



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 14 May 2013
(OR. en, ga)**

9471/13

**Interinstitutional File:
2013/0074 (COD)**

**POLGEN 66
POLMAR 9
PESC 516
COSDP 427
AGRI 298
TRANS 225
JAI 370
ENV 391
PECHE 205
CODEC 1049
INST 231
PARLNAT 107**

COVER NOTE

From: Irish Senate
date of receipt: 13 May 2013
To: President of the Council of the European Union
Subject: Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management
[doc. 7510/13 POLGEN 39 POLMAR 1 PESC 296 COSDP 237 AGRI 179 TRANS 116 JAI 208 ENV 216 PECHE 102 CODEC 589 - COM(2013) 133 final]
- Opinion on the application of the Principles of Subsidiarity and Proportionality¹

Delegations will find attached the abovementioned opinion.

¹ Translation(s) of the opinion may be available on the Interparliamentary EU Information Exchange site IPEX at the following address: <http://www.ipex.eu/IPEXL-WEB/search.do>

Cathaoirleach Seanad Éireann



Chairman of Seanad Éireann

9 May 2013

Mr. Herman Van Rompuy
President of the Council of the European Union
Council of the European Union
Rue de la Loi 175
1048 Brussels
Belgium

Re: Reasoned opinion of Seanad Éireann on the Proposal for a Council Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management

Dear President Van Rompuy

I am writing to inform you that Seanad Éireann, at its meeting today, considered the Proposal for Council Directive of the European Parliament and of the Council establishing a frame work for Maritime spatial planning and integrated coastal management COM(2013) 133 under Article 5(3) of the Treaty on European Union and Protocol 2 on the application of the principles of subsidiarity and proportionality and is of the opinion that the proposal does not comply with the principle of subsidiarity.

Under Standing Orders of Seanad Éireann, a Select Committee was conferred with the power to consider the above Proposal for compliance with subsidiarity. The Committee was obliged under Standing Orders to report back to Seanad Éireann if it was of the opinion that the proposal did not comply with the principle of subsidiarity. The Committee duly reported to the Seanad and a motion on the Report of the Committee was considered and adopted by the Seanad at its meeting today.

In accordance with Standing Orders, I have enclosed a copy of the Resolution of Seanad Éireann together with the Reasoned Opinion and a copy of the Report of the Committee. I have also sent this letter to the Presidents of the European Parliament and the Commission and the Irish Ministers for Agriculture, Food and the Marine, Communications, Energy and Natural Resources, Environment, Community and Local Government and Transport, Tourism and Sport.

Yours sincerely,

The handwritten signature of Senator Paddy Burke in black ink.

Senator Paddy Burke
Cathaoirleach

Seanad Éireann
Teach Laighean
Sráid Chill Dara
Baile Átha Cliath 2

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Seanad Éireann
Leinster House
Kildare Street
Dublin 2

“ Go ndéanann Seanad Éireann:

1. anTuarascáil homhaontaithe a thabhairt dá aire ón gComhchoiste um Thalmhaiocht, Bia agus Muir faoi Bhuan-Ordú 101 maidir leis an Togra le haghaidh Treorach ó Pharlaimint na hEorpa agus ón gComhairle lena mbunaítear creat le haghaidh pleanáil spáis mhuirí agus bainistiú comhtháite cóstai - COM (2013) 133 a leagadh faoi bhráid Sheanad Éireann an 7 Bealtaine 2013 de réir Bhuan-Ordú 101(3)(b);
2. ag féachaint don Tuarascáil réamhráite, agus le linn a fheidhmeanna faoi alt 7(3) d'Acht an Aontais Eorpaigh, 2009 a fheidhmiú, an tuairim a shealbhú nach ndéanann an Togra le haghaidh Treorach ó Pharlaimint na hEorpa agus ón gComhairle lena mbunaítear creat le haghaidh pleanáil spáis mhuirí agus bainistiú comhtháite cóstai - COM (2013) 133, prionsabal na coimhdeachta a chomhlíonadh ar na cúiseanna atá leagtha amach i mír 5(i) den Tuarascáil, agus
3. a thabhairt dá haire, de bhun Bhuan-Ordú 101(4), go gcuirfear cóip den Rún seo mar aon leis an tuairim réasúnaithe agus an Tuarascáil réamhráite chuiig Uachtaráin Pharlaimint na hEorpa, Uachtaráin na Comhairle agus Uachtaráin an Choimisiúin.”.

