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REPORT FROM THE COMMISSION

ANNUAL REPORT 2016

ON RELATIONS BETWEEN THE EUROPEAN COMMISSION
AND NATIONAL PARLIAMENTS

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1. INTRODUCTION

In 2014, when President Juncker presented the Political Guidelines that would set the framework for the Commission's work under his leadership, he stressed the importance of the relationship with national Parliaments, particularly in ensuring respect for the principle of subsidiarity. In its second full year in office, the Commission continued its efforts to deepen these important relations with national Parliaments with the aim of bringing the European Union closer to its citizens.

The importance attached by the Commission to its relations with national Parliaments was underlined by President Juncker in the mission letters he addressed to all Members of the Commission and further highlighted in his State of the Union address to the European Parliament on 14 September 2016, in which he stressed that "Europe can only be built with the Member States, never against them." President Juncker highlighted the number of meetings between Members of the Commission and national Parliaments since the beginning of the mandate that have served to bring Europe closer to its citizens and their national representatives. He also announced that the Commission intended to re-energise further this relationship by having Commissioners present the State of the Union to national Parliaments. As a result, the State of the Union has since been presented and discussed in almost all national Parliaments.

In addition to these direct contacts between Members of the Commission and national Parliaments, the Commission maintained an active written exchange with national Parliaments through the political dialogue and subsidiarity control mechanism.

This report, now in its twelfth year, focuses on the Commission's political dialogue with national Parliaments which was initiated in 2006 with the aim of promoting the involvement of national Parliaments in the shaping and implementation of EU policy. The subsidiarity control mechanism, which gives national Parliaments the right to assess whether legislative proposals in areas that do not fall within the exclusive competence of the European Union comply with the principle of subsidiarity, is addressed in the 2016 Annual Report on subsidiarity and proportionality.¹ That report published in parallel should be seen as complementary to this report.

2. WRITTEN OPINIONS FROM NATIONAL PARLIAMENTS

a. General observations

2016 saw a significant increase in the number of opinions (including reasoned opinions) addressed by the national Parliaments to the Commission. Overall, the national Parliaments issued 620 opinions during the year, which represents a 77% increase compared to 2015, when national Parliaments issued 350 opinions. Looking solely at reasoned opinions, their number increased from 8 in 2015 to 65 in 2016, an increase of more than 700%.²

¹ COM(2017) 600 final.

² For further details on the reasoned opinions see the annual report 2016 on the application of the principles of subsidiarity and proportionality – COM(2017) 600 final.

b. Participation and scope

As in previous years, the number of opinions sent to the Commission remained unequally distributed across the national Parliaments. The 10 most active chambers issued approximately 73% of the opinions (i.e. 452 opinions), which is a similar percentage to the one observed in 2015 when 70% of opinions came from the 10 most active chambers.

In contrast to previous years, when the most active chamber was the Portuguese *Assembleia da República*, the chamber which submitted the highest number of opinions in 2016 was the Italian *Senato della Repubblica*. Its 81 opinions accounted for some 13% of the total number of opinions received. The other national Parliaments or chambers which sent ten or more opinions were the Romanian *Camera Deputaţilor* (70 opinions), the Portuguese *Assembleia da República* (57 opinions), the German *Bundesrat* (47 opinions), the Czech *Senát* (46 opinions), the Romanian *Senat* (43 opinions), the French *Assemblée nationale* (33 opinions), the Italian *Camera dei Deputati* (27 opinions), the French *Sénat* (25 opinions), the Swedish *Riksdag* (23 opinions), the Czech *Poslanecká sněmovna* (19 opinions), the Polish *Senat* (17 opinions), the British House of Lords (17 opinions), the Spanish *Cortes Generales* (13 opinions)³ and the Austrian *Bundesrat* (11 opinions).

c. Key topics of the political dialogue

The following Commission documents were amongst those which attracted particular attention from national Parliaments (for further details see Annex 2).

- 1. Communication on the Commission Work Programme 2016: No time for business as usual*⁴
- 2. Proposal for a Directive concerning the posting of workers in the framework of the provision of services*⁵
- 3. Proposal for a Regulation establishing criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*⁶
- 4. Proposal for a Directive on certain aspects concerning contracts for the supply of digital content*⁷ and *Proposal for a Directive on certain aspects concerning contracts for the online and other distance sales of goods*⁸

The proposal for a Directive concerning the posting of workers gave rise to 14 reasoned opinions and triggered, for only the third time since it entered into force, the mechanism set out in article 7(2) of Protocol 2 to the Treaties, which has come to be known as the 'yellow card' procedure. The proposal for a Regulation establishing criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member

³ Counted as thirteen opinions from two chambers.

