

Proposals from national parliaments for legislative proposals to be subject to the forthcoming subsidiarity and proportionality check

The XXXVIII COSAC in Estoril held in October 2007 agreed:

"1.1. COSAC recalls the decision taken at the XXXVII COSAC meeting in Berlin to conduct at least two subsidiarity and proportionality checks per year. For this purpose, COSAC evokes the selection procedure established in Berlin that should be as follows:

a) After the presentation of the European Commission's Legislative and Working Programme 2008, due to take place in October 2007, the national parliaments are invited to check the Programme making use of their own practices, and to inform, if possible in November 2007, the COSAC Presidency of the proposals they wish to subject to the subsidiarity and proportionality check. Additional proposals may be subsequently submitted.

b) The Presidential Troika should designate the two proposals most frequently mentioned as subject to the check and submit a corresponding suggestion to the national parliaments. If there are no objections, the Presidential Troika shall state that the designated proposals have been selected. The Presidential Troika will then request the COSAC Secretariat to start the procedure.

c) National parliaments are also encouraged to initiate and conduct any subsidiarity and proportionality checks they choose." (Paragraph 1 of the Conclusions)

According to paragraph 1.1.a of these conclusions, national parliaments who wished to participate in the subsidiarity check were required to inform the COSAC Presidency of their proposed dossiers by November 2007.

By 30 January 2008, the Slovenian Presidency received written answers from the following 22 national parliaments or parliamentary chambers (from 18 Member States):

- Austria (*Nationalrat* and *Bundesrat*), Bulgaria, Cyprus, Czech Republic (Senate), Denmark, Finland, Germany (Bundestag and Bundesrat), Greece, Ireland, Lithuania, Luxembourg, the Netherlands (House of Representatives and Senate), Poland (*Senate*), Portugal, the Republic of Slovakia, Republic of Slovenia (National Assembly), Sweden and United Kingdom (House of Commons and House of Lords).

After examining the Commission's Legislative and Work Programme 2008, the Swedish Riksdagen and Lithuanian Seimas decided not to put forward any proposals for the check.

The table below shows the legislative proposals proposed by more than one national parliament. The legislative proposals most frequently proposed are at the top of the table.

According to COSAC contributions and conclusions voting rules¹, a proposal from a unicameral parliament is considered as two votes, while a proposal from a chamber of a bicameral parliament considered as one vote. Where a member state with a bicameral national parliament is indicated but the chamber is not, the chambers made a common proposal.

Only proposals suggested by two or more chambers of the national parliaments are indicated on this occasion. This is in spite of the fact that some of the proposed acts are not of a legislative nature and thus would not be subject to subsidiarity check as envisaged in the Protocol on the Application of the Principles of Subsidiarity and Proportionality, annexed to the Lisbon Treaty. For the purposes of this Protocol, 'draft legislative acts' mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act. It should be therefore be borne in mind that only the legislative proposals below could be subject of subsidiarity control under the Lisbon Treaty.

Particular attention should be paid to the proposal for a Council decision on Future of Eurojust and the EJP (European Judicial Network in criminal matters). Article 34 (2) (c) of the Treaty of the European Union provides for the Member States to initiate the process of adoption of decisions for the purpose of approximation of the laws and regulations of the Member States in the areas referred to police and judicial cooperation in criminal matters.

On 7 January 2008, Slovenia, France, Czech Republic, Sweden, Spain, Belgium, Poland, Italy, Luxembourg, the Netherlands, Slovak Republic, Estonia, Austria and Portugal tabled a legislative proposal for Council Decision on the strengthening of Eurojust amending Council Decision 2002/187/JHA of 28 February 2002, as amended by Council Decision 2003/659/JHA setting up Eurojust with a view to reinforcing the fight against serious crime².

¹ Art. 10.6. of the COSAC Rules of Procedure: "Each delegation has two votes."

² See third row in the table on the next page.

<i>Estimated time of adoption</i>	<i>Legislative proposal</i>	<i>National parliament</i>
November 2008	Proposal for a Regulation of the European Parliament and of the Council on the applicable law, jurisdiction, recognition of decisions and administrative measures in the area of successions and wills (2008/JLS/122)	BG, CZ Senate, EL, IE, NL, PL Senat, SK (12)
November 2008	Proposal for a directive on the conditions of entry and residence of seasonal workers (2008/JLS/147)	AT, CZ Senate, DE Bundesrat, LU, NL Representatives, PT, SI Assembly, UK Commons (11)
7 January 2008	<i>Council decision on Future of Eurojust and the EJN (European Judicial Network in criminal matters) (2008/JLS/120)</i>	<i>CZ Senate, NL, PT, RO, SI Assembly, FI (10)</i>
November 2008	Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (2008/JLS/024)	LU, NL, RO, SI Assembly (7)
September 2008	Proposal for a Directive amending Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breast-feeding (2008/EMPL/025)	BG, NL, PL Senat, FI (7)
June 2008	Proposal for a Directive implementing the principle of equal treatment outside employment (2008/EMPL/017)	BG,CZ Senate, IE, SK (7)
July 2008	Proposal for a Regulation of the Council and the European Parliament amending Council Regulation 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (2008/JLS/022)	DE - Bundestag, LU, NL, RO (7)
September 2008	Regulation for a European Private Company Statute (2008/MARKT/036)	CZ Senate, De Bundestag, IE, NL Senate, RO (7)
4 th quarter 2008	Review of the Energy Taxation Directive (2008/TAXUD/003)	CZ Senate, EL, NL Senate, RO, SI Assembly (7)
November 2008	Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (2008/JLS/023)	LU, NL, RO (6)
July 2008	Proposal for a Directive of the European Parliament and of the Council amending Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (2008/JLS/021)	LU, NL, RO (6)
non - legislative	Policy Plan on Asylum	LU, NL, RO (6)
3 rd quarter 2008	Review of existing legislation on VAT reduced rates (official title not defined yet)	LU,NL Representatives, SK (5)
December 2008	Proposal for a Framework Directive n Consumer Contractual Rights (2008/SANCO/001)	NL, RO (4)
October 2008	Legislative proposal for a European Maritime Space without barriers	EL, PT (4)
non- legislative	Communication on Entry/exit system and other border management tools	NL, UK Lords (3)
October 2008	Pharmaceuticals Package (all legislative proposals)	NL Representatives, RO (3)
4 th quarter 2008	Directive of the European Parliament and of the Council on standards of quality and safety for the donation, procurement, testing, preservation, transport and characterisation of human organs	NL Senate, UK Lords (2)
non- legislative	White Paper on Adaptation to Climate Change	DE Bundesrat, NL Representatives (2)