

Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date:

9 June 2014

Meeting time:

13.30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

1 Introduction, apologies, substitutions and declarations of interest

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 (Page 1)

CLA(4)-16-14 – Paper 1 – Statutory instruments with clear reports

Negative Resolution Instruments

CLA405 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2014

Negative procedure; Date made: 21 May 2014; Date laid: 22 May 2014; Coming into force date: 1 August 2014.

3 Paper to note – Subsidiarity Annual Report 2013 (Pages 2 – 49)

CLA(4)-16-14 – Paper 2 – Subsidiarity Annual Report 2013

4 Evidence in relation to the Holiday Caravan Sites (Wales) Bill (Pages 50 – 75)

(Indicative time 1.30 – 2.15pm)

Carl Sargeant AM, Minister for Housing Regeneration

(Indicative time 2.15 – 3.00pm)

Darren Millar AM, Member in Charge of the Holiday Caravan Sites (Wales) Bill

CLA(4)–16–14 – Paper 3 – Letter from Carl Sargeant AM, Minister for Housing and Regeneration, written evidence to Communities Equality and Local Government Committee, 28 May 2014

CLA(4)–16–14– Research Service Briefing

CLA(4)–16–14– Legal Advice Note

5 Evidence in relation to the inquiry into disqualification of membership from the National Assembly for Wales (Pages 76 – 80)

(Indicative time 3.00 – 3.45pm)

Professor Jonathan Bradbury, Swansea University

CLA(4)–16–14 – Research Service Briefing

6 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(vi) the committee is deliberating on the content, conclusions or recommendations of a report it proposes to publish; or is preparing itself to take evidence from any person;

Final Report Supplementary Legislative Consent Memorandum: Deregulation Bill

(Pages 81 – 89)

CLA(4)–16–14 – Paper 4– Final Report

Agenda Item 2

Constitutional and Legislative Affairs Committee

Statutory Instruments with Clear Reports

9 June 2014

CLA405 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2014

Procedure: Negative

These Regulations govern the student loan liability of students who receive loans for living costs from the Welsh Ministers in respect of the academic year 2014/2015.

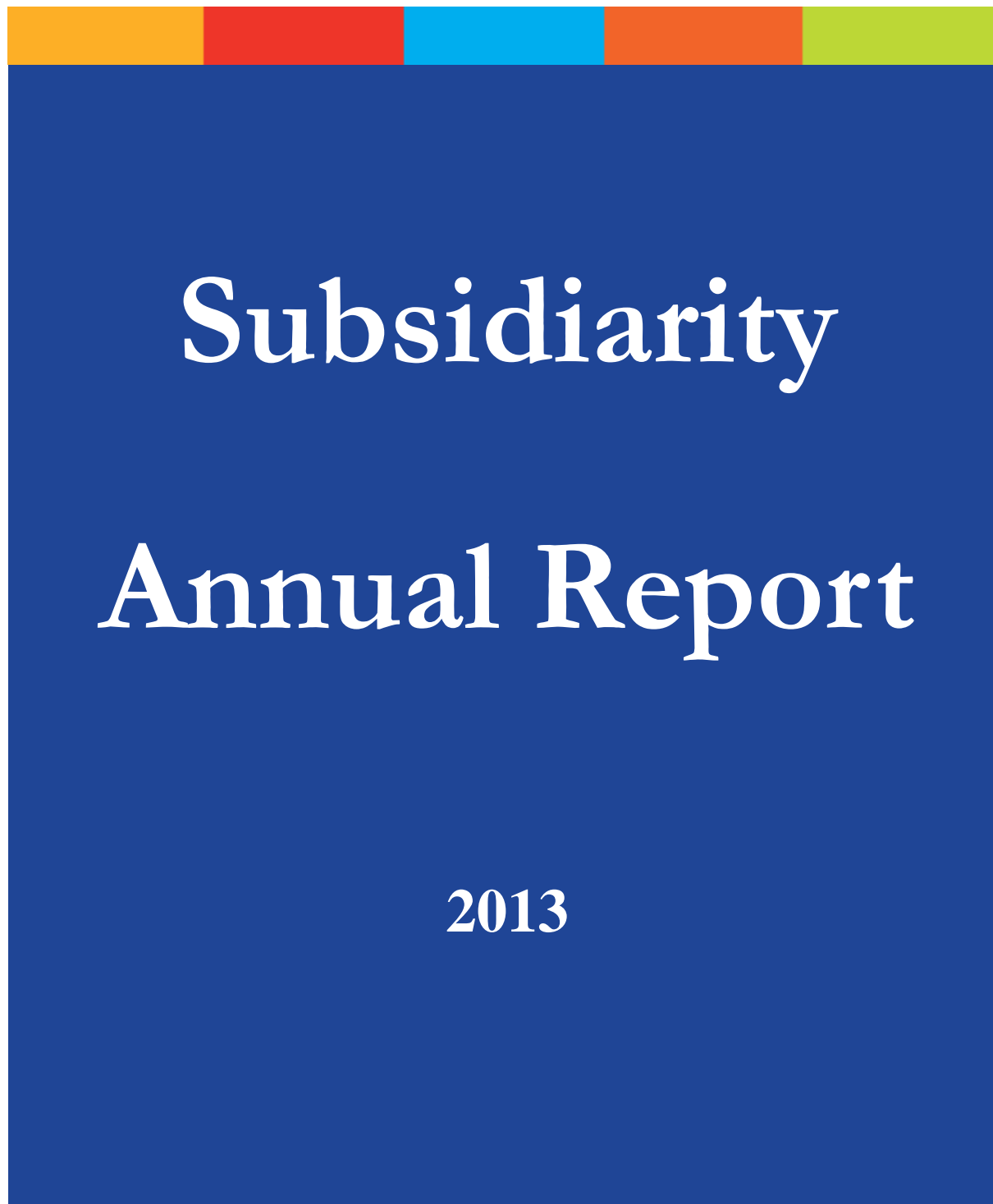
These Regulations provide for up to £1,500 of each borrower's living costs loan liability to be cancelled in certain circumstances, with effect from the day after the date on which their first loan repayment is considered to have been received.

Agenda Item 3

EUROPEAN UNION



Committee of the Regions



EUROPEAN UNION



Committee of the Regions

SUBSIDIARITY ANNUAL REPORT 2013

SUBSIDIARITY ANNUAL REPORT 2013

1. Introduction

In his State of the Union address on 11 September 2013, EU Commission President Barroso stressed the importance of smart regulation and declared that the European Union needs to be "*big on big things and smaller on smaller things*" emphasising the importance of the subsidiarity principle and the need for Europe to make its legislation fit for purpose. He further announced that he valued subsidiarity highly and that for him "*subsidiarity is not a technical concept. It is a fundamental democratic principle. An ever closer union among the citizens of Europe demands that decisions are taken as openly as possible and as closely to the people as possible.*"¹

The same subsidiarity principle has gained prominence in some of the Member States throughout the year in the somewhat EU-sceptic debate on the limits of the EU's powers, as a means of having "less Europe" in certain areas. However, the subsidiarity principle is the backbone of European governance, assuring that decisions are taken at the most appropriate level of governance, as close as possible to the individual citizen. Effective subsidiarity monitoring has an important role to play within the EU in order to ensure that EU policy objectives are met and accepted by the public. The Committee of the Regions (CoR) is committed to ensuring and facilitating the effective application of the subsidiarity principle and is striving to become the point of reference in terms of subsidiarity within the EU. Moreover, in 2013 the CoR engaged in establishing an agreement² with the European Parliament covering *inter alia* cooperation on ensuring the respect of the subsidiarity principle.

The CoR seeks to constructively contribute to the European decision-making process at an early stage in order to achieve the best possible legislation. The purpose of the CoR's subsidiarity monitoring activities is to detect any breach of the subsidiarity principle as early as possible in the legislative procedure. By signalling potential infringements the CoR helps to prevent the enactment of legislation which would be in breach of the subsidiarity principle and which would require time-consuming *ex-post* measures to put it right, such as bringing a case before the Court of Justice of the European Union. The added value of subsidiarity monitoring therefore comes from preventing the enactment of legislation that is not fit for purpose.

1 http://europa.eu/rapid/press-release_SPEECH-13-684_en.htm

2 Cooperation Agreement between the European Parliament and the Committee of the Regions, signed on 5 February 2014 (COR-2013-07657-17-00-NB-TRA)

This is the CoR's fourth Subsidiarity Annual Report. In 2012 the CoR revised its strategy for subsidiarity monitoring, reinforcing its governance and establishing a comprehensive approach to monitoring, and 2013 was the first year in which these new elements were put into practice. The fourth Subsidiarity Annual Report has two main aims; to outline the CoR's subsidiarity monitoring activities during the year and their impact, and to give an overview of other important subsidiarity-related activities. Firstly, the main features of the Subsidiarity Work Programme 2013 are presented (part 1), followed by a summary of activities carried out for its implementation in 2013 (part 2). The governance structure and tools of subsidiarity monitoring are described (part 3) and the impact of the monitoring is then assessed by examining the content of CoR opinions with regard to subsidiarity (part 4). Part 5 is devoted to the most important event of the year in the field of subsidiarity: the 6th Subsidiarity Conference - a unique forum in which to evaluate subsidiarity monitoring in the post-Lisbon context together with the key players of EU and national institutions and generate ideas on how monitoring can be adapted and developed in order to respond adequately to current and future challenges. The year 2013 was also a milestone in the development of territorial impact assessment at the CoR (part 6). Finally, conclusions are drawn and the outlook for the next year is presented (part 7).

2. Subsidiarity Work Programme 2013

2.1 Adoption

The main novelty within the field of subsidiarity monitoring for the CoR in 2013 was the adoption and implementation of its first Subsidiarity Work Programme³. This constitutes the very first structured attempt to monitor EU initiatives upstream. In accordance with the revised subsidiarity monitoring strategy adopted by the CoR Bureau in May 2012⁴, the CoR will henceforth rely on an annual Subsidiarity Work Programme aimed at identifying a number of EU initiatives of potential interest from a subsidiarity point of view. Under the procedure, the selection of subjects for the 2013 Subsidiarity Work Programme was carried out with the assistance of the Subsidiarity Expert Group, composed of officials chosen from the Subsidiarity Monitoring Network according to their expertise in subsidiarity matters as well as a strong background in EU law, on the basis of an analysis of the European Commission Work Programme, the road maps and other available documents. The following selection criteria were applied:

- a) initiatives should present a clear political interest for local and regional authorities;
- b) initiatives should touch on competences of local and regional authorities;
- c) initiatives should bear a potential subsidiarity dimension.