⁴ COM(2015) 610 final of 27 October 2015.

⁵ COM(2016) 128 final of 8 March 2016.

⁶ COM(2016) 270 final of 4 May 2016.

⁷ COM(2015) 634 final of 9 December 2015.

⁸ COM(2015) 635 final of 9 December 2015.

States by a third-country national or a stateless person (recast) gave rise to eight reasoned opinions. The Annual Report on subsidiarity and proportionality contains a more detailed description.

- *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Commission Work Programme 2016: No time for business as usual*

In line with the commitment made in the Political Guidelines to focus on those areas where the European Union is able to make a real difference, the 2016 Work Programme contained a limited number of new initiatives structured around the ten priorities set out by President Juncker at the start of his mandate. As was the case for the previous year, the 2016 Work Programme also included a list of pending legislative proposals for withdrawal as well as a list of legislative acts to be reviewed under the Regulatory Fitness and Performance Programme (REFIT).

The 2016 Work Programme was adopted on 27 October 2015 and sent by First Vice-President Frans Timmermans to the chairs of the European affairs committees in all national Parliaments with an accompanying letter in which he confirmed the readiness of Members of the Commission to visit national Parliaments at their request to present and discuss the Work Programme.

The Commission received a total of 25 Opinions on the 2016 Work Programme, comprising individual opinions from 9 chambers⁹ and a joint opinion submitted by the Dutch *Tweede Kamer* on behalf of 16 chambers¹⁰ in which each chamber had listed its own priorities among the initiatives proposed by the Commission. Nearly all chambers that signed the joint opinion identified the Energy Union Package and the Better Migration Management as their priorities. Other initiatives prioritised by most chambers included the Circular Economy Package, the review of the Multiannual Financial Framework 2014-2020, the implementation of the Digital Single Market Strategy, the Labour Mobility Package, the Completion of the Banking Union and the Border Management Package.

In its replies to the opinions received, the Commission welcomed national Parliaments' expression of interest in the Work Programme and their continued support for the Commission's focus on a limited number of initiatives that add value at the European level. It also welcomed the opportunity presented by the Work Programme to have an early exchange of views with national Parliaments on their priorities.

- *Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services*

On 8 March 2016 the Commission adopted a proposal for a targeted revision of the Directive on Posting of Workers from 1996.¹¹ In essence, the purpose of the review is to ensure that the implementation of the freedom to provide services in the Union takes place under conditions that guarantee a level playing field for businesses and respect for workers' rights. The proposal

⁹ The German *Bundesrat*, the French *Sénat*, the Italian *Senato della Repubblica*, the Latvian *Saeima*, the Lithuanian *Seimas*, the Hungarian *Országgyűlés*, the Portuguese *Assembleia da República*, the Swedish *Riksdag*, and the British House of Lords.

¹⁰ The Czech *Poslanecká sněmovna* and *Senát*, the Croatian *Hrvatski sabor*, the Italian *Senato della Repubblica*, the Latvian *Saeima*, the Lithuanian *Seimas*, the Hungarian *Országgyűlés*, the Dutch *Tweede Kamer* and *Eerste Kamer*, the Polish *Senat*, the Portuguese *Assembleia da República*, the Romanian *Camera Deputaţilor* and *Senat*, the Slovak *Národná rada*, and the British House of Commons and House of Lords.

¹¹ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, OJ L 18, 21.1.97, p. 1.

introduces changes in three main areas: remuneration of posted workers, including in situations of subcontracting, rules on temporary agency workers and long-term posting. In particular, the proposal provides that all mandatory rules on remuneration in the host Member State apply to workers posted to that Member State.

The Commission received 23 opinions¹² on the proposal, including 14 reasoned opinions, triggering the procedure under Article 7(2) of Protocol 2 to the Treaties (the so-called "yellow card" procedure). The content of the reasoned opinions and the Commission's response to the national Parliaments' comments on subsidiarity is described in greater detail in the 2016 Annual Report on Subsidiarity and Proportionality. In general, the opinions received showed a great divergence between national Parliaments' positions: while some chambers strongly criticised the proposal, others expressed their support for the initiative. The critical remarks made by the national Parliaments included amongst others the choice of the legal basis, the proposal's compliance with the principle of proportionality, its possible interference with social partners' competence to engage in a collective agreement or with national Governments' competence to make a collective agreement universally applicable.

