

**Follow-up to the European Parliament non-legislative resolution
on Principles of subsidiarity and proportionality and the role of
national parliaments in the EU legislative process**

- 1. Rapporteur:** Marieke EHLERS (Pfe / NL)
- 2. Reference number:** 2025/2042 (INI) / A10-0224/2025 / P10_TA(2025)0309
- 3. Date of adoption of the resolution:** 27 November 2025
- 4. Competent Parliamentary Committee:** Committee on Constitutional Affairs (AFCO)
- 5. Brief analysis/ assessment of the resolution and requests made in it:**

The resolution calls for strengthening the role of national Parliaments in the EU by enhancing transparency, dialogue, and cooperation mechanisms between them and the European institutions, including the Commission. It considers that the political influence of national Parliaments should be reinforced to ensure more transparency and legitimacy of the EU and provides suggestions to that end. The resolution supports creating a 'green card' mechanism to ensure a more positive and proactive role for national Parliaments.

The resolution calls on the Commission to:

- exercise due diligence and discretion when proposing legislation that falls under shared competence and ensure, together with other EU institutions, an active involvement of national Parliaments in European decision-making;
- limit the use of Article 122 TFEU to situations of crisis and revise the legal basis of the ReArm Europe Plan/Readiness 2030. The use of Articles 122 and 352 TFEU as a legal basis should be more rigorously controlled;
- consult national and regional Parliaments with legislative powers before proposing EU legislation and make sure that governments provide evidence of taking into account the positions of national and regional Parliaments with legislative powers;
- carry out an ex-ante impact assessment for each legislative proposal under shared competence and justify through a comparative analysis across Member States that legislative harmonisation at EU level brings substantial added value;
- conduct a more systematic analysis of compliance with the subsidiarity and proportionality principles when drafting legislative proposals and include detailed justifications for EU intervention, the added value of the action and the proportionality of measures in legislative proposals;

- further improve consultation with national Parliaments on subsidiarity concerns, for example by establishing a 'single subsidiarity hub' on the IPEX platform;
- mainstream the subsidiarity review in the policy cycle by, inter alia, extending the evaluation of subsidiarity following interinstitutional negotiations;
- invite national Parliaments to provide input at an earlier stage in the legislative process, more specifically, when consultations take place;
- always consider whether increased coordination with national authorities would be a better solution in particular areas than the creation of new transnational agencies;
- take greater account of the opinions expressed by the European Committee of the Regions;
- conduct a survey on the application of the subsidiarity and proportionality principles among national legislative bodies in order to identify in which areas and to what extent national legislative bodies need to be protagonists of change;
- launch an EU-wide investigation to identify and analyse the reasons behind the limited exercise of national Parliaments' scrutiny capacity in relation to subsidiarity.

Moreover, the resolution reiterates the French *Sénat's* concerns regarding the weak legal foundation for certain EU legislative initiatives, the increasing tendency to favour regulations over directives, and the excessive use of implementing or delegated acts.

6. Response to requests and overview of actions taken, or intended to be taken, by the Commission:

In general

The Commission welcomes the resolution of the European Parliament underlining the important role of national Parliaments in EU decision-making within the framework set by the Treaties. The Commission fully shares the view that the rigorous application of the subsidiarity principle in EU legislation is of great importance for refocusing the work of the EU on where it offers most added value and for the democratic legitimacy of the EU.

Paragraph 5

The choice of the legal basis¹ must be based upon the nature of the main/predominant objective and content of the proposal. Also, such a choice must align with the legal basis set in the EU treaties for the proposed action. This means that the Commission carefully considers

¹ Better Regulation Toolbox – Tool # 5 – Legal basis, subsidiarity and proportionality ([Better regulation toolbox - European Commission](#))

which Treaty articles authorise the proposed action and then selects the corresponding instrument (e.g., regulation, directive, decision). All impact assessments refer to the appropriate legal basis for action derived from the Treaty.

The Commission establishes the legal basis of its proposals in line with the EU Treaties, in full respect of Member States' competences. The Commission acknowledges the important role of national Parliaments in EU decision making and encourages national Parliaments to actively contribute to EU decision making through their subsidiarity control rights and the political dialogue with the Commission.

Paragraph 6

The Commission recalls that many of the crises faced during the Commission's last mandate required exceptional responses, notably using Article 122 TFEU, and that this mechanism allowed the Union to react swiftly.