³ CdR 2336/2012, adopted by the CoR Bureau on 30 January 2013

⁴ Subsidiarity monitoring: a revised strategy for the Committee of the Regions, R/CdR 606/2012

The selection undertaken by the Subsidiarity Expert Group was reviewed and endorsed by the Subsidiarity Steering Group. As a result, five initiatives⁵ were retained and submitted to the CoR Bureau as part of the Subsidiarity Work Programme for 2013, to be monitored as a priority from a subsidiarity point of view. The Subsidiarity Work Programme also included the tools at the disposal of the CoR for subsidiarity monitoring, to be activated throughout the year in the light of the institutional calendar and the actual content of proposals. The Subsidiarity Work Programme was adopted by the CoR Bureau on 30 January 2013.

2.2 Implementation

On the basis of the Work Programme, the CoR administration set up an internal early flagging system to ensure the proper monitoring of the selected EU initiatives that might raise subsidiarity concerns. The implementation of the Subsidiarity Work Programme requires an involvement at the earliest possible stage of all relevant political and administrative stakeholders, with a view to identifying and planning the subsidiarity monitoring activities to be carried out both before and after the European Commission adopts its proposals. In 2013 the following five initiatives were thus selected to be monitored closely with the help of the different tools available.

2.2.1 Review of EU waste policy and legislation

A consultation of the Subsidiarity Expert Group and the Subsidiarity Monitoring Network (SMN) on these matters was launched on 12 March 2013 and ran until 3 May 2013. The experts and the partners of the SMN were invited to provide a subsidiarity analysis concerning the potential reinforcement of current waste targets and the potential introduction of new ones. The consultation brought to light important subsidiarity and proportionality-related elements, some of which were fed into the CoR opinion. A report, summarising the key findings, was submitted to the rapporteur, Michel Lebrun (BE/EPP), and to the European Commission. The report is also available online on the SMN website⁶. The CoR outlook opinion on the review of EU waste key targets⁷, which refers to the outcome of the consultation, was adopted at the plenary session in July 2013.

2.2.2 The Ports Package

This file⁸ replaced the Blue Belt initiative that was initially selected since the latter proved to be more relevant from a subsidiarity point of view and since the COTER commission were preparing an opinion on the subject. There were concerns that this legislative proposal might not take sufficient account of particular local and regional conditions in Europe, and so a consultation of regional parliaments and governments on subsidiarity and proportionality-related issues was launched on

⁵ See points 2.2.1 to 2.2.5

⁶ [Report on EU waste legislation](#)

⁷ CdR 1617/2013

⁸ COM(2013) 295 final, COM(2013) 296 final, COM(2013) 510 final

REGPEX in parallel with the Early Warning Mechanism eight-week period, from 23 May to 30 July 2013⁹. All concerned concluded that the subsidiarity principle had been complied with, although some proportionality issues were detected. A report summarising the key findings and presenting a number of conclusions was submitted to the European Commission and to the rapporteur of the CoR opinion on the Framework of future EU Ports Policy, Alessandro Cosimi (IT/PES). The opinion, which was adopted at the plenary session in November 2013¹⁰, finds that the proposal complies with the principle of subsidiarity, but expresses doubts as to proportionality and the choice of a regulation rather than a directive. Furthermore, a territorial impact assessment workshop was co-organised by the CoR and ESPON¹¹ on 25 September 2013 in relation to this initiative. During the workshop the experts could identify the negative impact concerning soil sealing in certain regions adjacent to the sea as well as the positive impact with regard to innovation, but no effects of this initiative were detected with regard to employment in the tertiary sector. This workshop was the first pilot workshop to use the new Quick Scan methodology, developed by ESPON and DG REGIO.

2.2.3 E-invoicing in public procurement

The European Commission issued its proposal for a directive on e-invoicing in public procurement¹² on 26 June 2013, and a subsidiarity and proportionality-related consultation of regional parliaments and governments was launched on REGPEX in parallel with the Early Warning Mechanism that ran until 26 September 2013. The proposal represented a potential impact on costs and administrative burdens at local and regional level. However, most of the contributions concluded that the principle of subsidiarity had been complied with, although some questions were raised, particularly with regard to the principle of proportionality. In particular it was highlighted that the perspective of local and regional authorities was not properly taken into account. The contributions were summarised and analysed in a report submitted to the rapporteur, Catharina Segersten Larsson (SE/EPP), and published online¹³. The CoR opinion, adopted at the plenary session in November 2013¹⁴, considered that the proposal was in line with the subsidiarity principle.

2.2.4 Urban Mobility

The institutional agenda prevented proper subsidiarity monitoring, since the initiative was not issued during the year as expected. However, given the importance of this topic for local authorities, the CoR took part in the European Commission's impact assessment through a jointly organised workshop on 13 June 2013, in which local and regional authorities and representatives from DG MOVE participated.

9 [CoR - Ports Package](#)

10 CdR 3610/2013

11 The European Observation Network for Territorial Development and Cohesion

12 COM(2013) 453 final, COM(2013) 449 final

13 [E-invoicing in public procurement - analysis of contributions](#)

14 CdR 5277/2013

Several members of the Subsidiarity Expert Group also participated in the workshop in their capacity as experts. This workshop enriched the debate and contributed to a better understanding of the local and regional dimension in this particular policy field. The participants in the workshop concluded *inter alia* that introducing mandatory requirements would be premature, but developing common performance indicators and benchmarking for cities could be very interesting. The results of the workshop have been summarised and sent to the European Commission. Since the initiative was published at the end of 2013 it has been carried over into the Subsidiarity Work Programme for 2014.

2.2.5 Environmental climate and energy assessment framework to enable safe and secure unconventional hydrocarbon extraction

The initiative on unconventional hydrocarbon extraction was delayed and published only in January 2014, which prevented proper subsidiarity monitoring. This initiative too has therefore been carried over into the Subsidiarity Work Programme for 2014. The CoR outlook opinion on *Local and Regional Authorities' perspective on Shale/Tight gas and oil* (rapporteur Brian Meaney, IE/EA), was adopted at the plenary session in October 2013¹⁵, but it did not include any reference to subsidiarity.

2.3 Additional Consultations

Consultations continued to operate through the website of the Subsidiarity Monitoring Network (SMN) in 2013. Targeted consultations can be launched at the request of CoR rapporteurs and may also, since May 2012, be initiated by the Subsidiarity Steering Group. In addition, SMN partners may submit their subsidiarity analyses of any EU proposal. These are uploaded on to the website and, whenever applicable, forwarded to the relevant CoR rapporteur.

At the end of 2012, an initial consultation of the Subsidiarity Expert Group was organised at the request of the rapporteur, Franz Schausberger (AT/EPP), as part of the preparations for an own-initiative opinion on: *Devolution in the European Union and the place for local and regional self-government in EU policy making and delivery*¹⁶. The consultation ran until 3 January 2013 and the contributions were summarised in a report that was published in February 2013¹⁷. The contributions provided some concrete examples illustrating the relationship between devolution and the application of the subsidiarity principle, as well as some more abstract thoughts on the role, application and effects of the principle itself in the EU and domestic contexts. The interesting elements highlighted by the contributions added a clear value to the discussion and were forwarded to the rapporteur to provide input for the draft opinion.

15 CdR 1617/2013

16 CdR 2214/2013

17 [Report of the Consultation of the Subsidiarity Expert Group on Devolution in the European Union](#)

3. Political governance and CoR tools for subsidiarity monitoring

3.1 Subsidiarity Steering Group

The Subsidiarity Steering Group (SSG) was set up in September 2012 in order to provide political governance for subsidiarity monitoring at the CoR and to ensure coordination between the administrative and political activities of the CoR on subsidiarity matters. During the first year of its existence the SSG closely followed the implementation of the Subsidiarity Work Programme and decided on concrete subsidiarity monitoring activities. The SSG was able to bring the views of the Subsidiarity Monitoring Network partners into the political process of the CoR by making their findings known at meetings of the political groups, the thematic commissions and at plenary sessions. Due to the change in the political landscape of the CoR as the new political group of European Conservatives and Reformists (ECR) was founded, the composition of the Subsidiarity Steering Group gained one extra member from the new political group.

Furthermore, the SSG gained visibility not only internally within the CoR, but also externally, at the Subsidiarity Conference on 18 December 2013 in Berlin¹⁸. At this inter-institutional event, each SSG member had a specific role moderating or chairing the different sessions and giving impetus to the discussion. Moreover, the chair of the SSG gave one of the keynote speeches on "*The principle of subsidiarity as a joint challenge and opportunity for the European institutions.*"

In reviewing the year 2013, it can be concluded that the setting-up of a political governance body contributed to the overall objective of increasing ownership of subsidiarity issues at the CoR. The members of the SSG took on their task with dedication and the CoR's subsidiarity monitoring activities benefited greatly from their political input and piloting.

3.2 Subsidiarity Expert Group

Under the revised subsidiarity strategy the Subsidiarity Expert Group (SEG) was set up to provide back-up for subsidiarity monitoring with knowledge from experts at local and regional level. The SEG is made up of experts from the administrations of local and regional authorities or associations thereof that have been selected for their expertise and experience in subsidiarity monitoring. One of the most important contributions of the SEG was provided at the beginning of the subsidiarity monitoring cycle, during the preparation of the CoR Subsidiarity Work Programme. At the end of 2012 the experts assisted the CoR in the selection of subsidiarity priorities from the European Commission Work Programme. The involvement of the SEG ensures that initiatives that are particularly relevant from a subsidiarity point of view and of interest to regional and local authorities are selected to form part of the CoR Subsidiarity Work Programme in order to be subject to thorough subsidiarity monitoring. This selection exercise was repeated at the end of 2013, with a view to preparing the Subsidiarity Work Programme for 2014.

¹⁸ For further information see: [CoR - 6th Subsidiarity Conference](#)

The experts are also at the disposal of CoR rapporteurs for the preparation of draft opinions and may provide subsidiarity analyses when needed. In 2013, as well as contributing to the review of EU key waste targets¹⁹, the SEG provided useful subsidiarity input through the consultations concerning the own-initiative opinion on *Devolution in the European Union and the place for local and regional self-government in EU policymaking and delivery*²⁰. The SEG also participated in the workshop on urban mobility, which was jointly organised by the European Commission and the CoR as part of the impact assessment of the former²¹ and its experts participated in the 6th Subsidiarity Conference in Berlin in December 2013.

The input which experts provide to the CoR's consultative activities creates a link to the subsidiarity debate in the Member States, strengthens mutual comprehension and brings the CoR closer to its local and regional partners and thus to the needs of the EU's citizens. In fact, the SEG serves as a network of “core” CoR contact points for subsidiarity in the Member States. Consequently, the active participation of the SEG contributes towards shaping the subsidiarity debate in Europe.

