



**COUNCIL OF  
THE EUROPEAN UNION**

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**COVER NOTE**

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from: Mr José Manuel BARROSO, President of the European Commission

date of reception: 2 December 2009

to: Mr Fredrik REINFELDT, President of the Council

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Subject : Role of National Parliaments

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Delegations will find annexed a copy of the above letter.

*José Manuel Barroso*  
*President of the European Commission*

*Margot Wallström*  
*Vice President of the European Commission*

Brussels, 1<sup>st</sup> December 2009  
Barroso (2009) D/2753

Dear President,

The Treaty of Lisbon, which enters into force today, will make the European Union more transparent and more democratic. In particular, it will considerably strengthen the parliamentary dimension of the Union, extending the use of the co-decision procedure and the role of the European Parliament, while also bringing about a major advance as regards the role of national Parliaments in the work of the European Union. By making clear for the first time that "national Parliaments contribute actively to the good functioning of the Union", the new Treaty recognises the central importance of National Parliaments in the democratic fabric of the EU. The Treaty underlines this approach by making a number of specific steps to enhance the role of national Parliaments.

The Commission is now putting in place the measures required to implement the key new Treaty provisions concerning national Parliaments, and we are writing to the Speakers of national Parliaments to inform about the practical measures being put in place. Of particular significance is the new mechanism giving National Parliaments a particular role in scrutiny of the principle of subsidiarity.

The Commission is committed to making the subsidiarity control mechanism both transparent and effective. In annex you will find a paper setting out the procedures we will put in place, so that the system can start to operate as soon as the first proposals falling within the scope of the mechanism are adopted. Arrangements will be taken to ensure that the European Parliament and the Council are fully informed about the opinions tabled by national Parliaments, whether or not the relevant thresholds have been triggered, and the Commission's response.

We are looking forward to an active and constructive role for national Parliaments in European policy-making and to ensuring that this new parliamentary dimension is fully integrated into the common work of all our EU institutions, in full respect of the prerogatives of the co-legislators.

Yours Sincerely,



*José Manuel Barroso*

Mr Fredrik Reinfeldt  
President of the Council of the European Union  
Rue de la Loi, 175  
B-1048 Brussels



*Margot Wallström*

SECRETARIAT DU CONSEIL DE L'UNION EUROPÉENNE
SGE9/10784
REG. N. 02. 12. 2009
M. HERMAN VAN ROMPUY
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M. DE BOISSIEU

**PRACTICAL ARRANGEMENTS FOR THE OPERATION OF THE SUBSIDIARITY CONTROL  
MECHANISM UNDER PROTOCOL NO 2 OF THE TREATY OF LISBON**

Transmission of documents:

The Commission will send all its consultation documents and draft legislative acts to national Parliaments electronically, at the same time as they are sent to the European Parliament and/or the Council. IPEX will be put in copy of these transmissions. The different language versions, as requested by each Chamber, will be sent successively, according to their availability.

Draft legislative acts falling under the scope of the subsidiarity control mechanism, i.e. all draft legislative acts in the field of shared competences, will be accompanied by a transmission letter ("*lettre de saisine*"), mentioning explicitly the procedure referred to in Protocol No 2 and specifying the deadline concerned.

At the end of each week, the Commission will send a recapitulative list of documents that have been sent to each national Parliament in the course of the preceding week. The Commission will copy these recapitulative lists to the European Parliament, the Council and IPEX for information. If a national Parliament realizes that it has not received all documents contained in this list, it should immediately inform the Commission, which will then resend the documents in question. In case no national Parliament reacts within 3 working days, the Commission considers that the documents contained in the weekly list have been duly received. This weekly list of documents should replace an individual acknowledgement receipt for each of the documents sent by the Commission.

Deadlines

The eight weeks deadline will start with the transmission of the *lettre de saisine*, which will be sent at the same time as the transmission of the last language version of a given document. The European Parliament, the Council and IPEX will be informed on the same day about the transmission of these *lettres de saisine*.

Should the non-receipt of a document by a national Parliament have an impact on the deadline mentioned in Protocol No 2, the Commission will fix a new deadline on an ad-hoc basis, taking into account the respective delay, and inform the national Parliament accordingly. For any other national Parliament the original deadline will apply.

In order to take account of national Parliaments' summer recesses, the Commission considers that the month of August should not be taken into account when determining the deadline referred to in Protocol No 2. A specific reference to this effect will be systematically included in the *lettre de saisine*.

#### Scope of national Parliaments' opinions

As the subsidiarity control mechanism will be applied alongside the political dialogue, which covers all aspects of those documents transmitted to national Parliaments, and not only compliance with the principle of subsidiarity, the Commission invites national Parliaments to distinguish in their opinions as far as possible between subsidiarity aspects and comments on the substance of a proposal, and to be as clear as possible as regards their assessment on a proposal's compliance with the principle of subsidiarity. However, the Commission is of course fully aware of the fact that each national Parliament chooses its own way to work as well as the format in which it will send its reasoned opinions to the Commission.

#### Thresholds

The Commission has always favoured a political interpretation of opinions received from national Parliaments and will therefore consider all reasoned opinions raising objections as to the conformity of a legislative proposal with the principle of subsidiarity towards the thresholds indicated in the Treaty, even if the different reasoned opinions provide different motivations as to the non-compliance with the principle of subsidiarity or refer to different provisions of the proposal.

The Commission will analyse each negative opinion sent to the Commission within the deadline of eight weeks and check whether or not the threshold has been reached. After the deadline has expired, the Commission will provide a political assessment of the files for which the threshold has been reached and confirm the triggering of the subsidiarity control mechanism. National Parliaments, the European Parliament, the Council and IPEX will be informed accordingly.

If the thresholds are not met after eight weeks or if opinions arrive after the deadline has expired, the Commission will reply to the respective national Parliaments in the context of the political dialogue.

Opinions from national Parliaments on proposals which are subject to the subsidiarity control mechanism will be published on the Commission's website after the eight weeks deadline has expired.

### Review of proposals

Both in the case of the yellow and orange card procedure, the College will decide whether to maintain, amend or withdraw the legislative proposal in question, and give reasons for its decision in the form of a Commission Communication, which will be subsequently sent to all national Parliaments, as well as to the legislator and to IPEX. In the case of the orange card procedure, the reasoned opinions received from national Parliaments on a particular file will be annexed to this Communication.

### Transition

It should be noted that pending proposals and modified proposals would not be covered by the scope of the mechanism foreseen in Protocol No 2.