The Commission replied to all chambers concerned, addressing their individual comments related to issues other than subsidiarity. The comments related to subsidiarity issues were addressed in the Commission's Communication of 20 July 2016.¹³

- *Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*

On 4 May 2016 the Commission presented three proposals to reform the Common European Asylum System.¹⁴ The proposal for the review of the Dublin Regulation¹⁵ introduced a new 'corrective allocation mechanism' to ensure that no Member State would be left with a disproportionate pressure on its asylum system. According to this mechanism, in times of disproportionately large migration pressure on a Member State, an automated system would be triggered by which asylum seekers would be relocated to other European Union countries. Member States can suspend temporarily their participation in the mechanism, in which case they would be obliged to make a financial contribution of EUR 250 000 for each asylum applicant they would have had to accept.

This proposal gave rise to fourteen opinions in 2016¹⁶, including eight reasoned opinions. The content of the reasoned opinions and the Commission's response to the national Parliaments'

¹² The Bulgarian *Narodno sabranie*, the Czech *Poslanecká sněmovna* and *Senát*, the Danish *Folketing*, the Estonian *Riigikogu*, the French *Assemblée nationale* and *Sénat*, the Spanish *Cortes Generales*, the Croatian *Hrvatski sabor*, the Italian *Camera dei Deputati* and *Senato della Repubblica*, the Lithuanian *Seimas*, the Latvian *Saeima*, the Hungarian *Országgyűlés*, the Polish *Sejm* and *Senat* (reasoned opinion and opinion), the Portuguese *Assembleia da República*, the Romanian *Camera Deputaţilor* (reasoned opinion and opinion) and *Senat*, the Slovak *Národná rada*, and the British House of Commons.

¹³ COM(2016) 505 final of 20 July 2016. See also the Annual Report 2016 on Subsidiarity and Proportionality.

¹⁴ COM(2016) 270 final, COM(2016) 271 final and COM(2016) 272 final of 4 May 2016.

¹⁵ COM(2016) 270 final of 4 May 2016.

¹⁶ The Czech *Poslanecká sněmovna* (reasoned opinion) and *Senát* (reasoned opinion), the German *Bundesrat*, the Hungarian *Országgyűlés* (reasoned opinion), the Italian *Camera dei Deputati* and *Senato della Repubblica* (reasoned opinion), the Polish *Sejm* (reasoned opinion) and *Senat* (reasoned opinion and opinion), the Portuguese *Assembleia da República*, the Romanian *Camera Deputaţilor* (reasoned opinion and opinion) and *Senat*, and the Slovak *Národná rada* (reasoned opinion).

comments on subsidiarity is described in greater detail in the 2016 Annual Report on Subsidiarity and Proportionality. As for the arguments contained in the opinions which did not relate to subsidiarity, numerous chambers pointed out that the financial contribution of EUR 250 000 is disproportionate and the amount is not justified. A number of national Parliaments also insisted that the provisions concerning unaccompanied minors should be modified in light of the best interests of the child and relevant safeguards. Finally, some chambers raised doubts as to the legal basis of the proposal.

In response, the Commission explained that the amount of the solidarity contribution per applicant covers the costs of receiving asylum seekers during a number of years. The Commission also noted the dissuasive element of the contribution in that the aim of the proposal is the full participation of the Member States in the fairness mechanism.

Concerning the issue of unaccompanied minors, the Commission stated that in order to ensure that unaccompanied minors are given swift access to the asylum procedure, the proposal clarifies that the Member State responsible should be the country where the minor lodged the first application for international protection, unless it is demonstrated that this is not in the minor's best interest. The Commission underlined that the principle that the best interest of the child shall be a primary consideration in all procedures provided for in the Dublin Regulation remains valid.

As regards the legal base of the proposal, the Commission stated that Article 78(2)(e) of the Treaty on the Functioning of the European Union provides that the European Parliament and the Council shall adopt measures for a common European asylum system comprising *inter alia* criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection and that like the existing “Dublin III” Regulation (EU) 604/2013, the proposal for the recast of this Regulation is based on that provision.

- *Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content and Proposal for a Directive on certain aspects concerning contracts for the online and other distance sales of goods*

As part of its Digital Single Market (DSM) strategy, the Commission adopted two proposals in December 2015 to better protect consumers who shop online across the EU and help businesses expand their online sales. The main objective of the two proposals is to eliminate contract law related barriers that hinder online cross-border trade for the benefit of businesses and consumers alike.

The Commission received 11 opinions on the proposal for a Directive on certain aspects concerning contracts for the supply of digital content¹⁷ and 12 opinions on the Proposal for a Directive on certain aspects concerning contracts for the online and other distance sales of goods¹⁸; eight of the opinions covered both proposals.¹⁹ One of the opinions covering both proposals was a reasoned opinion from the French *Sénat*.

Most of the opinions from national Parliaments agreed on the need for an EU-wide appropriate level of consumer protection in the supply of digital content. On the proposal for a Directive on certain aspects concerning contracts for the supply of digital content, a number of national

¹⁷ COM(2015) 634 final of 9 December 2015.