3.3 Subsidiarity Monitoring Network

The Subsidiarity Monitoring Network (SMN)²² has further strengthened its position during its sixth year of existence and the subsidiarity analyses submitted by the partners continue to stimulate the subsidiarity monitoring undertaken by the CoR. The network grew further in 2013 and included 146 partners at the end of the year²³. Among the newcomers were two Italian regional assemblies (Lombardy and Sicily), the State Parliament of Saxony, the Friuli-Venezia-Giulia Regional Government and the City Council of Harghita, Romania. The SMN now includes local and regional authorities and their associations, as well as a few national parliaments and national CoR delegations, representing all Member States, with the exception of Estonia and Croatia. Efforts will be continued to further extend the network so as to gain union-wide representation and encourage the active participation of all partners. Thanks to the work of the SMN, CoR members in general and rapporteurs in particular can benefit from quality input on subsidiarity-related matters, which facilitates the task of including sound subsidiarity assessments in CoR opinions.

19 See point 2.2.1

20 See point 2.3

21 See point 2.2.4

22 [CoR - The Subsidiarity Monitoring Network](#)

23 See list of partners in Appendix 1

3.4 REGPEX

In 2013, the CoR further upgraded and developed REGPEX - the sub-network of the Subsidiarity Monitoring Network open to parliaments and governments of regions endowed with legislative powers²⁴. This web-based tool and platform for coordination now includes an interactive map of regions with legislative powers and detailed profiles of each regional parliament. It also provides a standard form in English which summarises subsidiarity analyses in order to make it easier for regional parliaments to exchange their views, in spite of potential language barriers. REGPEX now counts 29 regional governments and 42 regional parliaments among its partners. The REGPEX search engine facilitates a selection of priorities for subsidiarity monitoring and an exchange of information between partners since it provides a direct access to information which can sustain a subsidiarity analysis, such as links to PreLex, IPEX, CoR opinions and other REGPEX partners' contributions. REGPEX continues to be an important tool for subsidiarity monitoring and plays a particularly vital role in the monitoring of initiatives under the Early Warning System. In 2013, a total of 66 contributions submitted by REGPEX partners were uploaded. Among the more active partners can be mentioned the Thuringian State Parliament, the Emilia Romagna Regional Legislative Assembly, the Austrian Bundesrat, the Austrian State Governor's Conference and the Baden-Württemberg State Parliament. Regional parliaments with legislative powers have an important role to play in the Early Warning Mechanism as they provide a voice for the regional and local dimension of subsidiarity scrutiny. Inter-parliamentary cooperation – of which REGPEX is one of the tools - is vital here since it fosters the exchange of good practices and a more common approach to subsidiarity monitoring.

3.5 Study on the Subsidiarity Early Warning System

In order to assess the experiences of regional parliaments and other relevant stakeholders regarding the Early Warning System and present examples of best practice, the CoR published study entitled *The Subsidiarity Early Warning System of the Lisbon Treaty – the role of regional parliaments with legislative powers and other subnational authorities*²⁵ in November. The study compares and evaluates the involvement of regional parliaments having legislative powers and other regional assemblies and relevant stakeholders in the Early Warning System in the wake of the Lisbon Treaty. A variety of questions are addressed, such as the level of involvement, arrangements and cooperation, but the aim of the study is to go beyond a pure description of such things and assess them against each other with a view to identifying best practices and making recommendations for the future. The study was presented at the 6th Subsidiarity Conference in Berlin.

24 [CoR - REGPEX](#)

25 [Study 'The Subsidiarity Early Warning System of the Lisbon Treaty – the role of regional parliaments with legislative powers and other subnational authorities'](#)

4. Subsidiarity in CoR opinions

The CoR adopted 72 opinions in 2013²⁶. Of these, 72 per cent (52) included an explicit reference to the application of the subsidiarity principle as requested by Rule 51(2) of the CoR's Rules of Procedure and 36 per cent (26) set out a clear position on the initiative's compliance with the principle.

Nineteen of the 20 opinions that did not include any reference to subsidiarity were adopted either on non-legislative initiatives (Communications, Green Papers or Reports), or at the initiative of the CoR (own-initiative opinions)²⁷, which did not refer to any existing EU initiative. Furthermore, two of the own-initiative opinions concerned state aid, an area where only the EU is empowered to take action and to which the subsidiarity principle is not applicable. Moreover, the one opinion referring to a legislative proposal which did not comply with Rule 51(2) of the Rules of Procedure was adopted on a proposal in a policy field where consultation of the CoR is not mandatory. To sum up, all CoR opinions adopted in 2013 referring to a legislative proposal within a policy area of mandatory consultation included an explicit reference to subsidiarity.

The following opinions adopted by the CoR in 2013 are to be highlighted for their relevance from a subsidiarity point of view; some have raised concerns with regard to compliance with the subsidiarity and proportionality principles or the use of delegated acts, and three of them refer to an EU initiative included in the Subsidiarity Work Programme for 2013. These are: the opinion on *Revision of the Environmental Impact Assessment Directive* (CdR 591/2013); the opinion on the *Manufacture, presentation and sale of tobacco and related products* (CdR 2062/2013); the outlook opinion on the *Review of the targets contained in the Waste Framework Directive, the Landfill Directive and the Packaging and Packaging Waste Directive* (CdR 1617/2013); the own-initiative opinion on *Assessing Territorial Impacts* (CdR 29/2013); the opinion on *Maritime spatial planning and integrated coastal management* (CdR 3766/2013); the opinion on *Framework on Future EU Ports Policy* (CdR 3610/2013); the opinion on *E-invoicing and end-to-end e-procurement* (CdR 5277/2013); and the opinion on *Regulation on Official Controls* (CdR 5295/2013)²⁸.

As already observed in previous years, subsidiarity is definitely becoming a point of reference for the drafting of opinions. In the Subsidiarity Annual Report 2012 it was underlined that, given the new prerogatives and responsibilities of the CoR in the area of subsidiarity monitoring and despite the progress already made, all opinions on legislative proposals in areas of mandatory consultation should include a systematic appraisal of compliance with the subsidiarity principle.

²⁶ See Appendix 2 for an overview of opinions adopted between 1 January and 31 December 2013

²⁷ Furthermore, two of the own-initiative opinions concerned an area of exclusive EU competence to which the subsidiarity principle is not applicable

²⁸ See appendix 3 for more details on each of these CoR opinions

It is therefore very satisfying to note that during 2013 the number of opinions on legislative proposals not respecting Rule 51(2) of the CoR's Rules of Procedure is down to only one, and that there was not a single one within a policy area of mandatory consultation. This constitutes a great step forward and confirms that the quality of subsidiarity references in CoR opinions has clearly benefited from the political governance role played by the Subsidiarity Steering Group and the input provided as a result of the various monitoring activities.

5. 6th Subsidiarity Conference

The main subsidiarity event of the year, the 6th Subsidiarity Conference²⁹, co-organised by the CoR and the German Bundesrat, took place on 18 December 2013 in Berlin and brought together prominent representatives from EU institutions, national and regional parliaments, as well as academia, to assess the status and impact of the principle of subsidiarity on EU law-making in the post-Lisbon era. The German Bundesrat constituted the perfect venue for attracting prominent speakers and an interested audience of around 200 people from 22 different countries, representing all relevant levels of governance. Moreover, the excellent collaboration between the Bundesrat and the CoR in organising the event contributed greatly to its success. The CoR was able to fulfil its commitment to provide a broad framework for discussion on subsidiarity matters at EU level on a regular biennial basis. This year's event was of a genuine inter-institutional nature and therefore created a precedent for future events and cooperation. The positive feedback on the discussions received from participants and the high level of attendance testify to the success of the event.

The Subsidiarity Conference has thus proved its worth as a unique inter-institutional and multi-level platform promoting a "subsidiarity culture" in Europe. In summary, five main strands in the conclusions from the sixth conference can be identified:

- The principle of subsidiarity must be the yardstick for assessing the democratic legitimacy of EU legislation. Subsidiarity is the key tool for analysing and clarifying the role of the different levels of governance in order to shape policies for the benefit of all EU citizens. Its aim is to ensure that decisions are taken at the most appropriate level – European, central, regional or local. The effective application of the subsidiarity principle in the EU thus enhances the democratic legitimacy of European governance, helps to achieve better regulation, and increases the acceptance of decisions by the general public. This principle gains even more importance through the ever-widening discussion on the limits of EU action.
- The Subsidiarity Early Warning System has proven to be a valuable tool for more efficient subsidiarity monitoring and thus increased democratic control. It may need to be further developed to ensure the optimal and timely involvement of all key players. A request to extend the eight-week deadline was expressed by several speakers and participants at the conference. On a general note, the participants highly appreciated the possibility offered by the conference to exchange experiences in implementing the Early Warning System.

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[CoR - 6th Subsidiarity Conference](#)

- Inter-institutional cooperation on subsidiarity monitoring provides a clear added value and should be increased in order to apply the subsidiarity principle as effectively as possible. Subsidiarity monitoring should not be limited to the legislative process, but should be strengthened at the pre-legislative stage too. Closer cooperation between all the relevant institutional players, and particularly between national parliaments and regional parliaments, should thus be encouraged.
- A culture of subsidiarity should be fostered and there must be a clear link to multilevel governance. Multilevel governance is a concept that operates more effectively when connected with the subsidiarity principle. But multilevel governance is also a key driver for subsidiarity monitoring, as the latter can only be effective if it is based on genuine cooperation between all the relevant levels of governance.
- Communication efforts should be focused. The European Union must put its citizens at the centre of its policies and make use of the main mechanism - the subsidiarity principle – that ensures good governance in Europe. This should be expressed in a language that ordinary people can understand.

For the CoR the Subsidiarity Conference was a unique opportunity to present its achievements in the field of subsidiarity monitoring since the entry into force of the Lisbon Treaty and to share its experiences with the key players in order to shape the subsidiarity debate in Europe.

6. Territorial impact assessment

A comprehensive impact assessment is one of the European Union's tools for improving the quality of legislation. However, territorial aspects have not been considered to be as important as social, economic and environmental effects in EU policymaking. As more focus has been placed on the territorial cohesion objective of the Lisbon Treaty, the need for a territorial impact assessment of the EU's policies for individual sectors has increased, not least because such assessments can help to improve coordination and the acceptance of such policies. Regional diversities mean that specific EU legislation will have a different impact on the various regions within the EU, which justifies the increasing attention being paid to this particular issue.

The CoR has worked with the European Commission on impact assessments since 2009 and during 2013 the CoR carried out three impact assessment workshops. On 29 May 2013 the CoR organised for the first time a special impact assessment workshop on coastal and maritime tourism in cooperation with DG MARE and DG ENTR. This event was designed to facilitate a sharing of views between the European Commission and local and regional authorities and allow the latter to have direct contact with the departments responsible for preparing future proposals. A second impact assessment workshop, this time on urban mobility, was organised on 13 June 2013 together with DG MOVE³⁰. The third workshop was organised on 26 September 2013 and focused on one of the initiatives included in the Subsidiarity Work Programme, namely the Ports Package³¹.

