

AMENDMENT FORM

Suggestion for 'Draft Protocol on the application of the principles of subsidiarity and proportionality'

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Status : Member

PRAESIDIUM	TIMOTHY KIRKHOPE MEP
<p>THE HIGH CONTRACTING PARTIES,</p> <p>WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union.</p> <p>RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as enshrined in Article 8 of the Constitution, and to establish a system for monitoring the application by the institutions of those principles.</p> <p>HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:</p>	<p>THE HIGH CONTRACTING PARTIES,</p> <p>WISHING to ensure that decisions are taken as closely as possible to the citizens of the <u>Community</u>.</p> <p>RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as enshrined in Article 8 of the <u>simplifying Treaty</u>, and to establish a system for monitoring the application by the institutions of those principles.</p> <p>HAVE AGREED UPON the following provisions, which shall be annexed to the <u>simplifying Treaty</u>:</p>
<p>1. Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 8 of the Constitution.</p>	<p>1. Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 8 of the <u>simplifying Treaty</u>.</p>
<p>2. Before proposing legislative acts, the Commission shall consult widely, except in cases of particular urgency or confidentiality. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged.</p>	<p>2. <u>The European Parliament shall have the right of initiative.</u></p> <p>Explanatory note: The simplifying Treaty should move power away from the unelected EU Institutions to the elected ones. As part of this process, the right of initiative should reside with the European Parliament rather than the European Commission. National parliaments, national governments, civil society and members of the public should have the right to propose legislative changes to Members of the European Parliament who can then debate whether to carry them forward. This would revitalise debate, quell voter apathy and reduce the democratic deficit.</p>
<p>3. The Commission shall send all its legislative proposals and its amended proposals to the national parliaments of the Member States at the same time as to the Union legislator. The European Parliament and the Council shall send their legislative resolutions and common positions respectively, upon adoption, to the national parliaments of the Member States.</p>	<p>3. <u>The European Parliament shall send all legislative proposals agreed to by a majority vote to the European Council who will then decide, by qualified majority, which should be debated by national parliaments.</u></p> <p><u>To be inserted in the relevant section of the simplified Treaty: Legislative proposals under the exclusive competence of the Community (Article 11) require a qualified majority of the national parliaments to become a European Community law or opinion. Proposals under the shared competence of the Community (Article 12) or areas for supporting action (Article 15) shall require the unanimous</u></p>

	<u>support of the national parliaments for approval. Proposals rejected as European Community laws or opinions can be adopted by individual Member States on a bilateral basis.</u>
4. The Commission shall justify its proposal with regard to the principle of subsidiarity. Any legislative proposal should contain a detailed statement making it possible to appraise compliance with the principle of subsidiarity. 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 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.	4. The <i>European Parliament</i> shall justify its proposal <i>to the European Council</i> with regard to the principle of subsidiarity. Any legislative proposal should contain a detailed statement making it possible to appraise compliance with the principle of subsidiarity. This statement should contain <i>an</i> assessment of the proposal's financial impact. The reasons for concluding that a <i>Community</i> objective can be better achieved at <i>Community</i> level must be substantiated by qualitative and, wherever possible, quantitative indicators. The <i>Parliament</i> shall take account of the need for any burden, whether financial or administrative, falling upon the <i>Community</i> , 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 national parliament to make the internal arrangements for consulting each chamber in the case of bicameral parliaments and/or, where appropriate, regional parliaments with legislative powers.	5. Any national parliament of a Member State may, within six weeks from the date of transmission of <i>a European Parliament proposal approved by the European Council</i> , send to <i>a Mediating Committee</i> 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 national parliament to make the internal arrangements for consulting each chamber in the case of bicameral parliaments and/or, where appropriate, regional parliaments with legislative powers. Explanation: The Mediating Committee shall be composed of representatives of the national Parliaments concerned, the European Parliament and the European Council. The details of the precise composition of the Mediating Committee, what the remit of the Committee should be and how legislation should be referred back to other national parliaments can, of course, be debated.
6. The European Parliament, the Council and the Commission shall take account of the reasoned opinions of the national parliaments. Where at least one third of national parliaments issue reasoned opinions on the Commission proposal's non-compliance with the principle of subsidiarity, the Commission shall review its proposal. After such review, the Commission may decide to maintain, amend or withdraw its proposal. The Commission shall give reasons for its decision.	6. The <i>Mediating Committee</i> shall take account of the reasoned opinions of the national parliaments. Where at least one third of national parliaments issue reasoned opinions on the proposal's non-compliance with the principle of subsidiarity, the <i>proposal shall be withdrawn and Member States may proceed on a bilateral basis.</i>
7. The national parliaments of the Member States may also, during the period between the convening of the Conciliation Committee meeting and the holding of that meeting, issue a reasoned opinion stating why they consider either that the Council's common position does not comply with the principle of subsidiarity or that the European Parliament's amendments do not so comply.	<i>DELETE</i>

<p>At the Conciliation Committee meeting, the European Parliament and the Council shall take the fullest account of the opinions expressed by the national parliaments of the Member States.</p>	
<p>8. Under Article [current Article 230] of the Constitution, the Court of Justice shall have jurisdiction to hear actions brought by Member States on grounds of infringement of the principle of subsidiarity, where appropriate at the request of their national parliaments, 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.</p>	<p>8. Under Article [current Article 230] of the <i>simplifying Treaty</i>, there shall be a <u>European Arbitrator who can be consulted in cases when it is felt that the principle of subsidiarity has been misapplied, at the request of a single national government or a petition by forty percent of MPs in the national parliaments of at least a quarter of the Member States</u></p> <p>Explanation: MEPs and members of the European Scrutiny Committees in the national parliaments would elect an Arbitrator who had the backing of at least four national governments. The Arbitrator would then be appointed for a five-year term. The principle of having a European Arbitrator combines the very best of both suggestions for monitoring subsidiarity. The <i>judicial element</i> is contained in the fact that Member States would be encouraged to nominate candidates with a legal background and the <i>political element</i> is maintained through selection by national governments and election by MPs and MEPs. (For more information, see working document 10 from working group V).</p> <p>Please note that the European Arbitrator is for existing European Community laws and opinions. Just as citizens turn to the European Ombudsman to ensure the application of European law and the Court of Auditors to guarantee the financial regularity of European funding, they could consult a European Arbitrator in cases where they feel the principle of subsidiarity has been misapplied. Whereas the Mediating Committee considers legislative proposals before adoption.</p>
<p>9. The Commission shall submit each year to the European Council, the European Parliament and the Council a report on the application of Article 7(3) of the Constitution. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.</p>	<p>9. The Commission shall submit each year to the European Council, the European Parliament and <i>national parliaments</i> a report on the application of Article 7(3) of the <i>simplifying Treaty</i>.</p>