¹⁸ COM(2015) 635 final of 9 December 2015.

¹⁹ The Czech *Senát*, the French *Sénat* (reasoned opinion), the Luxembourgish *Chambre des Députés*, the Dutch *Eerste Kamer* (two opinions), the Austrian *Bundesrat*, the Portuguese *Assembleia da República*, and the Romanian *Senat*.

Parliaments had comments concerning its consistency with other EU consumer, intellectual property or data protection legislation, the possibility for suppliers to avoid liability for non-conformity or the inclusion within the scope of the proposal of digital content provided in exchange for data.

In its replies, the Commission pointed out that a common set of rules would fill a legal *vacuum* providing legal certainty while at the same time preventing fragmentation of the single market. On the substance, while the proposal does not set a legal guarantee period for digital content products since these are not subject to wear and tear, the unlimited reversal of the burden of proof contained in the proposal would set a very high level of consumer protection. With regards to the relation between the digital content proposal and the General Data Protection Regulation (GDPR), the Commission replied that the proposal clarifies that the Directive would be without prejudice to the rules on data protection, including those concerning the protection of minors.

Concerning the proposal on the online and other distance sale of goods, a number of national Parliaments noted that the new rules would be applicable only to online and other distance sales of goods, but not to face-to-face sales. Furthermore, national Parliaments commented upon the proposed new rules concerning the reversal of the burden of proof, liability for damages as well as on the proposed legal guarantee period.

In its replies, the Commission stressed the need to eliminate differences between national consumer contract law rules on key areas, including, for instance, the length of the guarantee period and the reversal of the burden of proof. The Commission also emphasised the importance of ensuring a coherent legal framework throughout the EU for both online/distance and face-to-face sales of goods. Furthermore, the Commission indicated that it had started a "Fitness Check" of EU consumer and marketing law which covers six directives, including the Consumer Sales and Guarantees Directive. Finally, the Commission stressed that the overall level of consumer protection would remain very high in all Member States, since a possible decrease of the national level of consumer protection on a few specific points in certain Member States would be compensated to a certain extent by other rules in the proposal foreseeing a higher level of consumer protection, for example through the extension of the reversal of the burden of proof from six months to two years.

Concerning the subsidiarity concerns raised by the French *Sénat*, the Commission recalled that the choice of full harmonisation at European level, combined with a high level of consumer protection, is the only one capable of meeting the two objectives of legal certainty and consumer confidence. The Commission stressed that Member States would not be able on their own initiative to remove sufficiently existing barriers between national laws relating to contracts. Different contractual rules on, for instance, the legal guarantee period or conformity are precisely the obstacles that the Commission's proposal is intended to overcome.

d. The outcome of the political dialogue

The legislative process leading to the adoption of two Commission proposals, which attracted significant comment from national Parliaments during 2016, was completed in the same year. It is therefore possible in this Report to compare the Commission's initial proposals with the final texts adopted. Due to the many actors involved, it is not possible to make a direct link between the position of an individual national Parliament and the outcome of the legislative process. Nevertheless, the opinions of national Parliaments constituted an invaluable source of insight and analysis for the Commission's interactions with the other institutions.

- *Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC*

On 15 December 2015, the Commission adopted a proposal to establish a European Border and Coast Guard²⁰, as part of efforts to ensure a strong and shared management of the European Union's external borders. The European Border and Coast Guard, which is one of the measures proposed under the European Agenda on Migration²¹, will bring together a European Border and Coast Guard Agency built from Frontex and the Member States' authorities responsible for border management, which will continue to exercise the day-to-day management of the external border.

The Commission received ten opinions on the proposal.²² Many chambers expressed their support for establishment of the European Border and Coast Guard. At the same time, numerous chambers raised concerns relating to the provisions according to which the competences of the Agency could interfere with the competencies of the Member States in terms of protecting their borders, maintaining internal security and public order. Many chambers had doubts regarding the provisions of Article 18 of the Commission proposal according to which, in certain situations requiring urgent action at the external borders (for instance disproportionate migratory pressure), the Commission, after consulting the Agency, could adopt a decision identifying the measures to be implemented by the Agency and requiring the Member State concerned to cooperate with the Agency in the implementation of those measures. In the chambers' view, it should be the Council and not the Commission and the Agency that should be responsible for adopting such measures and Member States would have to agree to them.

