

## AMENDMENT FORM -

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### **Suggestion for protocol: Protocol on the application of the principles of subsidiarity and proportionality**

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**Status: Member**

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1. Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 8 of the Constitution. *(no amendments)*
  - 1.1. *The principle of subsidiarity, referred to in the third paragraph of article 8 of the Constitution, shall relate to areas for which the Union does not have exclusive competence. The principle of subsidiarity allows Union action within the limits of its powers to be expanded where circumstances so require, and conversely, to be restricted or discontinued where it is no longer justified.*
  - 1.2. *The principle of proportionality, referred to in the forth paragraph of article 8 of the Constitution, shall guide the form and scope of Union action. In accordance with the principle of proportionality the form of Union action shall be consistent with the satisfactory achievement of the objective of the measure and the need for effective enforcement. As to the scope of the Union action, according to the principle of proportionality, the Union shall legislate only to the extent necessary to achieve the objectives of the Constitution.*
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 **those** principles. 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.
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 principles of subsidiarity **and proportionality**. 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.

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 principles of subsidiarity **and proportionality**, 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.

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 principles of subsidiarity **and proportionality** or that the European Parliament's amendments do not so comply. 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.
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 principles of subsidiarity **and proportionality**. ~~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.~~

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#### **Explanation:**

**On p. 1.1 and p. 1.2 :** The inclusion of the above-mentioned subparagraphs 1.1 and 1.2 to paragraph 1 of the Protocol on the application of the principles of subsidiarity and proportionality will help clarify the essence of those principles and the impact they have on the transfer of competences and the EU legislative process. Those texts complement the definitions of the Constitution itself and make them more detailed and comprehensible.

**On p. 8:** It is not necessary to explicitly specify that Member States national parliaments could request their governments to refer to the European Court of Justice, since this possibility is provided by the respective constitutional arrangements of the Member States.

The role of the Committee of Regions should be a political one – mainly in the process of the ex- ante consultation within the legislative procedure.