

Subsidiarity as a building principle of the European Union

Declaration
by the Chair
16 November 2018

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Austria took over the Presidency of the Council of the European Union on 1 July 2018 in a time of great challenges in Europe and beyond. It has chosen “A Europe that protects” as its Presidency motto in order to bring the Union closer to its citizens. In this context and in the light of the ongoing debate on the future of the European Union, it organised this Conference on “Subsidiarity as a building principle of the European Union” on 15 and 16 November 2018 in Bregenz. The conference brought together high-level representatives of the EU’s institutions, the Member States, national Parliaments, local and regional authorities and regional legislative assemblies as well as experts. The conference aimed at contributing to a more effective application of the principles of subsidiarity and proportionality in the EU’s policymaking and responded to the recommendations presented by the Task Force on Subsidiarity, Proportionality and “Doing Less, More Efficiently” established by European Commission President Jean-Claude Juncker and chaired by First Vice-President Frans Timmermans as well as the subsequent Communication of the European Commission “The principles of subsidiarity and proportionality: Strengthening their role in the EU’s policymaking“ tabled on 23 October 2018.

The guiding theme: More Europe on the big issues and focus on the key challenges

We want a stronger and more democratic Union. This means we have to listen carefully and respond to the expectations of our citizens. The Union has to provide solutions to the major challenges—such as migration, security, climate change—and should take a step back when it comes to issues where Member States or regions are in a better position to take action, while fully respecting the EU Treaties. Where a comprehensive legal framework is in place, work should be balanced towards more effective implementation and evaluation rather than creating new rules.

Evaluating legislation

Existing legislation should be reviewed with regard to its added value as compared to national measures, possible simplification, reduction of regulatory density, compliance with the principles of subsidiarity and proportionality as well as its impact on regional and local levels. The Task Force’s recommendation to develop a new mechanism to evaluate existing legislation building on the existing REFIT process is therefore welcomed. In this context the jurisprudence of the European Court of Justice has also to be taken into account. When it comes to new legislative proposals by the European Commission, the importance of evaluations and the “evaluate first principle” should also be emphasised.

A new tool–assessment grid

The Chair welcomes the assessment grid proposed by the European Commission on the basis of recommendations by the Task Force. It builds on the substantive criteria, which were already included in the Amsterdam Treaty's Subsidiarity Protocol. The Commission's intention to use the instrument is welcomed. The European Parliament, the Council of the European Union, the European Commission, the national and regional Parliaments and the Committee of the Regions should engage in a constructive dialogue on the use of such an instrument. Furthermore, the possibility could be explored to include the assessment grid in the Interinstitutional Agreement on Better Lawmaking.

A shared responsibility–towards a better understanding of subsidiarity and proportionality

The EU's institutions, the Member States, national Parliaments and the regional and local levels should advance a better understanding of the concept of subsidiarity and proportionality. In this context the proposed assessment grid could be a valuable tool to frame the dialogue as to whether regulation at EU level is necessary on the basis of more visible and clearly defined criteria. Each level has its own responsibility and contributes to addressing current challenges. In this context it is important to strike the right balance between the European Union and the Member States.

Proportionality–greater scope for decisions at Member State, regional and local level

Measures taken by the Union should not, in substance and formally, go beyond what is necessary to achieve the objectives of the Treaties. It is key that the Commission explains in detail the chosen instrument in relation to the intended objectives and justifies its proposal as regards subsidiarity and proportionality. Furthermore, directives should be used according to their intended purpose by giving appropriate flexibility to the Member States as regards the means to achieve the objective of legislation. In view of high regulatory density already reached in certain policy areas, the recommendation of the Task Force to use delegated and implementing acts sparingly is welcomed.

Transparency–joint interinstitutional database

Initiatives by the European Parliament, the Council of the European Union and the European Commission to improve legislative transparency are welcome and encouraged. In line with the Interinstitutional Agreement on Better-Law Making, the institutions should step up their efforts to implement an interinstitutional legislative database as an instrument to enhance transparency.

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Role of the National Parliaments

The national Parliaments are called upon to harness the full potential of the subsidiarity control mechanism. The envisaged flexible handling of the deadline up to 12 weeks is welcomed. In addition, the European Commission could examine how to better take into account suggestions from national Parliaments for European initiatives.

Improved involvement of regional and local levels

Better involvement and visibility of the regional and local levels in EU policy development should be a common goal. This could be achieved in particular through improvements in impact assessments and consultations. Enhancing the dialogue between the European institutions and the regional and local levels could improve ownership of EU policies. Involving citizens is also an essential element in strengthening European integration and consultations are a valuable tool in this context.

Continuation of the work

A number of proposals to strengthen subsidiarity and proportionality were put forward at the conference. The discussion on elements such as better understanding of subsidiarity and proportionality, in some areas priority of effective implementation before creating new rules, evaluation of legislation, restraint on implementing acts and delegated acts, improving subsidiarity control by national Parliaments and better involvement of regional and local levels in policymaking should continue. Subject to further assessment and eventual approval by the Council, the proposals to improve the application of the principles of subsidiarity and proportionality should also be taken into account in the new institutional cycle