³⁰ See point 2.2.4

³¹ See point 2.2.3

Furthermore, during the Open Days in October, a more general event was devoted to "Territorial Impact Assessment: a tool for better law-making and territorial cohesion" which brought together speakers from the Commission, the European Parliament, the CoR and ESPON. To sum up, the CoR's contribution to impact assessments provided the Commission with views from local and regional experts and data on the relevance and added value of proposed policy proposals and options. Such workshops constitute a valuable occasion for local and regional authorities to participate in the pre-legislative phase and constructively contribute to European policymaking at an early stage.

The adoption of the own-initiative opinion on "Assessing Territorial Impacts"³² in July 2013 (rapporteur Michael Schneider, DE/EPP) marked a milestone in the CoR's commitment to territorial impact assessments. In the opinion, the CoR declared its intention "*to cooperate closely with the Commission in selecting and carrying out territorial impact assessments and to be interested in cooperating closely with the EP and the Council to see the principle of territorial impact assessment reflected more clearly in legislative procedures.*" The CoR has three main objectives when performing territorial impact assessments: (i) to allow CoR rapporteurs to have access to specific analyses and information that can be used to improve the territorial dimension of CoR opinions; (ii) to improve EU policymaking by ensuring that potentially asymmetric territorial impacts of EU legislative and policy proposals on territories and on local and regional authorities are taken into account; and (iii) to improve the visibility of territorial impact assessment as an important element for better EU legislation. Following the mandate established by the own-initiative opinion on "Assessing Territorial Impacts" the CoR will develop a territorial impact assessment strategy and a work programme for 2014.

7. Conclusion and outlook

In 2013, subsidiarity monitoring at the CoR was further consolidated by the implementation of the revised strategy for subsidiarity monitoring, in particular the Subsidiarity Work Programme. Relying on sound monitoring tools, the CoR reaffirmed its comprehensive approach, regarding subsidiarity monitoring as a responsibility throughout the whole policymaking cycle, with the aim of intervening as early as possible.

With its first Subsidiarity Work Programme the CoR has taken on the task of monitoring EU initiatives upstream. The political governance provided by the Subsidiarity Steering Group and the monitoring tools at hand, such as the Subsidiarity Monitoring Network, the Subsidiarity Expert Group and REGPEX, have enabled the CoR to successfully carry out this task and prepare for exploring further possibilities for monitoring subsidiarity and looking into other related issues in the field, such as territorial impact assessment, for the benefit of local and regional authorities and, as a result, all EU citizens.

³² CdR 29/2013, [CoR - Assessment on Territorial Impacts](#)

The subsidiarity work carried out has led to the raised awareness for these issues among the members of the CoR. This is reflected in the CoR opinions, which contain increasingly substantial assessments of compliance with the subsidiarity principle and make suggestions in order to improve EU law-making. The aim of the next Subsidiarity Work Programme will be to reinforce the established patterns of cooperation within the CoR and with external partners, whether they be EU institutions, local and regional authorities or associations.

With the 6th inter-institutional Subsidiarity Conference on 18 December 2013 in Berlin the CoR has taken the lead and provided a forum for fruitful, constructive discussions on subsidiarity matters at EU and national level, bringing together the key players and shaping the debate on subsidiarity. The success of the conference will certainly help to create a precedent for future events and cooperation.

As regards impact assessment, the CoR has contributed to the general impact assessment exercise of the European Commission, through the findings of the workshops organised in 2013, which focus on the territorial dimension of the proposed initiatives. Furthermore, the opinion on "Assessing Territorial Impacts", adopted in 2013, paved the way to the development of the territorial impact assessment strategy, which will be implemented in 2014. Engaging in territorial impact assessment, the CoR seeks to contribute to the inter-institutional efforts striving for better law-making.

Subsidiarity is not simply about getting more or less legislation at EU level. Subsidiarity is about getting it at the right level, as close as possible to the individual citizen, and it goes without saying that we need to close the gap that has developed between the EU and its citizens. The CoR is committed to contributing towards the creation of a subsidiarity culture and will continue to fulfil this commitment by strengthening its subsidiarity monitoring, further developing its monitoring tools and reinforcing inter-institutional cooperation.

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* *

Appendix 1

**List of partners
The CoR Subsidiarity Monitoring Network**

146 partners at 31 December 2013

**Parliaments or assemblies representing regions
with legislative powers**

Lower Austria State Parliament	Austria
Burgenland State Parliament	Austria
Carinthia State Parliament	Austria
Tyrol State Parliament	Austria
Vorarlberg State Parliament	Austria
Flemish Parliament	Belgium
Walloon Parliament	Belgium
Brussels-Capital Region Parliament	Belgium
French Community Parliament	Belgium
Åland Parliament	Finland
Bavarian State Parliament	Germany
Baden-Württemberg State Parliament	Germany
Hesse State Parliament	Germany
North Rhine-Westphalia State Parliament	Germany
Lower Saxony State Parliament	Germany
Saxony-Anhalt State Parliament	Germany
Schleswig-Holstein State Parliament	Germany
Thüringen State Parliament	Germany
Hamburg City Parliament	Germany
Saxon State Parliament	Germany
Emilia Romagna Regional Legislative Assembly	Italy
Marche Regional Legislative Assembly	Italy
Sardinia Regional Legislative Assembly	Italy
Tuscany Regional Legislative Assembly	Italy
Trento Autonomous Province Legislative Assembly	Italy
Friuli – Venezia Giulia Regional Assembly	Italy
Abruzzo Regional Assembly	Italy
Calabria Regional Assembly	Italy
Piedmont Regional Assembly	Italy
Lombardy Regional Assembly	Italy
Sicilian Regional Assembly	Italy
Azores Legislative Assembly	Portugal

Madeira Legislative Assembly	Portugal
Asturias Legislative Assembly	Spain
Basque Regional Parliament	Spain
Canary Islands Regional Assembly	Spain
Catalan Regional Parliament	Spain
Extremadura Regional Assembly	Spain
Galician Regional Parliament	Spain
Navarre Regional Parliament	Spain
Welsh National Assembly	United Kingdom
Northern Ireland Assembly (NIA)	United Kingdom

Governments or executives representing regions with legislative powers

Lower Austrian State Government	Austria
Vienna City Municipal Executive	Austria
Steiermark State Government	Austria
Vorarlberg State Government	Austria
Upper Austrian State Government	Austria
Flemish Government	Belgium
Bavarian State Government	Germany
Hesse State Government	Germany
Lower Saxony State Government	Germany
Saxony State Government	Germany
Rhineland-Palatinate State Government	Germany
Hamburg City Senate	Germany
Abruzzo Regional Government	Italy
Bolzano/Bozen – South Tyrol Provincial Government	Italy
Lombardy Regional Government	Italy
Piedmont Regional Government	Italy
Veneto Regional Government	Italy
Emilia Romagna Regional Government	Italy
Friuli Venezia Giulia Regional Government	Italy
Azores Regional Government	Portugal
Madeira Regional Government	Portugal
Basque Government	Spain
Canary Islands Government	Spain
Galicia Regional Government	Spain
Madrid Regional Government	Spain
Valencia Regional Government	Spain
Murcia Regional Government	Spain
Asturias Regional Government	Spain
Scottish Government	United Kingdom

Local or regional authorities without legislative powers

Sofia City	Bulgaria
Zlín City	Czech Republic
Auvergne Regional Council	France
Dunkirk Urban Community	France
Eure General Council	France
Augsburg City	Germany
Erlangen Municipality	Germany
Patras Municipality	Greece
Budapest City	Hungary
Alessandria Province	Italy
Radviliškis District Municipality	Lithuania
Flevoland Provincial Government	Netherlands
Twente Network City – (inc. municipalities of Almelo, Borne, Hengelo, Enschede and Oldenzaal)	Netherlands
Overijssel Province	Netherlands
Łódź City	Poland
Łódź Region Marshal's office	Poland
Wielkopolska Region Marshal's office	Poland
Pomeranian Regional Parliament	Poland
Masovian Region Marshal's office	Poland
Silesian Region Government	Poland
Tavira City	Portugal
Hunedoara City	Romania
Galați County Council	Romania
Harghita County Council	Romania
Košice Autonomous Region Government	Slovakia
Nitra Self Governing Region	Slovakia
Izola City	Slovenia
Barcelona Provincial Council	Spain
Ceuta Autonomous City	Spain
Madrid City	Spain
Gothenburg	Sweden
Västra Götaland County	Sweden
Skåne Regional Government	Sweden

Associations of regional and/or local authorities

Arco latino	European association
Assembly of European Regions	European association
Association of European Border Regions	European association
Conference of European Regional Legislative Assemblies (CALRE)	European association
Council of European Municipalities and Regions (CEMR)	European association
Eurocities	European association
REGLEG	European association
Austrian State Governors' Conference	Austria
Union of Cyprus Municipalities	Cyprus
Danish Regions	Denmark
Denmark Local Government	Denmark
Association of Finnish Local and Regional Authorities	Finland
Association of Mayors and Elected Representatives of Lozère	France
Conference of Atlantic Arc Cities	France
French Regions Association	France
German Association of Towns and Municipalities	Germany
German County Association	Germany
Association of Prefectoral Authorities of Greece (ENAE)	Greece
AICCRE - Italian Section of the Council of European Municipalities and Regions	Italy
Conference of the Presidents of the Italian Regional Parliaments	Italy
Union of Italian Provinces (UPI)	Italy
Latvian Association of Local and Regional Governments	Latvia
Lithuanian Association of Local Authorities	Lithuania
Association of the Provinces of the Netherlands (IPO)	Netherlands
Association of Netherlands Municipalities (VNG)	Netherlands
Association of Romanian Municipalities	Romania
Association of Romanian Cities	Romania
National Union of County Councils	Romania
Association of Municipalities of Aragon	Spain
Federation of Provinces and Municipalities of Extremadura	Spain
Association of Swedish Local and Regional Authorities (SALAR)	Sweden
Convention of Scottish Local Authorities (COSLA)	United Kingdom

CoR national delegations

Irish Delegation to the CoR	Ireland
Luxembourg Delegation to the CoR (Syvicol)	Luxembourg
Maltese Delegation to the CoR	Malta
Romanian Delegation to the CoR	Romania
United Kingdom Delegation to the CoR (LGA)	United Kingdom

National parliaments

Austrian Federal Council (Bundesrat)	Austria
French Senate	France
Hellenic Parliament	Greece
Italian Senate	Italy
Portuguese Assembly	Portugal