Following discussions in the European Parliament and the Council, the proposed Regulation was adopted on 14 September 2016²³, thereby demonstrating the ability of the European institutions to respond quickly to urgent challenges. According to the Regulation, the European Border and Coast Guard will combine a new reinforced Agency, building on the foundations laid by Frontex, with the ability to draw on a mandatory rapid reaction pool of border guards. The Regulation stipulates that Member States shall retain primary responsibility for the management of their sections of the Union's external borders. Member States will continue to keep their competence and sovereignty over their borders and they will continue to manage their external borders on a daily basis. According to the Regulation, in case of situations requiring urgent action at the external borders, the necessary decisions are to be adopted by the Council, on the basis of a Commission proposal and after consultation of the Agency. Such decisions could foresee measures to mitigate risks at the Member State's borders, which shall be implemented by the Agency in cooperation with the Member State concerned based on a commonly agreed operational plan.

- *Proposal for a Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market*

²⁰ COM(2015) 671 final of 15 December 2015.

²¹ COM(2015) 240 final of 13 May 2015.

²² The Czech *Poslanecká sněmovna* and *Senát*, the French *Assemblée nationale*, the Italian *Camera dei Deputati* and *Senato della Repubblica*, the Dutch *Tweede Kamer*, the Polish *Senat*, the Portuguese *Assembleia da República*, and the Romanian *Camera Deputaţilor* and *Senat*.

²³ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC, OJ L 251, 16.9.2016, p.1.

On 28 January 2016, the Commission presented its proposal for an Anti-Tax Avoidance Directive as part of the Anti-Tax Avoidance Package.²⁴ On 20 June 2016, the Council adopted the Directive (EU) 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.²⁵ In order to provide for a comprehensive framework on hybrid mismatches, including those vis-à-vis third countries, the Commission presented a proposal on 25 October 2016 to complement the existing rule on hybrid mismatches {COM(2016) 687 final}. The rules on hybrid mismatches seek to prevent companies from exploiting differences in national legislations to avoid taxation.

The Anti-Tax Avoidance Directive contains five legally binding anti-abuse measures, which all Member States should apply against common forms of aggressive tax planning. The five measures include rules to deter profit shifting to a low/no tax country, to prevent double non-taxation of certain income, to prevent companies from avoiding tax when re-locating assets, to discourage artificial debt arrangements designed to minimise taxes and to counteract aggressive tax planning when other rules do not apply.

The Commission received a total of seven opinions from national Parliaments on the Anti-Tax Avoidance Directive proposal including two reasoned opinions from the Maltese *Kamra tad-Deputati* and the Swedish *Riksdag*.²⁶ The *Kamra tad-Deputati* was of the opinion that combating tax avoidance should not be based on uniform common rules without allowing for flexibility. The *Riksdag*, whilst expressing support for the objectives of the proposal, criticised the Commission for having drawn it up in haste and without carrying out an impact assessment.

The Commission considered harmonised rules to counter tax avoidance to be in the interest of a functioning single market and stressed that divergent national approaches could create new loopholes for aggressive tax planners and trigger competition between Member States, thereby undermining the effectiveness of each other's tax rules. The Staff Working Document accompanying the proposal gave extensive economic evidence and highlighted the drivers linked to aggressive tax planning.

The German *Bundesrat*, whilst globally in favour of the Commission's proposal, criticised that the Directive would cover only companies that are subject to corporate tax and requested the inclusion of companies run as partnerships or sole proprietorships. Yet, the scope of the adopted Directive was the same as that proposed by the Commission, namely companies subject to corporate tax. The *Bundesrat* also wanted to avoid exceptions for particular sectors. The Commission had proposed not to apply the rules on controlled foreign companies to companies whose principal class of shares were regularly traded on one or more recognised stock exchanges. In the adopted version of the Directive, this provision has not been retained. The *Bundesrat* was worried regarding the impact of the rule on limiting interest deductibility on small and medium-sized enterprises. The deductible exceeding borrowing costs are limited to EUR 3 million in the adopted Directive, as compared to EUR 1 million in the Commission's original proposal.

Finally, the *Bundesrat* suggested that in the case of hybrid mismatches, consideration should be given to whether it is preferable to take over the differentiating approaches in the Organisation for Economic Co-operation and Development's (OECD) Base Erosion and Profit Shifting report. As part of the final compromise proposal for the Anti-Tax Avoidance Directive of 20 June 2016, the

²⁴ COM(2016) 26 final of 28 January 2016.

²⁵ OJ L 193, 19.7.2016, p. 1.

²⁶ The Czech *Senát*, the German *Bundesrat*, the French *Assemblée nationale*, the Maltese *Kamra tad-Deputati*, the Portuguese *Assembleia da República*, the Romanian *Camera Deputaţilor*, and the Swedish *Riksdag*.

