

AMENDMENT FORM

Suggestion for PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY

By Mr Poul Schlüter

Status : Alternate

X. Union action shall be justified only if the objectives of the proposed action cannot be sufficiently achieved by Member States' action and could be better achieved by action on the part of the Union, because the issue under consideration has transnational aspects, or because action at national level alone, or lack of Union action, would conflict with the requirements of the Treaty, or because action at Union level would have obvious advantages, by reason of its scale or effects, as compared with action at Member State level.

Y. The form of Union action must be as simple as possible and must not go beyond what is required, consistent with satisfactory achievement of the objective of the measure, and with the need for effective enforcement. The Union shall legislate only to the extent necessary, preferring framework laws to laws or detailed measures, and leaving the maximum scope for national decision.

3. The Commission shall send all its legislative proposals and its amended proposals directly to the national parliaments of the Member States at the same time as to the Union legislator. If a legislative proposal is based on Article 16 in the Constitutional Treaty the Commission shall bring this fact to the attention of the national parliaments. The European Parliament and the Council shall send their legislative resolutions and common positions respectively, upon adoption, directly to the national parliaments of the Member States.

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. [The mechanism could be further strengthened. Drafting will follow later].

Explanation:General comment:

The proposed mechanism for subsidiarity control involving the national parliaments issuing reasoned opinions on the Commission proposal's non-compliance with the principle of subsidiarity is a step in the right direction. However, it is my belief that this mechanism could be strengthened further, including i.a. the possibility of the Commission being required to withdraw a proposal. I will therefore reserve my right to return with specific drafting on these particular issues.

With regard to my specific drafting proposals:

X + Y) Subsidiarity and proportionality are fundamental principles defining the Union. It is important that Union responsibility with regard to these principles is set out in clear terms. The amendment is intended to send an important message to the citizens that the EU-legislator must strive for simplicity and clarity. It builds on the wording of the existing protocol.

3) The use of the word “directly” corresponds to the wording of the similar provision (indent 2) in the draft protocol on national parliaments (CONV 579/03).

Article 16 should only be used in exceptional situations. Therefore, the national parliaments should be given the best possible conditions for assessing whether a legislative proposal based on Article 16 complies with the principle of subsidiarity. It already follows from Article 16, par. 2 in the Constitutional Treaty that the Commission is under obligation to make the national parliaments specifically aware of legislative proposals based on Article 16. It would be in line with the objective of clarity if this obligation was also stated in the protocol on subsidiarity.