Appendix 2: Overview of opinions adopted between 1 January and 31 December 2013

CoR commission	Number of opinions adopted from 1 January 2013 to 31 December 2013	Number of opinions on legislative proposals	Number of opinions containing an explicit reference to subsidiarity (Rule 51(2))*	Number of opinions containing an assessment of compliance with subsidiarity principle	Related SMN consultation	Number of opinions adopted in a policy area of mandatory CoR consultation	
						Legislative proposals	Non-legislative initiatives
CIVEX	11	3	10	3	1	0	0
COTER	12	5	8	4	3	5	5
ECOS	14	3	11	7	1	1	3
EDUC	11	3	8	5	0	1	3
ENVE	11	2	9	4	1	2	8
NAT	10	3	4	3	1	2	3
BUDG	3	0	2	0	0	0	0
TOTAL	72	19	52	26	7	11	22

* Rule 51(2) of the Rules of Procedure of the CoR, which states that "Committee opinions shall contain an explicit reference to the application of the subsidiarity and proportionality principles", entered into force on 10 January 2010

CIVEX

Overview of opinions adopted between 1 January 2013 and 31 December 2013

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory³³	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making
CdR 1564/2012 COM (2012) 286 - final	31 January 2013	Opinion The EU strategy towards the eradication of trafficking in human beings 2012-2016	No	No	No	No	Yes (subsidiarity)
CdR 1652/2012	31 January 2013	Own-initiative opinion Strengthening EU Citizenship: Promotion of EU Citizens' Electoral Rights	No	No	No	No	Yes (subsidiarity)
CdR 2244/2012 COM (2012) 499 – final 2012/0237 (COD)	31 January 2013	Opinion The statute and funding of European Political Parties and European Political Foundations	Yes	No	No	Yes (compliance)	Yes (subsidiarity, proportionality, better law-making)
CdR 2210/2012 COM (2012) 600 – final	11 April 2013	Opinion Enlargement Strategy and Main Challenges 2012/2013	No	No	No	No	Yes (subsidiarity)

³³

During the legislative procedure

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ³³	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making
CdR 233/2013 JOIN (2012) 27 - final	11 April 2013	Opinion EU support for sustainable change in transition societies	No	No	No	No	Yes (subsidiarity)
CdR 2214/2012	12 April 2013	Own-initiative opinion Devolution in the European Union and the place for local and regional self-government in EU policy making and delivery	No	No	Yes ³⁴	No	Yes (subsidiarity, proportionality)
CdR 1389/2013 COM (2012) 746 – final	30 May 2013	Opinion EU Regulatory Fitness (REFIT)	No	No	No	No	Yes (subsidiarity, proportionality, better law-making)
CdR 2010/2013 COM (2013) 280 - final	9 October 2013	Opinion Empowering local authorities in partner countries for enhanced governance and more effective development outcomes	No	No	No	No	No
CdR 3536/2013 COM (2013) 269 - final	28 November 2013	Opinion EU Citizenship Report 2013	No	No	No	Yes (compliance)	Yes (proportionality, better law-making)

³⁴

Consultation of the Subsidiarity Expert Group, which ran from 21 November 2012 - 3 January 2013

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory³³	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making
CdR 3535/2013 COM (2013) 151 - final 2013/0081 (COD)	28 November 2013	Opinion Researchers, students, volunteers and other groups of third-country nationals	Yes	No	No	No	Yes (subsidiarity, proportionality, better law-making)
CdR 3534/2013 COM (2013) 95 – final COM (2013) 96 – final COM (2013) 97 - final	29 November 2013	Opinion Smart Borders Package	Yes	No	No	No	Yes (subsidiarity, proportionality, better law-making)

COTER

Overview of opinions adopted between 1 January 2013 and 31 December 2013

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory³⁵	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 1685/2012 COM (2012) 287 - final	1 February 2013	Opinion The outermost regions of the EU in the light of the Europe 2020 strategy	No	Yes ³⁶	No	No	Yes (subsidiarity, proportionality)
CdR 2232/2012	1 February 2013	Own-initiative opinion The regional state aid guidelines for 2014-2020	No	No	No	N/A ³⁷	No
CdR 26/2013 COM (2012) 617 - final / 2-2012/0295 (COD)	11 April 2013	Opinion Fund for European Aid to the Most Deprived	Yes	Yes	No	No	Yes (subsidiarity)

³⁵ During the legislative procedure

³⁶ With regard to actions in the field of cohesion policy, culture, energy, trans-european networks, transport, environment and education; will depend on each legal basis of possibly forthcoming legislative proposals

³⁷ Area of exclusive EU competence to which the subsidiarity principle does not apply

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ³⁵	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 29/2013 SWD (2013) 3 - final	3 July 2013	Own-initiative opinion Assessing Territorial Impacts	No	Yes ³⁸	Yes	No	Yes (subsidiarity, proportionality, better law-making)
CdR 28/2013 COM (2013) 17 – final COM (2013) 18 – final	4 July 2013	Opinion The Clean power for transport Package	Yes	Yes	No	Yes (compliance)	Yes (proportionality)
CdR 27/2013 COM (2013) 25 – final COM (2013) 28 – final COM (2013) 29 – final COM (2013) 34 – final COM (2013) 26 – final COM (2013) 27 – final COM (2013) 30 – final COM (2013) 31 –	8 October 2013	Opinion The Fourth Railway Package	Yes	Yes	Yes ³⁹	No	Yes (subsidiarity, proportionality)

³⁸ With regard to actions in the field of territorial cohesion; will depend on each legal basis of possibly forthcoming legislative proposals

³⁹ Impact assessment consultation, which ran from 11 May - 21 June 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory³⁵	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
final COM (2013) 32 – final COM (2013) 33 – final							
CdR 2994/2013	8 October 2013	Own-initiative opinion Urban-rural partnership and governance	No	Yes	No	No	No
CdR 3609/2013⁴⁰	8 October 2013	Opinion Recommendation of local and regional authorities for better spending in the new financial perspective 2014-2020	No	Yes	No	No	Yes (subsidiarity, proportionality)
CdR 3610/2013 COM (2013) 295 – final COM (2013) 296 – final COM (2013) 510 – final	28 November 2013	Opinion Framework on Future EU Ports Policy	Yes	Yes	Yes ⁴¹	Yes (compliance)	Yes (proportionality)

⁴⁰ Referral from Lithuanian Presidency

⁴¹ Consultation ran during the EWS period, 23 May – 30 July 2013

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory³⁵	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 5074/2013 COM (2013) 468 - final	28 November 2013	Opinion The added value of macro-regional strategies	No	Yes	No	No	No
CdR 5250/2013	28 November 2013	Own-initiative opinion EU Guidelines on State Aid to Airports and Airlines	No	No	No	N/A ⁴²	Yes (better law-making)
CdR 6402/2013 COM(2013)522 final	28 November 2013	Opinion European Union Solidarity Fund	Yes	Yes ⁴³	No	Yes (compliance)	Yes (proportionality)

⁴² Area of exclusive EU competence to which the subsidiarity principle does not apply

⁴³ With regard to actions covered by Article 175 TFEU

ECOS

Overview of opinions adopted between 1 January 2013 and 31 December 2013

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁴⁴	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 1529/2012 COM (2012) 259 - final	31 January 2013	Opinion Better governance for the single market	No	No	No	No	Yes (subsidiarity, better law-making)
CdR 1186/2012 COM (2012) 173 – final	1 February 2013	Opinion The role of local and regional authorities in promoting growth and boosting job creation	No	Yes	No	No	Yes (subsidiarity/ proportionality)
CdR 2255/2012 COM (2012) 582 - final	11 April 2013	Opinion A stronger European industry for growth and economic recovery	No	No	No	No	No

⁴⁴

During the legislative procedure

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁴⁴	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 240/2013 Communication from the Commission - Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2)	11 April 2013	Own-initiative opinion EU guidelines on state aid for rescuing and restructuring firms in difficulty	No	No	No	N/A ⁴⁵	Yes (subsidiarity, better law-making)
CdR 242/2013 COM (2012) 614 - final	30 May 2013	Opinion Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures	Yes	No	No	Yes (compliance)	No

⁴⁵

Area of exclusive EU competence to which the subsidiarity principle does not apply

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁴⁴	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 246/2013	3 July 2013	Own-initiative opinion Frontier workers: assessment of the situation after twenty years of the internal market: problems and perspectives	No	No	No	No	No
CdR 1997/2013 COM (2012) 636 - final	8 October 2013	Opinion CARS 2020: Action Plan for a competitive and sustainable automotive industry in Europe	No	No	No	No	No
CdR 1999/2013 COM (2013) 83 - final	9 October 2013	Opinion The EU Social Investment Package	No	Yes	No	Yes (compliance)	No
CdR 2447/2013 COM (2012) 795 - final	9 October 2013	Opinion Entrepreneurship 2020 Action Plan	No	Yes ⁴⁶	No	Yes (compliance)	Yes (subsidiarity, proportionality, better law-making)

⁴⁶

As far as education and economic cohesion are concerned; will depend on each legal basis of possibly forthcoming legislative proposals

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁴⁴	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 3303/2013 COM (2013) 150 - final	9 October 2013	Opinion Green Paper on the long-term financing of the European economy	No	No	No	No	Yes (subsidiarity, proportionality)
CdR 5277/2013 COM (2013) 453 – final COM (2013) 449 - final	28 November 2013	Opinion Directive on E-Invoicing and on end-to-end E-Procurement	Yes	No	Yes ⁴⁷	Yes (compliance)	Yes (proportionality, better law-making)
CdR 5279/2013 COM (2013) 407 - final	28 November 2013	Own-initiative opinion Action Plan for a Competitive and Sustainable Steel Industry in Europe	No	No	No	Yes (compliance)	Yes (proportionality, better law-making)
CdR 5278/2013 COM (2013) 430 - final	28 November 2013	Opinion Enhanced cooperation between Public Employment Services	Yes	Yes	No	Yes (compliance)	Yes (better law-making)
CdR 5280/2013 COM (2013) 454 - final COM (2013) 460 – final	28 November 2013	Opinion Roma Integration Strategies	No	No	No	Yes (compliance)	Yes (proportionality, better law-making)

⁴⁷ Consultation ran during the EWS period, 1 July – 26 September 2013

EDUC

Overview of opinions adopted between 1 January 2012 and 31 December 2012

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁴⁸	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 1672/2012 COM (2012) 392 - final	31 January 2013	Opinion European Research Area	No	No	No	No	No
CdR 1673/2012 COM (2012) 529 - final	11 April 2013	Opinion Unleashing the potential of cloud computing in Europe	No	No	No	No	No
CdR 2076/2012 COM (2012) 497 - final	12 April 2013	Opinion Enhancing and focusing EU international cooperation in research and innovation	No	No	No	Yes (compliance)	Yes (subsidiarity)
CdR 2392/2012 COM (2012) 669 - final	12 April 2013	Opinion Rethinking Education	No	Yes	No	No	Yes (subsidiarity, proportionality)
CdR 2391/2012 COM (2012) 537 - final	30 May 2013	Opinion Cultural and creative sectors for growth and jobs	No	Yes	No	Yes (compliance)	Yes (better law-making)