Economic and Financial Affairs Council (Ecofin) issued a statement on hybrid mismatches. In this statement, the Ecofin Council requests the Commission "to put forward by October 2016 a proposal on hybrid mismatches involving third countries in order to provide for rules consistent with and no less effective than the rules recommended by the OECD's Base Erosion and Profit Shifting report, with a view to reaching an agreement by the end of 2016." On 25 October 2016, the Commission tabled a proposal for a Directive amending the Anti-Tax Avoidance Directive²⁷ which draws on the recommendations of the OECD Base Erosion and Profit Shifting report on Action item 2 "Neutralising the Effects of Hybrid Mismatch Arrangements."

3. OTHER DEVELOPMENTS

- **A second "green card"**

In recent years, a number of national Parliaments have expressed the wish to be able to invite the Commission to table a legislative proposal or propose amendments to existing legislation using an enhanced form of the political dialogue more commonly known as a 'green card.' On 11 July 2016, eight parliamentary chambers²⁸ co-signed, on the initiative of the French *Assemblée nationale*, a "green card" inviting the Commission to submit an ambitious legislative proposal implementing corporate social responsibility principles at European level, applying to all enterprises having their headquarters in the European Union and including precise obligations and sanctions. They were joined on 26 July 2016 by a ninth chamber.²⁹ This was the second "green card" initiative after the 2015 initiative on the reduction of food waste.³⁰

In its reply, the Commission thanked the chambers for their contributions on this important matter and stressed that it was continuing to be proactive in its pursuit of promoting corporate social responsibility through all its policies. It highlighted the many actions it had undertaken in the corporate social responsibility field, notably on the regulatory side (European Union Timber Regulation, Regulation on conflict minerals, revised public procurement Directives, Directive on disclosure of non-financial information, proposal for a revised Shareholder Rights Directive and proposal for amending the Directive on financial statements by certain undertakings and branches as regards disclosure of income tax information) but also through general policy documents and voluntary guidance and consultation initiatives.

In its November 2016 Communication on Next Steps for a sustainable European future³¹ the Commission emphasised that it would intensify its work on Responsible Business Conduct, focusing on concrete actions to meet current and future social, environmental and governance challenges, building upon the main principles and policy approach identified in the Commission's 2011 European Union Corporate Social Responsibility Strategy. Together with this work, the Commission is carefully monitoring, in close cooperation with the main stakeholders, how the situation is evolving in the Member States and in the international bodies involved in the corporate social responsibility process.

- **The role of regional parliaments**

²⁷ COM(2016) 687 final of 25 October 2016.

²⁸ The French *Assemblée nationale*, the Italian *Senato della Repubblica*, the Latvian *Saeima*, the Lithuanian *Seimas*, the Dutch *Tweede Kamer*, the Portuguese *Assembleia da República*, the Slovak *Národná rada*, and the British House of Lords.

²⁹ The Greek *Vouli ton Ellinon*.

³⁰ See Annual Report 2015 on relations between the Commission and national Parliaments, COM (2016) 471 of 15 July 2016, p. 10.

³¹ COM(2016) 739 final of 22 November 2016.

Regional parliaments indirectly contribute to the Commission's relations with national Parliaments. According to the Protocol 2 of the Treaties, when carrying out the subsidiarity check of draft EU legislative acts in view of issuing reasoned opinions, national Parliaments shall consult, where appropriate, regional parliaments with legislative powers.³²

Regional parliaments are also represented in the Committee of the Regions. Since the entry into force of the Lisbon Treaty, the Committee has been vested with more responsibilities regarding subsidiarity which, as laid down in the Article 5(3) of the Treaty on the European Union³³, explicitly contains local and regional dimensions. The Committee of the Regions carries out monitoring activities *via* the Subsidiarity Monitoring Network and its online platform designed to support the participation of regional parliaments in the early warning mechanism on subsidiarity (REGPEX). The subsidiarity control related activity of the Committee of the Regions is described in greater detail in the 2016 Annual Report on Subsidiarity and Proportionality.

Although there is no explicit provision in the Treaties for a direct interaction between the Commission and regional parliaments, several regional parliaments, in particular State parliaments in Austria and Germany, submitted a number of opinions to the Commission in 2016 commenting on various aspects of Commission proposals. A delegation of regional parliaments that are signatories to the "Heiligendamm Declaration"³⁴ met Commission First Vice-President Timmermans in January 2016 for an exchange of views. In addition, President Juncker met representatives of many regional governments and authorities during the year including North Rhine-Westphalia, Brandenburg, Lower Saxony, Schleswig-Holstein, Rhineland-Palatinate and Hessen (Germany), Provence-Alpes-Côte d'Azur and Alsace-Champagne-Ardenne-Lorraine (France), Tyrol and Styria (Austria), Wallonia (Belgium) and Trentino-Alto Adige (Italy). Other Members of the Commission, in particular the Commissioner for Regional Policy, Corina Crețu, also had similar meetings.

