

Note on

proposals from national parliaments

for legislative proposals to be subject

to the forthcoming

subsidiarity and proportionality check



Prepared by the COSAC Secretariat and presented to:

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Proposals from national parliaments for legislative proposals to be subject to the forthcoming subsidiarity and proportionality check

The XXXIV COSAC in London in October 2005 agreed in paragraph four of the Contribution that:

"Those national parliaments which wish to participate shall conduct a subsidiarity and proportionality check on a forthcoming EU legislative proposal or proposals, developing their existing scrutiny role as recognised in the Protocol on the Role of National Parliaments attached to the Treaty of Amsterdam, allowing them to test their systems for reaching decisions on subsidiarity and proportionality, enabling an assessment of the justifications presented by the Commission and stressing to the Commission national parliaments' role in relation to subsidiarity."

COSAC announced in paragraph two of the Conclusions of the same meeting that:

"The XXXIV COSAC, recalling the existing scrutiny role of national parliaments, the provisions on subsidiarity in the Amsterdam Treaty and the fact that the Protocol on the Role of National Parliaments gives COSAC a role specifically in relation to subsidiarity, decided to encourage national parliaments to conduct a subsidiarity and proportionality check on a forthcoming EU legislative proposal or proposals. The check should be carried out with due respect for national parliaments' internal work programmes, legal frameworks and traditions. COSAC agreed that, for those national parliaments which wish to participate, the check should operate as follows:

- i. "Within two weeks after the examination by national parliaments of the European Commission's annual work programme, as envisaged in the initiative "Raising European Awareness", participating national parliaments should inform the COSAC Presidency of the proposals they wish to be subject to the subsidiarity and proportionality check; they may also make additional proposals at any time; the Presidential Troika should designate the most frequently mentioned proposals to be subject to the check; the list will be distributed to the national parliaments and the European Parliament;
- ii. "the IPEX database should, if possible, be used in connection with the subsidiarity and proportionality check;
- iii. "participating national parliaments should seek to complete their scrutiny within a six-week period;
- iv. "the six-week period should begin when the proposal has been published in all languages;
- v. "participating national parliaments or chambers should send any comments on subsidiarity or proportionality directly to the Commission, the European Parliament and the Council within the six-week period, copying those comments to the COSAC Presidency; and
- vi. "it would be helpful if national parliaments could indicate clearly whether their comments relate to subsidiarity or proportionality."

On 25 October 2005, Mr Mejdahl, the Speaker of the Danish Parliament (the Parliament holding the Presidency of the Conference of Speakers of European Union Parliaments), wrote to national parliaments regarding implementation of the initiative "raising European awareness". He proposed that, where possible, national parliaments finalise their examination of the Commission's annual work programme for 2006 (Commission Communication 2005/531) by 16 December 2005.

According to paragraph 2(i) of the COSAC conclusions cited above, national parliaments who wished to participate in the subsidiarity and proportionality check should have informed the COSAC Presidency of the proposals they wish to be subject to the check within two weeks after 16 December (i.e. 30 December 2005). Because of the Christmas holiday period, however, the UK Presidency suggested in a letter to national parliaments on 25 November 2005 that they make initial proposals by 13 January 2006. The UK Presidency also recalled that the XXXIV COSAC had agreed that national parliaments "may also make additional proposals at any time".

By 10 February 2006, the Austrian Presidency had received written proposals from the following 18 national parliaments or parliamentary chambers (from 14 Member States):

- Austria (*Nationalrat* and *Bundesrat*), Cyprus, Czech Republic (Chamber of Deputies and Senate), Denmark, Finland, France (Senate), Ireland, Luxembourg, Malta, the Netherlands (House of Representatives and Senate), Poland (*Sejm* and *Senate*), Portugal, the Republic of Slovakia, UK (House of Lords)

The table below shows the legislative proposals proposed by more than one national parliament. The legislative proposals most frequently proposed are at the top of the table. The annex to this note lists all of the proposals submitted by each national parliament.

<i>Legislative proposal</i>	<i>Estimated date of adoption (taken from the Commission's indicative forecast for Work Programme and for other items in planning for February – December 2006)</i>	<i>National Parliament</i>
1. Proposal for a Regulation on the applicable law and jurisdiction in divorce matters (2005/JSL/187)	2nd quarter 2006 (estimated July 2006)	Austria (<i>Nationalrat</i> and <i>Bundesrat</i>), Czech Republic (<i>Senate</i>), Finland, Ireland, Malta, Netherlands (<i>Senate and House of Representatives</i>), UK (<i>House of Lords</i>)
2. Proposal for the full accomplishment of the Internal Market for Postal Services (2006/MARKT/006)	November 2006	Czech Republic (<i>Senate and Chamber of Deputies</i>), Finland, Ireland, Netherlands (<i>Senate and House of Representatives</i>), UK (<i>House of Lords</i>)
3. Proposal for a European Parliament and Council Directive amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services (2006/ENTR/006)	2nd quarter 2006 (estimated June 2006)	Czech Republic (<i>Chamber of Deputies</i>), Poland (<i>Sejm</i> and <i>Senate</i>), Portugal
4. Proposal for a Framework Decision on Conflicts of Jurisdiction and the Principle of <i>ne bis in idem</i> in criminal proceedings (2006/JLS/010)	4th quarter 2006	Czech Republic (<i>Senate and Chamber of Deputies</i>), UK (<i>House of Lords</i>)
5. Proposal for a Regulation of the European Parliament and of the Council modifying Regulation (EC) No 1592/2002 with a view to extending the tasks of the European Aviation Safety Agency (EASA) to the	4th quarter 2006	Cyprus, Czech Republic (<i>Senate</i>)

domains of Air Traffic Management (ATM), Air Navigation Services (ANS) and airports (2006/TREN/033)		
6. Revision of Directive 2001/81/EC on national emission ceilings (NEC) for certain atmospheric pollutants (2006/ENV/016)	4th quarter 2006	Austria (<i>Nationalrat</i> and <i>Bundesrat</i>), Netherlands (<i>Senate</i> and <i>House of Representatives</i>)
7. Proposal for a Regulation of the European Parliament and of the Council in view of setting up the powers and the financing of teams of national experts of Member States to provide technical and operational assistance to Member States in the activities dealing with the control and surveillance of the external borders in the framework of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (2006/JLS/003)	April 2006	Denmark, Slovakia
8. Proposal for a modification of the Council Framework Decision on Combating Terrorism, in particular to make the transmission of expertise in explosives/bomb making for terrorist purposes a crime (2006/JLS/013)	4th quarter 2006	Finland, UK (<i>House of Lords</i>)
9. Proposal for a Regulation of the European Parliament and of the Council establishing a Community Code on short stay visas (2006/JLS/002)	March 2006	Czech Republic (<i>Senate</i> and <i>Chamber of Deputies</i>), Portugal