⁴⁸

During the legislative procedure

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory⁴⁸	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 2414/2012⁴⁹	30 May 2013	Opinion Closing the innovation divide	No	No	No	No	Yes (better law-making)
CdR 789/2013 COM (2012) 727 – final COM (2012) 728 - final	30 May 2013	Opinion Youth Employment Package	No	Yes	No	No	Yes (subsidiarity)
CdR 1646/2013 JOIN (2013) 1 – final COM (2013) 48 - final	3 July 2013	Opinion Cybersecurity strategy	Yes	No	No	Yes (compliance)	Yes (proportionality, better law-making)
CdR 3597/2013 COM (2013) 147 - final	3 July 2013	Opinion Reducing the costs of deploying broadband	Yes	No	No	Yes (compliance)	Yes (proportionality, better law-making)
CdR 5559/2013 COM (2013) 329 - final	8 October 2013	Opinion Guidelines for trans-European telecommunications networks	Yes	Yes	No	Yes (compliance)	Yes (proportionality)
CdR 3952/2013	29 November 2013	Own-initiative opinion Disability, sport and leisure	No	No	No	No	Yes (subsidiarity)

⁴⁹ EU Irish Presidency referral
COR-2014-00903-12-00-NB-REF

ENVE

Overview of opinions adopted between 1 January 2013 and 31 December 2013

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁵⁰	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 2182/2012 COM (2012) 271 – final	1 February 2013	Opinion Renewable energy: a major player in the European energy market	No	Yes	No	No	Yes (subsidiarity, proportionality)
CdR 591/2013 COM (2012) 628 – final	30 May 2013	Opinion Revision of the Environmental Impact Assessment Directive	Yes	Yes	No	Yes (non-compliance)	Yes (proportionality, better law-making)
CdR 593/2013 COM (2012) 710 – final	30 May 2013	Opinion 7th Environment Action Programme	Yes	Yes	No	No	Yes (subsidiarity and better law-making)
CdR 589/2013 C(2012) 4701 – final	4 July 2013	Opinion Smart Cities and Communities – European Innovation Partnership	No	Yes	No	No	Yes (subsidiarity, proportionality)
CdR 595/2013 COM (2012) 663 – final	4 July 2013	Opinion Making the internal energy market work	No	Yes	No	No	No

⁵⁰

During the legislative procedure

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁵⁰	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 1617/2013	4 July 2013	Outlook opinion The review of the European Union's key waste targets	No	Yes	Yes ⁵¹	No	Yes (subsidiarity, proportionality, better law-making)
CdR 3753/2013 COM (2013) 108 – final	8 October 2013	Opinion EU space industrial policy	No	No	No	Yes (compliance)	Yes (proportionality)
CdR 1616/2013	8 October 2013	Own-initiative opinion Local and regional authorities perspective on shale/tight gas and oil (unconventional hydrocarbons)	No	Yes	No	No	Yes (better law-making)
CdR 3752/2013 COM (2013) 216 – final	8 October 2013	Opinion EU strategy for adaptation to climate change	No	Yes	No	Yes (compliance)	Yes (subsidiarity, proportionality, better law-making)
CdR 3751/2013 COM (2013) 123 – final	8 October 2013	Opinion Green Paper on a European strategy on plastic waste in the environment	No	Yes	No ⁵²	No	Yes (subsidiarity, proportionality)

⁵¹ Consultation of the Subsidiarity Expert Group and the Subsidiarity Monitoring Network ran from 12 March to 3 May 2013

⁵² The report summarising the outcome of the consultation of the Subsidiarity Expert Group and the SMN on the review of EU waste legislation has been sent to the rapporteur

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁵⁰	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 4577/2013 COM (2013) 249 – final	8 October 2013	Opinion Green infrastructure – enhancing Europe’s natural capital	No	Yes	No	Yes (compliance)	Yes (proportionality)

NAT

Overview of opinions adopted between 1 January 2013 and 31 December 2013

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁵³	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 2202/2012 COM (2012) 473 – final	31 January 2013	Opinion Marine Knowledge 2020	No	No	No	Yes (compliance)	Yes (subsidiarity, proportionality)
CdR 2203/2012 COM (2012) 494 – final	31 January 2013	Opinion Blue Growth Opportunities for marine and maritime sustainable growth	No	Yes ⁵⁴	No	No	No

⁵³ During the legislative procedure

⁵⁴ As far as "blue energy" (marine renewable energy industry) is concerned

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁵³	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 2064/2013 COM (2012) 741 - final	30 May 2013	Opinion Evolution of the market situation and the consequent conditions for smoothly phasing-out the milk quota system – second "soft landing" report	No	No	No	No	No
CdR 2062/2013 COM (2012) 788 – final	3 July 2013	Opinion Manufacture, Presentation and Sale of Tobacco and Related Products	Yes	No	No	No	No
CdR 2063/2013 COM (2012) 736 – final	3 July 2013	Opinion eHealth Action Plan 2012-2020 – Innovative Healthcare for the 21st Century	No	Yes	No	No	Yes (subsidiarity)

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory ⁵³	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 3765/2013	9 October 2013	Own-initiative opinion The sustainability of rural areas	No	Yes ⁵⁵	No	No	No
CdR 3766/2013 COM (2013) 133 – final	9 October 2013	Opinion Proposed directive for maritime spatial planning and integrated coastal management	Yes	Yes ⁵⁶	Yes ⁵⁷	Yes (non-compliance)	Yes (proportionality)
CdR 5292/2013 COM (2013) 229 – final	29 November 2013	Opinion Strategic guidelines for the sustainable development of EU aquaculture	No	No	No	No	Yes (better law-making)
CdR 5293/2013	29 November 2013	Own-initiative opinion State Aids to Fisheries and Aquaculture	No	No	No	No	Yes (better law-making)

⁵⁵ As far as economic, social and territorial cohesion are concerned; will depend on each legal basis of possibly forthcoming legislative proposals

⁵⁶ As regards transport (Article 100(2) TFEU), environment (Article 192(1) TFEU) and energy (Article 194(2) TFEU). Consultation is not mandatory as regards Article 43(2) relating to the common fisheries policy

⁵⁷ SMN partners were invited to participate in a stakeholder consultation held on 31 May 2013 and to reply to a questionnaire, upon request of the rapporteur

Opinion reference #	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory⁵³	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion?	Other mention of subsidiarity / proportionality / better law-making?
CdR 5295/2013 COM (2013) 265 – final 2013/0140 (COD)	29 November 2013	Opinion Regulation on Official Controls	Yes	Yes	No	Yes (compliance)	Yes (better law-making)

BUDG

Overview of opinions adopted between 1 January 2013 and 31 December 2013

Opinion reference	Date	Title	Legislative proposal?	Policy field within which consultation of the CoR is mandatory⁵⁸	SMN consultation	Assessment of compliance with subsidiarity principle in the opinion	Other reference to subsidiarity / proportionality / better law-making in the opinion
CdR 1778/2012	31 January 2013	Own-initiative opinion Creating greater synergies between EU, national and subnational budgets	No	No	No	No	Yes (subsidiarity)
CdR 272/2013	11 April 2013	Opinion Synergies between private investment and public funding at local and regional levels	No	No	No	No	Yes (subsidiarity, proportionality, better law-making)
CdR 275/2013 SEC(2013)370 Council 11655/13	8 October 2013	Own-initiative opinion The Draft EU Budget for 2014	No	No	No	No	No

⁵⁸

During the legislative procedure

Appendix 3 – Key opinions adopted in 2013 with regard to subsidiarity and proportionality

1. Opinion on the Revision of the Environmental Impact Assessment Directive

(COM(2012) 628, CdR 591/2013, adopted on 30 May 2013)

The opinion, while emphasising "*that in many ways, the proposed changes to the legal framework for European environmental impact assessment are necessary and welcome*", raises some subsidiarity concerns. The opinion recalls that "*the proposed revision of the EIA Directive will have a significant impact on local and regional authorities*" and contrary to the European Commission's expectation, the CoR "*believes that many of the proposed amendments of the EIA Directive will lead to an increased administrative burden for local and regional authorities in terms of organisation, management and expenditure.*" Furthermore, in relation to the screening procedure, the CoR takes the view that "*the proposed change is inconsistent with the subsidiarity principle.*" The opinion underlines that the inclusion of additional specifications and criteria contradicts the idea that "*Member States should be given scope to take appropriate decisions reflecting specific national circumstances. The number of criteria to be taken into account and the level of detail go beyond what should be made binding at EU level*".

2. Opinion on the Manufacture, Presentation and Sale of Tobacco and Related Products

(COM(2012) 788 final, CdR 2062/2013, adopted on 3 July 2013)

The opinion does not raise any explicit objections on subsidiarity grounds, but expresses concerns in relation to delegated acts. The opinion warns that the recourse to such acts gives "*the European Commission wide powers to amend or supplement, unilaterally and a posteriori, essential aspects of the directive*" and believes that this "*might contravene the Lisbon Treaty, which stipulates that delegated acts may only be used to amend or supplement 'non-essential elements' of a legislative act, which is not the case in this instance*". Furthermore, in relation to cigars, cigarillos and pipe tobacco, the provision which provides for the power to automatically withdraw certain exemptions set out in the text if there is a "*substantial change of circumstances,*" is deemed "*too general and too broad*" and it is feared that "*this could lead to discretionary use on the part of the Commission.*"

Nine reasoned opinions have been issued by national parliaments or chambers in relation to this directive. Several of these opinions raised concerns regarding the choice of legal basis (Article 114 TFEU), in that they consider that the main purpose of the directive is protection of health and that the harmonisation of the internal market is merely a secondary consequence. Others, although they might endorse the legal basis, find, like the CoR, that the pronounced use of delegated acts confers excessive discretionary powers onto the European Commission, which infringes on the competence of national parliaments and is thus contrary to the subsidiarity principle. Furthermore, certain national parliaments consider that the proposed objective will not be more efficiently achieved by the proposal.

3. Outlook opinion on the Review of the Targets contained in the Waste Framework Directive, the Landfill Directive and the Packaging and Packaging Waste Directive
(CdR 1617/2013, adopted on 4 July 2013)

The review of EU waste legislation is one of the five priorities identified in the 2013 CoR Subsidiarity Work Programme. A consultation of the Subsidiarity Expert Group (SEG) and the Subsidiarity Monitoring Network (SMN) in relation to this opinion was thus launched on 12 March 2013 and ran until 3 May 2013. The experts and the partners of the SMN were invited to provide a subsidiarity analysis concerning the potential reinforcement of current waste targets and the potential introduction of new ones. The consultation report, summarising and analysing the main points of the contributions, was subsequently submitted to the rapporteur of the outlook opinion, Mr Michel Lebrun (BE/EPP), and to the European Commission for its impact assessment⁵⁹.