4. BILATERAL CONTACTS AND VISITS

As in previous years, Members of the Commission carried out visits to almost all 28 national Parliaments in 2016. Many chambers received more than one visit by President Juncker, the First Vice-President, Vice-Presidents and the Commissioners. Additionally some national Parliaments sent delegations to Brussels or convened committee meetings there and took advantage of the opportunity to meet Members of the Commission. In total, almost 180 visits and meetings took place in 2016.

³² Article 6 (first *alinea*) of Protocol No 2 on the Application of the Principles of Subsidiarity and Proportionality: "*Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, in the official languages of the Union, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers*".

³³ Article 5(3) of the Treaty on the European Union: "*Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.*"

³⁴ The "Heiligendamm Declaration" of 16 June 2015 was jointly adopted by the presidents of the German and Austrian State Parliaments and of the State Parliament of South Tyrol. The declaration calls for a greater inclusion of regional parliaments with legislative powers in the oversight and scrutiny of the principle of subsidiarity and requests that resolutions adopted by the regional parliaments with legislative powers in the scope of the subsidiarity early warning system are mentioned by the European Commission in official documents such as its Annual Reports on Subsidiarity and Proportionality and on Relations with national Parliaments.

Of particular importance in this context were visits from Members of the Commission to national Parliaments to present President Juncker's State of the Union address.³⁵ Almost all chambers have been visited by Commissioners in the follow-up to his speech in the European Parliament. Such visits and meetings with national parliamentarians are considered by the Commission to be invaluable in fostering a better understanding of and support for the Union's policies. In his State of the Union address, President Juncker announced that there will be even more visits and meetings with national Parliaments in the future in order to demonstrate that Europe can only be built with the Member States, but not against them.

Throughout 2016 Commission officials attended more than 80 meetings of committees of national Parliaments in order to discuss legislative proposals on a more technical level. In addition, Commission officials were regularly invited to present key initiatives at meetings of the Brussels-based permanent representatives of national Parliaments. Furthermore, European Semester Officers, who are based in the Commission Representations in Member States, remained in contact with national Parliaments on the European Semester and other economic issues.

5. MAIN MEETINGS AND CONFERENCES

The Commission maintained a high degree of engagement with national Parliaments throughout 2016 with its attendance at a range of important interparliamentary meetings and conferences including the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC), the European Parliamentary Week and the Interparliamentary Conferences for the Common Foreign and Security Policy and the Common Security and Defence Policy.

COSAC

The Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC), which is the only interparliamentary forum enshrined in the Treaties³⁶, met on two occasions in each Member State that held the rotating presidency of the Council of the European Union in 2016. The European Parliament, which is a full member of COSAC, attended all meetings. The Commission, which has observer status, was also represented at all COSAC meetings and provided a written response to the contributions adopted by COSAC at its two plenary meetings during the year.³⁷

At the COSAC Chairpersons meeting held in The Hague on 8 February 2016, delegates discussed the organisation and co-operation of parliamentary scrutiny on the basis of a case study focussing on EUROPOL and European priorities for 2016 and beyond with keynote addresses from the then Commission Vice-President for Budget and Human Resources, Kristalina Georgieva and Mr Bert Koenders, Minister of Foreign Affairs of the Netherlands. The LV plenary meeting in June, attended by Commission First Vice-President Frans Timmermans, continued the debate on the role of national Parliaments with sessions dedicated to an exchange of best practices in parliamentary scrutiny and parliamentary diplomacy as well as the role of national Parliaments in protecting the rule of law within the European Union. Delegates also held a debate on migration in which they focused on the implementation of the EU-Turkey Statement.

³⁵ http://europa.eu/rapid/press-release_SPEECH-16-3043_en.htm.

³⁶ Protocol No 1 on the role of national Parliaments in the European Union.

³⁷ Please refer to the COSAC website at <http://www.cosac.eu/en/> for detailed reports of COSAC meetings as well as copies of the COSAC Contributions and the Commission's reply thereto.

The COSAC Chairpersons meeting held in Bratislava on 11-12 July 2016 during the Slovak Presidency of the Council of the European Union provided a forum for discussion on the social dimension of the European Union and cohesion policy. In her address, Ms Marianne Thyssen, Commissioner for Employment, Social Affairs, Skills and Labour Mobility, expressed the Commission's commitment to deepen the social dimension of the European Union and mentioned a number of upcoming Commission proposals in this area including the European Pillar of Social Rights and the Skills Agenda for Europe. She also used the opportunity to respond to some of the concerns raised by national Parliaments in their reasoned opinions on the Commission proposal to revise the posting of workers directive.