As also reflected in the provisionally agreed revised Framework Agreement on relations between the European Parliament and the European Commission, recourse to Article 122 TFEU is only possible on an exceptional basis and under the strict conditions set out in that provision.

Paragraph 7

The Commission ensures that legislative initiatives which are expected to have significant economic, environmental or social impacts are supported by an ex-ante impact assessment², respecting its Better Regulation approach. A key part of the subsidiarity analysis is to demonstrate the necessity for EU action and assess the 'Union relevance' of the initiative being considered. The impact assessments examine key issues such as how the problems vary across the national, regional and local levels of the EU (e.g. negative externalities) whether the problem is widespread across the EU or concerns only a few Member States or regions, and whether the problems have the same underlying cause across the EU.

The subsidiarity grid has already been integrated into the Commission's better regulation approach in response to the recommendations of the Task Force on Subsidiarity. The grid is attached as an annex to significant or politically sensitive legislative proposals accompanied by an impact assessment which do not fall under the exclusive competence of the Commission.

The Commission also encourages regional Parliaments' participation in the Commission's public consultations, and their active involvement in discussions on EU policy proposals and initiatives which have a particular relevance for the local and regional level, and it replies in substance to the contributions it receives from regional Parliaments in this context.

Paragraph 8

² or a Staff Working Document replacing an impact assessment in case of urgency.

The Commission points out that its proposals for legislation remain solidly based on Treaty legal bases. In line with the Interinstitutional Agreement on Better Law-Making of 13 April 2016, the explanatory memorandum accompanying each proposal duly explains the choice of legal basis and the type of legal act, including the use of regulations and directives. The choice of policy instrument is an important consideration in the application of proportionality, and it is carefully assessed for each proposal considering the objectives that the envisaged legislation seeks to achieve.

Where appropriate, a legislative initiative also proposes empowerments for the Commission to adopt implementing or delegated acts, following which it is then for the co-legislators to decide whether and to what extent such empowerments are included in the final text. Implementing and delegated acts are necessary to ensure an efficient implementation and adaptation of Union legislation. In view of limiting complexity and unjustified additional burden, the Commission has screened the delegated and implementing acts expected in 2026 with a view to deprioritising those that are not necessary for the good implementation of legislation and where there is no legal obligation to adopt such acts. Moreover, the transparency surrounding the preparation of delegated acts has been improved by the Commission with the interinstitutional register of delegated and implementing acts. These acts are supported by evidence. If there are also policy options they are accompanied by an impact assessment – if not but they still create significant costs or savings, a concise analytical staff working document presenting the cost-benefit analysis is produced.

Paragraph 9

Ensuring that European legislation complies with the subsidiarity principle is a shared responsibility of all EU Institutions, and all actors involved. For its part, the Commission, under its Better Regulation agenda, puts a strong focus on ensuring that its legislative initiatives respect the subsidiarity and proportionality principles.

The analysis of subsidiarity and proportionality is also a mandatory section of the impact assessments supporting legislative proposals expected to have significant economic, social or environmental impacts in areas which do not fall under the exclusive competence of the EU. An analysis of EU-added value is carried out for designing new policy measures and for evaluating existing initiatives. This means showing the benefits that the EU action brings, such as economies of scale or achieving political objectives more efficiently (at lower cost) at the EU level. According to better regulation, respecting the principle of proportionality is about ensuring that the policy approach and its intensity match the identified problem and objectives. Demonstrating compliance with the principles of subsidiarity and proportionality is also a fundamental part of the explanatory memorandum of Commission proposals.

Paragraph 10

In line with Protocol No. 2 to the Treaties, the Commission takes due account of the reasoned opinions issued by national Parliaments individually and in conjunction with reasoned opinions by other national Parliaments on the same Commission proposal. If a Commission proposal raised subsidiarity concerns of a significant number (equivalent to seven votes) of national Parliaments, even without reaching the formal threshold for triggering a yellow card, the Commission will produce aggregate responses to national Parliaments, reflecting and replying to their concerns in a comprehensive manner.