The consultation brought up important elements stemming from the subsidiarity/proportionality analysis, and a majority of respondents see two aspects differently from the rapporteur: Whereas the rapporteur is in favour of reinforcing certain targets in the context of the Waste Framework and the Packaging and Packaging Waste Directives⁶⁰, asking at the same time for intermediate targets, the majority of respondents oppose such reinforced targets. They refer mainly to the different levels of transposition of the relevant provisions in the Member States and argue that there should be first compliance with the existing ones throughout the EU before considering such reinforcement. Some of the some of these elements were fed into the CoR opinion.

4. Own-initiative opinion on Assessing Territorial Impacts
(SWD(2013) 3 final, CdR 29/2013, adopted on 3 July 2013)

The opinion on the assessment of territorial impacts expresses the views of local and regional authorities regarding the assessment of territorial impacts of EU proposals and comments in particular on the Staff Working Document adopted by the European Commission on this subject. In the opinion, the CoR declares that a "*territorial impact assessment as part of a subsidiarity check can constitute a key argument for action at EU level should it demonstrate that this would be of greater benefit than action at Member State or regional level*" and also "*underlines that territorial impact assessments can also be useful way of shedding light on potential downsides to EU policy proposals, which is especially important in view of the principle of proportionality. Thus territorial impact assessment is also an important tool for better lawmaking*". Furthermore, the opinion "*sees a close link between territorial impact assessment, assessing impacts in general, and subsidiarity and proportionality auditing of new legislation at European level, and points to the work already carried out by the Europe 2020 Monitoring Platform and the Subsidiarity Monitoring Network*".

⁵⁹ [CoR - Waste Consultation Report](#)

⁶⁰ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, Art. 11 (4); European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, Art. 6 (5)

The CoR also recommends that the Commission pay more attention to assessing territorial impacts in its efforts to further territorial cohesion, since this could *inter alia* foster a shared understanding of the issue and align it with local and regional circumstances and requirements in accordance with subsidiarity. Finally, the opinion gives guidance for future CoR action regarding territorial impact assessments and paves the way for a new CoR strategy in the field.

A targeted consultation, mentioned in the opinion, of local and regional authorities was launched to assess their views on a number of aspects related to the opinion. The consultation was submitted to the CoR Networks (the Europe 2020 Monitoring Platform, the Subsidiarity Monitoring Network and the EGTC Platform) and to regional offices based in Brussels. The outcome of the consultation highlighted that territorial impact assessments can help to better coordinate EU sectorial policies and that such assessments should be compulsory for a number of policy areas⁶¹. Furthermore, it was underlined that in order to ensure the successful implementation of the Europe 2020 strategy, it is necessary to consider the territorial dimension and the Annual Growth Survey should thus pay attention to territorial impact. Moreover, the consultation expressed the opinion that local and regional authorities should be involved in the territorial impact assessment process and urged the CoR to play an active role in the same.

5. Opinion on Maritime Spatial Planning and Integrated Coastal Management

(COM(2013) 133 final, CdR 3766/2013, adopted on 9 October 2013)

The opinion highlights that the subsidiarity check by national parliaments of the proposed directive produced nine reasoned opinions and agrees "*that elements of the proposed Directive fail to adequately meet necessity and added-value requirements for legislation at EU level*". Several of the reasoned opinions raised issues with regard to the choice of multiple legal bases (Articles 43(2), 100(2), 192(1) and 194(2) TFEU), and put forward that there is an insufficient legal basis for spatial planning at the European level. The CoR opinion goes in the same direction and appreciates that there are "*concerns regarding (a) competence - lack of clear competence at EU level*" while maritime spatial planning and integrated coastal management "*are already national, regional and or local competences in some Member States; (b) failure of the draft directive to adequately take into account regional/local specificities of coastal areas and existing planning and management practices; and (c) the appropriateness of using EU legislation to address specific cross-border issues and the adequacy of the EU level to frame cooperation with third countries where international maritime conventions already operate*". Furthermore, the opinion finds that the principle of proportionality has been breached: given that the question of whether the EU should legislate remains open, the question of how it should legislate also needs to be addressed. Moreover, the draft opinion considers the proposal too prescriptive and not providing enough flexibility for implementation. There is also a fear that the prescriptive approach to some aspects of the proposal will increase bureaucracy, administrative burden and additional costs in implementing the directive, particularly at local level, and thus further undermine its added-value.

⁶¹ [CoR - Report on Assessment on Territorial Impacts](#)

Finally, the draft opinion has reservations on the proposed use of further implementing acts, which should focus on procedural aspects only and not on operational steps for the establishment of plans and strategies.

6. Opinion on Framework on Future EU Ports Policy

(COM(2013) 295 final, COM(2013) 296 final, COM(2013) 510 final, CdR 3610/2013, adopted on 28 November 2013)

The proposal for a framework on Future EU Ports Policy has been identified as one of the five priorities in the CoR Subsidiarity Work Programme 2013. In this context, the CoR has conducted a subsidiarity-related consultation of the partners of the Subsidiarity Monitoring Network (SMN). The consultation, launched on REGPEX in parallel with the Early Warning System period (23 May to 30 July 2013), collected six contributions in total: five from REGPEX partners and one from the European Ports Organisation⁶². The contributions mostly conclude that the initiative is in compliance with the principle of subsidiarity. However, one contribution (from the Sicilian Regional Assembly) concludes on a breach of the subsidiarity principle, underlining the diversity of the ports in Europe, and considers that a less detailed directive would be preferable. Furthermore, seven reasoned opinions have been issued by national parliaments of chambers thereof with regard to the draft regulation.

The CoR has also conducted a pilot territorial impact assessment workshop based on the ESPON Arts quick scan method on this initiative on 25 September 2013. This workshop also emphasised the diversity of the ports in Europe and drew attention to concerns related to proportionality and increased administrative burdens emanating from the proposal. These concerns are also addressed in the opinion, which considers the proposal compliant with the subsidiarity principle, but raises the issue of the adequate legal instrument in relation to the proportionality principle. In this respect, the CoR remains *"unconvinced about the choice of a regulation rather than a directive as for the previous proposals made by the European Commission or for related legislation (in particular concessions). It would be contradictory to choose a legal instrument that is directly binding in its entirety as the regulation while recognising the main role of the Member States, regional and local public authorities involved in port infrastructure development."* Consequently, the CoR considers that a directive would be *"better suitable to take into consideration the wide diversity of ports in the EU."*

7. Opinion on E-invoicing and end-to-end e-procurement

(COM(2013) 449 final, COM(2013) 453 final, CdR 5277/2013, adopted on 28 November 2013)

The proposal for a directive on e-invoicing in public procurement has been identified as one of the five priorities in the CoR Subsidiarity Work Programme 2013 and the CoR has in this context conducted a subsidiarity-related consultation of the partners of the SMN and its Subsidiarity Expert Group.

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[CoR - Ports Package](#)

The consultation, launched on REGPEX in parallel with the Early Warning System period (1 July to 26 September 2013), collected six contributions in total: three from REGPEX partners, one from a SMN partner and two from members of the Subsidiarity Expert Group⁶³. Overall, the contributions conclude that the initiative is in compliance with the principle of subsidiarity. Action at EU level is considered necessary because of the transnational aspects of the issue, although the small size of the cross-border procurement market and thus the limited impact of the legislation in this field are highlighted by two of the contributors. As regards proportionality, the four REGPEX/SMN contributors concede that a directive is the appropriate instrument, whereas the two individual experts argue that the same objective could have been achieved by a more voluntary form of action or by coordinating the different national schemes. With regard to better law-making, the contributions find the proposed directive vague in certain areas and stress the disproportionate costs and administrative burdens of implementing the directive, especially for small contracting authorities and entities and micro enterprises. It should be noted in this context that no reasoned opinions have been issued by national parliaments or chambers thereof with regard to proposed directive. The opinion also concludes on compliance with the principle of subsidiarity and considers that "*given that the aim of the proposal for a directive to solve the problem of interoperability in cross-border trade cannot be satisfactorily achieved by Member States acting alone and given that the draft directive is the appropriate instrument, considers that the proposal is in compliance with the principles of subsidiarity and proportionality*".

8. Opinion on a Regulation on Official Controls

(COM(2013) 265 final, 2013/0140 (COD), CdR 5295/2013, adopted on 29 November 2013)

The opinion on the proposal for a regulation on official controls in relation to the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection product, raises some concerns with regard to the use of delegated acts. While the opinion confirms that it is useful to "*harmonise legislation on official controls to ensure a sufficient level of health safety for food and feed and to ensure the free movement of goods on the internal market,*" it opposes the fact that the "*proposal gives the Commission the power to adopt delegated acts in practically all regulatory areas*" and considers it "*imperative that any rules with significant repercussions for countries' supervisory activities and budgets be explicitly included in the Regulation.*" However, the opinion "*welcomes the fact that the regulation incorporates a series of measures on official controls in the agri-food chain*" and "*confirms that the best way of providing effective protection for EU agri-food products is to ensure that all products sold in the EU, regardless of their origin, are subject to the same or equivalent controls in the area of hygiene and food safety and quality.*" Furthermore, the CoR "*considers that in specific cases, the regulation does not limit the right of the Member States to take action to provide a higher level of consumer protection by means of official controls*".

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[CoR - E-invoicing in public procurement](#)

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Christine Chapman AM
Chair of the Communities, Equality and Local
Government Committee
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Cardiff Bay
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CF99 1NA

28 May 2014

Dear Chris,

Evidence to the Communities, Equality and Local Government Committee – Holiday Caravan Sites (Wales) Bill

Thank you for your letter dated 1 April inviting me to provide a contribution to your Committee's scrutiny of Darren Millar AM's Holiday Caravan Sites (Wales) Bill. I am grateful for the opportunity to comment.

I attach my written evidence as requested.

Yours sincerely,

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration

Communities, Equality and Local Government Committee: Stage 1
consideration of the Holiday Caravan Sites (Wales) Bill – Darren Millar AM
(member in charge)

Written evidence from the Minister for Housing and Regeneration

Introduction

I thank the Committee for the opportunity to comment on Darren Millar's Bill.

