obvious incoherence between the introduction to par.8 which explains that actions by the Member States could also be brought before the Court of Justice,” if necessary at the request of (...) regional parliaments with legislative powers” and the text of par.8 which does not mention regional parliaments.)

I welcome that also the Committee of Regions may bring such actions.