Each reasoned opinion or opinion received under the political dialogue with national Parliaments is for the Commission an important source of information about the perception of its legislative proposals in the Member States and about relevant national specificities. National Parliaments could provide the latter most effectively already during the Commission's public consultation on each legislative proposal. The replies of the Commission to each opinion issued by national Parliaments are always considered and adopted by the College of Commissioners, in line with the collegiality principle of the Commission's decision making. The Treaties (Protocol No. 2, Art. 6), offer national Parliaments the possibility to send their reasoned opinions at the same time to the Presidents of the European Parliament, the Council and the Commission. In the legislative procedure it may be more efficient - and more directly effective - for the co-legislators to consider the reasoned opinions than for the Commission to formally alter its proposal.

Paragraph 13

The Commission shares the objective to reinforce the dialogue with national Parliaments. The Commission has taken important steps to provide information relevant for national Parliaments' subsidiarity checks. It for example improved its portal publishing the opinions of national Parliaments and the Commission replies to them³ equipping it with better search possibilities which was acknowledged in the resolution of the European Parliament. All Commission documents sent to national Parliaments are also being transmitted to the IPEX platform dedicated to the parliamentary information exchange and hosted at the European Parliament.

Paragraph 14

The subsidiarity analysis is fully mainstreamed in the Commission's decision-making process. There is relevant analysis in the impact assessments supporting legislative proposals, which is also referenced in the explanatory memoranda of the proposals. The interinstitutional agreement on better law making clearly acknowledges that each institution organises its better regulation activities. An assessment of subsidiarity following interinstitutional negotiations would hence fall under the responsibility of the co-legislators. Article 15 of the Agreement notes that the European Parliament and the Council will, when they

³ [NPO - National Parliament opinions and Commission replies](#).

consider this to be appropriate and necessary for the legislative process, carry out impact assessments in relation to their substantial amendments to the Commission's proposal. The Commission suggests working on the basis of a simple and common approach to facilitate such assessments to be performed by each institution. The Commission will assess EU added value in the context of the interim and/or ex post evaluation of the legislation.

Paragraph 15

The Commission very much appreciates the active engagement of national Parliaments in the framework of the political dialogue with the Commission. It encourages national Parliaments to engage earlier in the process by participating in the Commission's consultations, and to use the political dialogue with the Commission to provide forward-looking political input on topics that seem relevant to them, preferably but not exclusively related to the policy priorities of the Commission. National Parliaments can for example annually send their views about the content of the Commission's annual work programme and relate it to their own priorities. They also have the possibility of sending their input through the 'Have your say' portal on legislative proposals and policies under preparation. In practice, the Commission sees more and more national Parliaments using these possibilities.

Paragraph 17

In accordance with the Better Regulation guidelines and ToolBox, the Commission always undertakes an impact assessment in view of assessing the efficiency, added-value, effectiveness, relevance, and coherence of creating a new decentralised agency (see in particular ToolBox#47 and the related questions on agencies).

Paragraph 19

Through the Protocol on Cooperation with the European Committee of the Regions, the Commission has committed itself to reply to all the Committee's opinions, striving to do so within three months. At this occasion, the Commission replies also to any subsidiarity concerns expressed by the Committee.

Paragraph 23

The extent of national Parliaments' competence in the EU governance is defined in Article 12 of the TEU and Protocols 1 and 2 attached to the Treaties. Moreover, any ideas to reinforce the role of national Parliaments should not make the legislative process more complicated or prolong it nor hamper the institutional balance at EU level.

The Commission believes that the political dialogue with national Parliaments still bears great potential for addressing current and future challenges, and it stands ready to strengthen this dialogue through the established channels of communication and cooperation to facilitate national Parliaments' input to and feedback on the Commission's political and legislative initiatives

Paragraph 28

Consulting stakeholders is important to collect information for evidence-based policymaking. All Commission impact assessments invite stakeholders and the public to a) give their feedback on the 'call for evidence' document, which explains the Commission's understanding of the problem and possible solutions, and to b) respond to a public consultation questionnaire to share their views and any relevant information they may have. A synopsis report, annexed to all impact assessments, summarises the results of all consultation activities in relation to a particular initiative and gives both a qualitative and a quantitative analytical overview of these results. Contributions from different types of stakeholders (local, regional and national authorities, associations, civil society, businesses of different sizes, the scientific community and individuals) are distinguished from each other and presented.