When I first heard that Darren was proposing to legislate on holiday caravan sites, I was pleased and broadly supportive of his aims. I believed Darren's intervention was timely, coming in the wake of Peter Black's Regulated Mobile Home Sites (Wales) Bill which is now the Mobile Homes (Wales) Act 2013, and would provide us with an opportunity to modernise the law applying to holiday caravans in the same way as we have with those mobile homes used for permanent residence. I was aware, from discussions with Darren, that we shared the same concerns about people effectively using holiday caravans as their permanent residence and the problems this caused. Such an action might breach of planning permission in place in respect of the caravan site but also places additional, unfinanced, burdens on public services and action was needed to stamp out this practice. However, having now seen the Bill and had the opportunity to carefully consider Darren's proposals and the evidence provided by those involved in the tourism sector, including my colleague the Minister for Economy, Science and Transport, I am not persuaded this Bill is either appropriate or proportionate. Therefore I cannot support it.

Specific questions from the Chair of the Committee

The Chair has asked for my views on specific aspects of the Bill and I will address each of these in turn:

- **The need for legislation to modernise the regulatory framework for holiday caravan sites in Wales**

The current legislation in respect of holiday caravan sites is the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. This legislation would no longer have any application in Wales if Darren's Bill became law.

There are good reasons to suggest that the 1960 Act is in need of modernisation in respect of holiday caravans, not least to provide local authorities with the ability to better respond to licensing issues and to give them the powers to recover costs of enforcing the legislation. In modernising this Act we could also address the needs of caravan owners to provide them with greater security and clarity. Other factors that need to be addressed are the level of fines that can be enforced when offences have occurred, in

relation to the 1960 Act, which are miniscule by modern standards, and the steps needed to revoke a licence, where possible, which are lengthy and overly bureaucratic. Such issues were, of course, key features of Peter Black's Bill in respect of residential mobile home sites, which the Welsh Government supported and are currently implementing. I would therefore support the need to modernise the legislation for holiday caravan sites subject to further detailed research on the nature of problems and possible solutions being undertaken.

- **The Parts of the Bill, namely: Licensing (Part 2); Residence test (Part 3); Holiday caravan agreements (Part 4); Protection from harassment (Part 5); and, Supplement and General (Part 6)**

Taking these in order:

Licensing (Part 2)

I am surprised to see that the Bill does not require all existing holiday site licences to be revoked, but continues 1960 Act site licences issued under section 3 of the 1960 Act (section 9). The proposal to continue existing site licences has the potential to create confusion. It has previously been suggested that, in some areas, the local authorities themselves are not clear what sites are licensed in their area and which are not – particularly where the site was established prior to the 1960 Act.

The British Holiday and Home Parks Association (BH&HPA) state that they alone represent 423 parks in Wales. While this is a significant number, I understand there are many other sites in Wales who are not members of the BH&HPA. Section 9 of the Bill states that within 12 months of commencement, local authorities will need to assess whether the managers of these sites are fit and proper and, if so, the licence issued under section 3 of the 1960 Act must be modified to ensure compliance with the requirements of the Bill within 12 months and the local authority may attach conditions. Holiday caravan sites are not distributed equally across Wales and some areas have far greater numbers than others. This requirement has the potential to place a significant additional burden on some local authorities.

The Bill does not provide for "mixed use" sites so presumably such sites would need two licences, one under this Bill and another under the Mobile Homes (Wales) Act 2013, which may be perceived as being overly bureaucratic and costly to site owners.

I am not sure the "Fit and Proper Person" Test has been fully thought through. The suggestion is that the same test and criteria will apply which is being introduced for residential mobile home sites. Holiday sites are tourism

businesses and a different test and criteria that is more appropriate for that industry would need to be developed.

Residence Test (Part 3)

I appreciate what Darren is trying to achieve – reducing the numbers of people who use holiday caravans as their main residence, but I am not sure the Bill is the best mechanism for achieving this goal. There is a requirement that a site licence contains a condition requiring the site owner to conduct tests to establish that occupiers are not occupying holiday caravans as their only or main residence and occupiers must provide evidence that they are not using the caravan as such. Evidence must include 2 documents listed in Schedule 2. In addition to placing an additional burden on businesses, I am not actually sure how this test would help address his concern. If the occupier of a caravan can demonstrate that the holiday caravan is not their only or main place of residence then nothing will change as regards occupancy. Conversely, if an owner of a holiday caravan site believes that an occupier has failed the residence test, the owner must notify the local authority as soon as practicable. If the local authority believe an occupier has failed the residence test, they must serve the occupier with a “residence test failure notice” and may give the occupier a fixed penalty notice” (section 49). This has the potential to impact upon homelessness, the environment and increase harassment (see Unintended Consequences below).

The Explanatory Memorandum (para 75) states that “...the test is unlikely to apply to most people who stay in holiday caravans which they do not own”. I am concerned that this provides a loophole that the less trustworthy in society will exploit – particularly those who are cash rich but asset poor and are happy to rent a caravan for long periods.

Holiday Caravan Agreements (Part 4)

I would support this measure. The provision of written agreements setting out the key terms agreed between the consumer and park business is already seen as best practice in the industry and I believe that this should become the norm.

Protection from harassment (Part 5)

Again, I would support any measure that seeks to protect people from harassment, but I am not sure that the measures contained in the Bill add to the safeguards that already exist under current legislation (e.g. the Caravan Sites Act 1968). In addition, the additional responsibilities offered to site owners in relation to residence tests, might actually increase harassment (see Unintended Consequences below).

Supplemental and General (Part 6)

These seem appropriate and I have no comments to offer.

- **Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them**

The Bill creates new rights of appeal to the Magistrates Court and one to the County Court. An assessment of these new rights of appeal needs to be undertaken to ensure they are within the legislative competence of the National Assembly for Wales.

Local authority resources – the Bill will place a significant amount of additional work on local authorities, some more than others that will need to be completed within a set timeframe. Local authorities will, at the same time, be dealing with the implementation of the changes introduced in respect of residential mobile home sites and, if passed, the Housing (Wales) Bill. I have concerns about their ability to further deliver a new, licensing regime for holiday caravan sites and enforcement of that regime.

- **Whether there are any unintended consequences arising from the Bill**

The biggest unintended consequence of the Bill is that identified by my colleague the Minister for Economy, Science and Transport, and others, namely that the Bill would make Wales less competitive in terms of tourism than other parts of the UK. The Minister, I believe, has clearly set out the implications from a tourism and economy perspective in her evidence to the Committee so I will not dwell on them here. From a wider perspective, some of the other unintended consequences could be:

- The impact on homelessness – there is little evidence to suggest that the issue of “illegal occupation” is as widespread as Darren suggests but, even so, every person identified as failing the residence test would need to be rehoused. In certain areas, this could place a significant additional burden on the authority at a time when budgets are tight. A more reasoned approach to this problem might be to allow “dual licensing” of an offending site (e.g. granting a temporary or partial residential licence covering only the units that are used as sole residence that will expire with the tenure of the occupants).
- Environmental impact – the Bill as currently drafted provides for the removal of caravans where the owner fails the residence test. Such relocation does not come cheaply and is dependent on another site agreeing to take the caravan knowing the home owner is “problematic”. Some units will not be worth the expense of relocation which might lead to illegal dumping etc resulting in additional costs for local authorities.
- Increased harassment – the proposed Residence Test provides the site owner with an opportunity to influence whether an owner stays on the site. This power could be abused by the less scrupulous site owners.

- The additional burdens on the Courts - the Bill proposes that, in the main, the Courts will decide on any disputes arising from this legislation. No estimate is given on the likely cost to the Courts or their ability to cope with the likely additional demand. These costs could be quite significant and will need to include the cost of guidance/training to Magistrates.
- **The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum (EM), the Regulatory Impact Assessment (RIA), which estimates the costs and benefits of the Bill**

I have several points to make on the EM and RIA:

- The RIA correctly states that at the time the Bill was prepared, it was not possible to accurately estimate the costs to the Welsh Government without knowing the detail. We still do not have an accurate estimate but, given the greater number of parks, we can reasonably expect the total cost to the Welsh Government to be in excess of the £270,000 costs estimated to be incurred as a result of implementing the Mobile Homes (Wales) Act 2013.
- It is unclear from the EM/RIA what the scale of the current problem is and whether this legislation is actually needed. The information presented on permanent residents is not conclusive and the relatively low response rates to the consultations (e.g. 2 responses from LAs to the first consultation and 6 to the second) could suggest that the problem is not significant. This begs the question of whether the Bill is a proportionate response to the problem.
- Is there a further 'Do Minimum' option around amending the existing legislation or ensuring that the existing legislation is enforced by local authorities? Judging by the consultation summary, this seems to be the preferred approach from the industry's perspective and is therefore likely to be raised during the scrutiny process. Has this option been fully considered and explored?
- The RIA only presents an assessment of the costs and benefits of the preferred option. It would be helpful if there was an assessment of each of the identified options to enable an informed decision to be taken on the relative costs and benefits of each option.
- Linked to the above point, are all of the costs identified under Option 3 additional?
- Para 199 states that the design of licensing fee regimes will be left for each individual local authority to determine. Whilst this approach is consistent with that outlined in the Mobile Homes (Wales) Act 2013, this Bill applies to far more sites. The proposal raises the potential for differing fee levels across Wales and may impact on competition (see also below). There is also an additional cost to local authorities in having to design, consult (presumably) and communicate the fee regime in their area.
- The EM/RIA makes a number of references to enforcement action/appeals being taken through the courts, however, the RIA makes no assessment of the additional cost being imposed on the non-devolved (or devolved)

justice system. While Ministers, and I am sure the National Assembly, will naturally wish to see a clear focus on Welsh impacts, the cost benefit analysis should cover any impact on the UK economy, including UK Government Departments. It is unclear whether the Ministry of Justice has been contacted by Mr Millar in relation to this Bill.

- While the cost of the preferred option to industry is not insignificant, it is not clear from the RIA that the benefits of introducing the legislation justify these costs. This is linked to the first point re: what the scale of the current problem actually is. However, the RIA would also be strengthened by the inclusion of evidence that the requirements/activities in the legislation have been effective in addressing the problems elsewhere.
 - It would be helpful if the RIA included a competition assessment. This legislation could place caravan sites in Wales at a disadvantage relative to sites in England by imposing additional regulatory burdens and costs on them – this would be the case whether the costs are passed on to occupiers or not.
 - The RIA has a section on Equality Considerations but it would be helpful if the impacts on other important areas, such as human rights or the Welsh language, were set out
 - The RIA rightly identifies that a number of the quantified costs are illustrative at this stage. This makes it difficult for me to understand the exact financial impact of the Bill and if it should be supported. Further work will therefore be required if the powers in the Bill are implemented.
- **The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation)**

I am reasonably satisfied that the subordinate legislation powers are appropriate. Many of the powers enabling Welsh Ministers to make subordinate legislation do not immediately require action.

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Agenda Item 5

By virtue of paragraph(s) vi of Standing Order 17.42

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