Seanad Éireann
Leinster House
Kildare Street
Dublin 2

Seanad Éireann
Teach Laighean
Sráid Chill Dara
Baile Átha Cliath 2

That Seanad Éireann:

- (1) notes the agreed Report of the Joint Committee on Agriculture, Food and the Marine under Standing Order 101 on the Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management - COM (2013) 133 which was laid before Seanad Éireann on 7 May, 2013 in accordance with Standing Order 101(3)(b);
- (2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management - COM (2013) 133, does not comply with the principle of subsidiarity for the reasons set out in paragraph 5(i) of the Report, and
- (3) notes that, pursuant to Standing Order 101(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.”

— Senator Maurice Cummins.

Ceann Comhairle



Speaker of Dáil Éireann

Mr. Herman Van Rompuy
President of the Council of the European Union
Council of the European Union
Rue de la Loi 175
1048 Brussels
Belgium

9th May, 2013

Re: Reasoned opinion of Dáil Éireann on the Proposal for a Council Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management

Dear President Van Rompuy

I am writing to inform you that Dáil Éireann, at its meeting today, considered the Proposal for Council Directive of the European Parliament and of the Council establishing a frame work for Maritime spatial planning and integrated coastal management COM(2013) 133 under Article 5(3) of the Treaty on European Union and Protocol 2 on the application of the principles of subsidiarity and proportionality and is of the opinion that the proposal does not comply with the principle of subsidiarity.

Under Standing Orders of Dáil Éireann, a Select Committee was conferred with the power to consider the above Proposal for compliance with subsidiarity. The Committee was obliged under Standing Orders to report back to Dáil Éireann if it was of the opinion that the proposal did not comply with the principle of subsidiarity. The Committee duly reported to the Dáil and a motion on the Report of the Committee was considered and adopted by the Dáil at its meeting today.

In accordance with Standing Orders, I have enclosed a copy of the Resolution of Dáil Éireann together with the Reasoned Opinion and a copy of the Report of the Committee. I have also sent this letter to the Presidents of the European Parliament and the Commission and the Irish Ministers for Agriculture, Food and the Marine; Communications, Energy and Natural Resources; Environment, Community and Local Government; and Transport, Tourism and Sport.

Yours sincerely,

Seán Barrett, T.D.
CEANN COMHAIRLE

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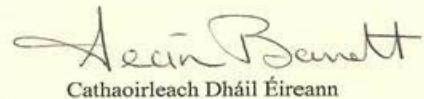
DÁIL ÉIREANN

TUARASCÁIL ÓN GCOMHCHOISTE UM THALMHAÍOCHT, BIA AGUS MUIR AR AN TOGRA LE HAGHAIDH TREORACH Ó PHARLAIMINT NA HÉORPA AGUS ÓN GCOMHAIRLE LENA MBUNAÍTEAR CREAT LE HAGHAIDH PLEANÁIL SPÁIS MHUIRÍ AGUS BAINISTIÚ COMHTHÁITE CÓSTAÍ (COM (2013) 133).

Rith Dáil Éireann an Rún seo istigh ag an gCruinniú de Dháil Éireann a bhí ann an 9ú lá seo de Bhealtaine, 2013.

REPORT OF THE JOINT COMMITTEE ON AGRICULTURE, FOOD AND THE MARINE ON THE PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A FRAMEWORK FOR MARITIME SPATIAL PLANNING AND INTEGRATED COASTAL MANAGEMENT (COM (2013) 133).

The within Resolution was passed by Dáil Éireann at its Meeting on this 9th day of May, 2013.



Cathaoirleach Dháil Éireann

Le cur go dtí:
For transmission to:

President of the Council of the European Union

Go ndéanann Dáil Éireann:

- (1) an Tuarascáil chomhaontaithe a thabhairt dáaire ón gComhchoiste um Thalmhaíocht, Bia agus Muir faoi Bhuan-Ordú 105 maidir leis an Togra le haghaidh Treorach ó Pharlaimint na hEorpa agus ón gComhairle lena mbunaítear creat le haghaidh pleanáil spáis mhuirí agus bainistiú comhtháite cóstaí (COM (2013) 133) a leagadh faoi bhráid Dháil Éireann an 7 Bealtaine 2013 de réir Bhuan-Ordú 105(3)(b);
- (2) ag féachaint don Tuarascáil réamhráite, agus le linn a feidhmeanna faoi alt 7(3) d'Acht an Aontais Eorpaigh, 2009 a fheidhmiú, an tuairim a shealbhú nach ndéanann an Togra le haghaidh Treorach ó Pharlaimint na hEorpa agus ón gComhairle lena mbunaítear creat le haghaidh pleanáil spáis mhuirí agus bainistiú comhtháite cóstaí (COM (2013) 133), prionsabal na coimhdeachta a chomhliadh ar na cúiseanna atá leagtha amach i mír 5 den Tuarascáil; agus
- (3) a thabhairt dáaire, de bhun Bhuan-Ordú 105(4), go gcuirfear cóip den Rún seo mar aon leis an tuairim réasúnaithe agus an Tuarascáil réamhráite chuit Uachtarán Pharlaimint na hEorpa, Uachtarán na Comhairle agus Uachtarán an Choimisiúin.