The final COSAC meeting of the year, the LVI plenary in Bratislava on 14-15 November 2016, discussed a variety of topics including strengthening the role of national Parliaments with a keynote address from First Vice-President Frans Timmermans, the Transatlantic Trade and Investment Partnership (TTIP), the Energy Union in the presence of Vice-President Maroš Šefčovič and securing the external borders of the EU in the context of irregular migration.

European Parliamentary Week

The European Parliamentary week, which took place at the European Parliament on 16 and 17 February 2016, brought together Members of national Parliaments and their European Parliament counterparts for joint debates on the European Semester Cycles 2015/2016 and on Stability, Economic Coordination and Governance in the European Union, with the latter event being co-hosted and co-chaired by the Dutch Parliament.³⁸ The second Interparliamentary Conference of 2016 on Stability, Economic Coordination and Governance in the European Union was held in Bratislava on 16-18 October 2016 during the Slovak Presidency of the Council of the European Union.³⁹

Conference of the Speakers of European Union Parliaments

The Conference of the Speakers of European Union Parliaments, which is held annually in the Member State that held the rotating presidency of the Council of the European Union during the second half of the preceding year, took place in Luxembourg from 22-24 May 2016. In his keynote address to the Conference, Commission President Jean-Claude Juncker touched upon the challenges facing the European Union and the need for the Commission and national Parliaments to cooperate more closely.⁴⁰

CFSP/CSDP Conferences

The national Parliaments and the European Union Institutions had the opportunity to exchange their views in the foreign policy area during the Interparliamentary Conferences for the Common Foreign and Security Policy and the Common Security and Defence Policy (CFSP/CSDP). The eighth session hosted by the Dutch Parliament took place in April 2016. The High Representative/Vice-President of the Commission Federica Mogherini sent a video message to The Hague conference at which her special advisor and senior management representatives of the European External Action Service were among the speakers. The ninth session in September, organised by the Slovak

³⁸ <http://www.europarl.europa.eu/relnatparl/en/conferences/european-parliamentary-week.html>.

³⁹ <http://www.ipex.eu/IPEXL-WEB/conference/getconference.do?id=082dbcc5559418240155963fbfde01d7>.

⁴⁰ <http://www.ipex.eu/IPEXL-WEB/euspeakers/getspeakers.do?id=082dbcc54d8d4eaf014d9095cb270339>.

Národná rada, was attended by the High Representative/Vice-President of the Commission Mogherini in person and members of the European External Action Service's senior management.

European Union Agency for Law Enforcement Cooperation (Europol)

In light of the new Europol Regulation, which became applicable on 1 May 2017⁴¹, the national Parliaments together with the European Parliament formed a Joint Parliamentary Scrutiny Group which aims to ensure the proper democratic scrutiny of Europol's activities in accordance with Article 88(2) of the Treaty on the Functioning of the European Union.⁴² The first Interparliamentary Committee Meeting on Europol took place on 28 November 2016 and was attended by Commissioner Sir Julian King.

6. CONCLUSIONS AND OUTLOOK

In its second full year in office, the Commission, under the Presidency of Jean-Claude Juncker, continued its efforts to develop deeper and closer relations with national Parliaments. In addition to frequent meetings in Brussels with representatives of national Parliaments, Members of the Commission, as well as Commission officials, paid numerous visits to national Parliaments during the year to engage in a dialogue concerning key Commission policies and proposals. In parallel, the written exchange between the Commission and national Parliaments saw a substantial increase in activity.

The success of the Commission's efforts to forge a new partnership with national Parliaments, however, cannot be measured solely in terms of the number visits, meetings and opinions, although these are important in their own way. As the European Union seeks to define a vision for its future with 27 Member States, sixty years after the signing of the Treaties of Rome, a deeper debate across the European continent is required. The White Paper on the future of Europe⁴³, presented in March 2017, outlines five different scenarios for how Europe could evolve by 2025 and constitutes the Commission's contribution to an honest and open debate with European citizens. To encourage that debate, the Commission, together with the European Parliament and the Member States, will host a series of 'Future of Europe Debates' across Europe's national Parliaments, cities and regions. As President Juncker made clear in his State of the Union address in September 2016, national Parliaments need to and will be closely involved in this process.

⁴¹ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53–114.

⁴² The Article 88(2) of the Treaty on the Functioning of the European Union: *"The European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include: (a) the collection, storage, processing, analysis and exchange of information, in particular that forwarded by the authorities of the Member States or third countries or bodies; (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust. These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments."*

⁴³ COM(2017) 2025 final.