The Commission has also introduced two new consultation tools - reality checks and implementation dialogues - to ensure that stakeholders' needs remain central to the EU legislation preparation.

Implementation dialogues are high-level political consultations to gather stakeholder feedback on enhancing and simplifying the implementation of EU laws and policies. Each Member of the Commission will hold at least two implementation dialogues⁴ per year. This engagement may be further supported through the involvement of local and regional authorities in relevant implementation dialogues. For example, Executive Vice-President Fitto under the cohesion policy held a dialogue on 'sustainable urban development' on 24 June 2025 and another one on 'EU funding and regional competitiveness' on 18 September 2025, which brought together representatives of local and regional authorities with universities, research institutes and EU-based enterprises.

Reality checks are technical-level consultations with stakeholders directly concerned in order to identify and resolve practical issues in implementing EU laws and ensuring that legislation delivers expected benefits.

The results of the implementation dialogues and reality checks carried out since the beginning of this mandate, have proved to represent a valuable contribution to the preparation of the EU legislative acts and, in particular, to the stress-test of the EU acquis, an ambitious and comprehensive screening of existing EU acquis, to identify overlaps, inefficient and obsolete provisions.

Paragraph 29

The Commission, in its contacts with regional Parliaments with legislative powers, does not pursue activities that would go beyond the Treaty setup or interfere in the constitutional relationship between the national and regional Parliaments in Member States having regions with legislative

⁴ [Implementation Dialogues - European Commission](#)

powers. However, the Commission continues to encourage regional Parliaments' early and proactive involvement in discussions on EU policy proposals and initiatives which have a particular relevance for the local and regional level, and it replies in substance to the contributions it receives from regional Parliaments in this context. This is fully in line with the spirit of the Lisbon Treaty. For example, in 2025 the Commission received 76 resolutions from regional Parliaments, concerning various issues. Some regional Parliaments participate regularly in the Commission's public consultations.

Paragraph 30

The Commission is open to exploring in greater depth with national Parliaments how they perform their subsidiarity control and how it could be enhanced. It encourages national Parliaments on every occasion to explore the communication channels already established (political dialogue, including participation in public consultations), since formally introducing changes in the functioning of the subsidiarity control mechanism would require Treaty change. In the Commission's view, an earlier involvement of national Parliaments in the political process in the spirit of 'active subsidiarity', while the Commission is still preparing its initiatives, could also facilitate national Parliaments' subsidiarity scrutiny.

Paragraph 37

Impact assessments are carried out for all legislative proposals likely to lead to significant economic, environmental, or social impacts or entailing significant spending, and where the Commission has a choice between alternative policy options. In case no impact assessment was conducted due to political urgency, a staff working document reflecting the analysis behind the proposal is presented with it or within three months. According to the interinstitutional agreement on better law-making, delivering high quality Union legislation is a joint responsibility of the three institutions. Point 15 of the agreement notes that the European Parliament and the Council will, when they consider this to be appropriate and necessary for the legislative process, carry out impact assessments in relation to their substantial amendments to the Commission's proposal.

Paragraph 41

The Commission considers that national Parliaments as a collective actor are best placed to define their needs, experiences and expectations. For the Commission, the COSAC bi-annual reports based on the surveys of national Parliaments coordinated by the COSAC secretariat are a timely and valuable source of information regarding the developments in national Parliaments. Overburdening national Parliaments by multiplying surveys should be avoided,

Paragraph 43

The Commission would like to recall that for its strategic planning and important legislative initiatives, Commissioners regularly visit Member

States to engage with decision makers, including members of national Parliaments, already when the proposal is under preparation. For instance, Commissioner Serafin went on a '*tour d'Europe*' in preparation for the Multiannual Financial Framework for 2028-2034 and met 11 chambers and listened to their concerns and ideas ahead of the publication of the proposals in July 2025.

Paragraph 48

As the guardian of the Treaties, the Commission fully respects the principles of subsidiarity and proportionality. The Commission's better regulation guidelines require that each impact assessment accompanying a legislative proposal explains the necessity and added value of EU action compared to action on national, regional or local level. The Commission stands ready to explore, in cooperation with national Parliaments, the co-legislators, and other actors such as the European Economic and Social Committee and the European Committee of the Regions, how we can collectively ensure even better that European legislation finds the right balance in attributing responsibilities to the European, the national as well as the regional and local level.