That Dáil Éireann:

- (1) notes the agreed Report of the Joint Committee on Agriculture, Food and the Marine under Standing Order 105 on the Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM (2013) 133) which was laid before Dáil Éireann on 7th May, 2013 in accordance with Standing Order 105(3)(b);
- (2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management (COM (2013) 133), does not comply with the principle of subsidiarity for the reasons set out in paragraph 5 of the Report; and
- (3) notes that, pursuant to Standing Order 105(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.



An Comhchoiste um Thalmhaoíocht, Bia agus Muir

**COM (2013) 133 - Togra le haghaidh Treorach ó Pharlaimint na hEorpa
agus ón gComhairle lena mbunaitear creat le haghaidh pleanáil
spásúil muiri agus bainistiú comhtháite cósta**

Bealtaine 2013

Joint Committee on Agriculture, Food and the Marine

**COM (2013) 133 - Proposal for a Directive of the European Parliament
and of the Council establishing a framework for maritime spatial
planning and integrated coastal management**

May 2013

JOINT COMMITTEE ON AGRICULTURE, FOOD AND THE MARINE

Report under Dáil Standing Order 105 and Seanad Standing Order 101 on COM (2013) 133 - Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management

Introduction

1. The principle of subsidiarity is defined in Article 5(3) TEU as follows:

"Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar 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".

Article 5(3) also gives specific responsibility to national parliaments to ensure that EU institutions apply the principle in accordance with Protocol 2 on the application of the principles of subsidiarity and proportionality.

2. The test established by Article 5(3) TEU is, in effect, a "comparative efficiency" exercise, involving a "necessity" test and a "greater benefits" test:

- (i) *Necessity* - Is action by the EU necessary to achieve the objective of the proposal? Can the objective of the proposal only be achieved, or achieved to a sufficient extent, by EU action?
- (ii) *Greater Benefits* - Would the objective be better achieved at EU level – i.e. would EU action provide greater benefits than action at Member States level?

3. To assist national parliaments in their evaluation of subsidiarity compliance, Article 5 of Protocol 2 provides explicitly that

"Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States..."

4. Therefore, any new draft legislative act,

- must be supported by a sufficiently 'detailed statement' to allow a judgment to be made by national parliaments on its compliance with the principle of subsidiarity
- must clearly satisfy both the *necessity* and *greater benefit* tests
- must, under the principle of conferral set down in Article 5(2) of the TEU, show that the Union is acting '*only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein.*'

Opinion of the Joint Committee

5. The Joint Committee on Agriculture, Food and the Marine has had specific regard to the Treaty provisions and is of the opinion that the proposal does not comply with the principle of subsidiarity. The reasons are set out in the following paragraphs.

- a) It is the opinion of the Joint Committee that the main purpose of the proposed directive, which is to promote the sustainable growth of maritime and coastal activities and the sustainable use of coastal and marine resources by establishing a framework for the effective implementation of maritime spatial planning in EU waters and integrated coastal management in the coastal areas of Member States, does not necessitate regulation at EU level.
- b) The Joint Committee considers that maritime spatial planning and integrated coastal management is a national competence and that Member States should adopt national plans on their own initiative. Furthermore, it is considered that this proposed directive is an intrusion on national planning power and as such breaches the principle of subsidiarity.
- c) The Joint Committee considers that, as Ireland is somewhat isolated on the north west of Europe, spatial planning and integrated coastal management is a matter that necessitates the involvement of third countries, not just the EU. Furthermore, cooperation at international level, rather than EU level is what is necessary.
- d) Finally, the Joint Committee is particularly concerned about the administrative burden that would accompany the implementation of this Directive. It considers that the benefits of the proposed Directive do not outweigh the excessive administrative burden and, accordingly, there can be no added value from this proposal.

Recommendation of the Joint Committee

The Joint Committee agreed this Report under Dáil Standing Order 105 and Seanad Standing Order 101 on Proposal for a Directive of the European Parliament and of the Council establishing a framework for maritime spatial planning and integrated coastal management - COM(2013) 133.

The Joint Committee, pursuant to Dáil Standing Order 105(3)(b) and Seanad Standing Order 101(3)(b) recommends the reasoned opinion contained in paragraph 5 above, for agreement by Dáil Éireann and Seanad Éireann.



Andrew Doyle, T.D.
Chairman

7 May 2013