

**REPORT 2/2012 BY THE JOINT COMMITTEE FOR EU , DATED MARCH 6, 2012, ON THE COMPLIANCE WITH THE PRINCIPLE OF SUBSIDIARITY BY THE PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN GENERAL PROVISIONS ON THE ASYLUM AND MIGRATION FUND AND ON THE INSTRUMENT FOR FINANCIAL SUPPORT FOR POLICE COOPERATION, PREVENTING AND COMBATING CRIME, AND CRISIS MANAGEMENT [COM (2011) 751 FINAL] [2011/0366 (COD)]**

**BACKGROUND**

**A.** The Protocol on the application of the principles of subsidiarity and proportionality attached to the Lisbon Treaty of 2007, in force since December 1st, 2009, establishes a procedure allowing national parliaments to verify European legislative initiatives' compliance with the subsidiarity principle. The said Protocol has been developed in Spain by Act 24/2009, of December 22, amending Act 8/1994, of May 19. In particular, new articles 3 j), 5 and 6 of Act 8/1994 are the legal basis for this report.

**B.** The proposal for a regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management [COM (2011) 751 FINAL] [2011/0366 (COD)], has been adopted by the European Commission and conveyed to the national Parliaments, which have a deadline of eight weeks to verify the subsidiarity check of the initiative, being the deadline March 6, 2012.

**C.** The Bureau and the Spokespersons of the Joint Committee for EU Affairs agreed on February 15, 2012, to examine the said European legislative initiative, appointing to that end as rapporteur Senator Ms. Eva Parera Escrichs, and requesting the Government the report envisaged in section 3 j) of act 8/1994.

**D.** A report from the Regional Parliament of Aragon has been received, in which it considered the European legislative initiative examined to be in compliance with the subsidiarity principle.

**E.** The Joint Committee for EU Affairs, in its meeting held on March 6, 2012, adopted the following

## REPORT

**1.-** Article 5.1 of the Treaty on the European Union indicates that *“the use of Union competences is governed by the principles of subsidiarity and proportionality”*. According to Article 5.3 of the same Treaty, *“under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall only act in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level”*.

**2.-** The legal basis of the Regulation is to be found in Title V of the Treaty on the Functioning of the European Union, about freedom, security and justice, more precisely in Article 78, paragraph 2, and Article 79, paragraphs 2 and 4, as well as Article 82, paragraph 1, Article 84 and Article 87, paragraph 2. These articles represent the EU legal basis in the field of policies related to asylum, immigration, migratory flows management, equal treatment of third country nationals with legal residence in the Member States and fight against illegal immigration and human beings trafficking, cooperation in criminal matters, crime prevention, including terrorism, corruption, organised crime and police cooperation.

**3.-** The goal of the European Union with regards to internal affairs is to create an area without internal frontiers, in which persons can freely move or work, knowing that their rights will be respected and their security guaranteed. In recent years, in order to attain such a goal, home affairs policies have become particularly relevant.

Once the multiannual financial framework 2014-2020 comes into effect, these policies shall be financed by the following resources: the Asylum and Migration Fund and the Internal Security Fund. The first fund will support actions regarding asylum and migration. Furthermore, it will finance all policies which have as their object the integration of third-country nationals. The second one, in turn, will offer financial assistance for initiatives concerning external borders and internal security.

**4.-** The proposal for a Regulation of the European Parliament and of the Council examined in the aforementioned report aims to lay down general provisions on the financing of expenditures related to EU home affairs policies, whilst ensuring a common approach in the execution of these two funds (Asylum and Migration Fund and Internal Security Fund). The purpose and the scope of the funds, as well as their resources and means of implementation, will be defined by their respective specific Regulations.

**5.-** There is no doubt that the European Union is in a better position than the Member States to lay down an adequate financial framework setting out the solidarity of the

Union with regards to the management of home affairs policies. Therefore, the analysed proposal complies with the principle of subsidiarity given that the objectives aimed can be better achieved at Union level, instead of the singular intervention of Member States.

## **CONCLUSION**

**For these reasons, the Joint Committee for EU Affairs, considers that the Proposal for a Regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, complies with the principle of subsidiarity established in the EU Treaties in force.**