

8 July 2009

Aide-mémoire
**for the subsidiarity check
under the provisions
of the Treaty of Lisbon
on the Commission proposal
for a Council Framework Decision
on the right to interpretation and
to translation in criminal proceedings**



Prepared by the COSAC Secretariat

Aide-mémoire
**for the subsidiarity check under the provisions of Protocol 2 on the
Application of the Principles of Subsidiarity and Proportionality
as attached to the Treaty of Lisbon on the Proposal
for a Council Framework Decision on the right to interpretation
and to translation in criminal proceedings**

1. Background

Based on the proposals from national parliaments, the COSAC Chairpersons in their meeting on 10 February 2009 in Prague agreed to carry a COSAC-coordinated subsidiarity check on the **Proposal for a Framework Decision on procedural rights in criminal proceedings** (2009/JLS/047) in 2009. This decision was confirmed by the XLI COSAC meeting on 12 May 2009¹ in Prague.

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 Community² (hereinafter referred to as "the Protocol").

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

The Proposal **for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings** was adopted by the European Commission on **8 July 2009**.

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

¹ See Conclusions adopted by the XLI COSAC on 12 May 2009 in Prague,
<http://www.cosac.eu/en/documents/contributions/>

² Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union (OJ C115, 9.5.2008)
<http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML>

Timing

The check should 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 Swedish Presidency.

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 matter³.

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 or chambers participating in the current subsidiarity check are asked to transmit their **reasoned opinions** explicitly stating the reasons why they consider that the Proposal 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, on behalf of the Swedish Presidency, national parliaments or chambers are kindly asked to reply to the following questions and send their answers to the COSAC Secretariat (secretariat@cosac.eu).

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.

³ See Conclusions of the XL COSAC, paragraph 3.5//
<http://www.cosac.eu/en/meetings/Paris2008/doc/>

5. In case of a bicameral parliament, did you coordinate the subsidiarity check with the other chamber?
6. Did your government provide any information on the compliance of the Proposal with the principle of subsidiarity?
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? Please specify the dates.
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?

Findings:

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

Key dates:

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| <ul style="list-style-type: none"> • Adoption of the Proposal: 8 July 2009. • 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. |
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The COSAC Secretariat will inform national parliaments of the exact dates of the launch and the finish of the subsidiarity check.