



Council of the  
European Union

Brussels, 1 July 2020  
(OR. en)

9262/20

PARLNAT 40

#### COVER NOTE

---

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 272 final
Subject:	Annual Report 2019 on the application of the principles of subsidiarity and proportionality and on relations with national Parliaments

---

Delegations will find attached document COM(2020) 272 final.

---

Encl.: COM(2020) 272 final



Brussels, 30.6.2020  
COM(2020) 272 final

**REPORT FROM THE COMMISSION**

**ANNUAL REPORT 2019**

**ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND  
PROPORTIONALITY AND ON RELATIONS WITH NATIONAL PARLIAMENTS**

# ANNUAL REPORT 2019

## ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY AND ON RELATIONS WITH NATIONAL PARLIAMENTS

### 1. INTRODUCTION

This is the 27<sup>th</sup> report on the application of the principles of subsidiarity and proportionality, submitted under Article 9 of Protocol No 2 to the Treaty on European Union and to the Treaty on the Functioning of the European Union. Like the 26<sup>th</sup> report, the report also covers the Commission's relations with national Parliaments, which play a major role in applying the principles of subsidiarity and proportionality.

In 2019, the Commission took a number of steps to follow-up on the recommendations made by the Task Force on Subsidiarity, Proportionality and 'Doing less more efficiently'. 2019 was a transition year between two mandates of the Commission, with fewer Commission initiatives and legislative proposals than in previous years. Consequently, the volume of work for national Parliaments in the context of the subsidiarity control mechanism and the political dialogue with the Commission temporarily decreased. The Commission received 159 opinions, none of which were reasoned opinions. In two judgments rendered in 2019, the Court of Justice of the European Union clarified the application of the principle of proportionality.

### 2. APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY BY THE INSTITUTIONS

#### 2.1. The Commission

#### **Follow-up to the recommendations of the Task Force on Subsidiarity, Proportionality and 'Doing less more efficiently'**

In 2019, the Commission started implementing the measures it had announced in its October 2018 Communication entitled 'The principles of subsidiarity and proportionality: strengthening their role in the EU's policymaking'<sup>1</sup> to follow up on the recommendations issued by the Task Force on Subsidiarity, Proportionality and 'Doing less more efficiently'<sup>2</sup>.

On 7 March 2019, in a letter to the Presidents of the European Parliament and of the Council, President Juncker proposed to exclude the period between 20 December and 10 January when setting the eight-week period for national Parliaments to send reasoned opinions and to implement this step as of December 2019. The European Parliament, on 27 May 2019, and the Council, on 4 July 2019, confirmed that they took note of this arrangement<sup>3</sup>. The Commission subsequently implemented the arrangement for the first time over the Christmas/New Year holiday period in 2019-2020.

---

<sup>1</sup> COM(2018) 703 final, 23.10. 2018. This communication was described in section 2.1 of the 2018 Annual Report ([https://ec.europa.eu/info/sites/info/files/annual-report-subsidiarity-proportionality-and-relations-with-national-parliaments\\_en\\_0.pdf](https://ec.europa.eu/info/sites/info/files/annual-report-subsidiarity-proportionality-and-relations-with-national-parliaments_en_0.pdf)). It also triggered several opinions from national Parliaments, which are examined in section 4 below.

<sup>2</sup> For more on the work of this Task Force, see section 2.1 of the 2018 Annual Report, and [https://ec.europa.eu/commission/priorities/democratic-change/better-regulation/task-force-subsidiarity-proportionality-and-doing-less-more-efficiently\\_en](https://ec.europa.eu/commission/priorities/democratic-change/better-regulation/task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en)

<sup>3</sup> On the Council's reply, see also section 2.3 below.

The Commission also completed its preparations to produce aggregate responses to reasoned opinions issued by national Parliaments representing seven or more votes under the subsidiarity scrutiny mechanism on a Commission legislative proposal when the number falls short of the threshold required to trigger a ‘yellow card’. However, it did not receive any reasoned opinions in 2019<sup>4</sup>.

The Commission carried out other follow-up action as part of its work on better regulation and stocktaking (see below).

### **Better regulation agenda and stocktaking**

In 2019, the Commission continued to apply its reinforced better regulation agenda and to integrate the principles of subsidiarity and proportionality in all stages of policymaking. The ‘Have Your Say’ web-portal<sup>5</sup> has proven to be a useful single point of access for citizens and stakeholders to participate in preparing Commission policy. The Commission also continued to evaluate existing laws and policy frameworks before submitting proposals to revise them. These evaluations include assessments of whether existing policy measures are still ‘fit for purpose’ or should, in the light of the principles of subsidiarity and proportionality, be withdrawn or revised.

The Regulatory Fitness and Performance (REFIT) Platform<sup>6</sup> provided ways for the public and stakeholders to communicate with the Commission on possible excessive burdens or inefficiencies of existing regulatory measures. In 2019, the REFIT Platform issued 16 opinions with recommendations to the Commission on how to simplify and reduce the regulatory burden of existing EU legislation<sup>7</sup>. The Commission responds to these recommendations, notably through the implementation of its work programmes, which include REFIT initiatives. The REFIT platform’s mandate ended in 2019 and will be replaced by a new platform in 2020. Since it was set up in 2015, the REFIT platform has issued 105 recommendations.

In April 2019, the Commission finalised its work to take stock of its better regulation policy. This involved in-depth consultation with stakeholders, other EU institutions and bodies and with the public. Its findings were summarised in the communication ‘Better regulation: taking stock and sustaining our commitment’ and in an accompanying staff working document<sup>8</sup>. First Vice-President Timmermans presented and discussed these findings with stakeholders in a conference on 29 April<sup>9</sup>.

The following conclusions are relevant for the application of the principles of subsidiarity and proportionality:

- The successor of the REFIT platform should place greater focus on the principles of subsidiarity and proportionality and on legislative density, in addition to the current focus on simplification. To this end, it is important to broaden the expertise of the Board

---

<sup>4</sup> See Section 3 below.

<sup>5</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say_en)

<sup>6</sup> Further information on fitness checks on the REFIT platform website: [https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly/refit-platform/refit-platform-work-progress\\_en](https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly/refit-platform/refit-platform-work-progress_en)

<sup>7</sup> [http://ec.europa.eu/smart-regulation/refit/simplification/consultation/contributions\\_en.htm](http://ec.europa.eu/smart-regulation/refit/simplification/consultation/contributions_en.htm)

<sup>8</sup> COM(2019) 178 final and SWD(2019) 156 final, 15.4.2019.

<sup>9</sup> For more information, see [https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-taking-stock-and-sustaining-our-commitment\\_en](https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-taking-stock-and-sustaining-our-commitment_en)

and to increase the involvement of local and regional authorities, who are responsible for implementing a large share of EU legislation<sup>10</sup>.

- To improve its assessment of the principles of subsidiarity and proportionality, the Commission has committed to incorporate the common ‘grid’ proposed by the Task Force in its better regulation guidance and use it for assessing subsidiarity and proportionality in impact assessments and explanatory memoranda accompanying proposals.

### **Subsidiarity and proportionality analysis**

The better regulation guidelines and the accompanying ‘toolbox’<sup>11</sup> require the Commission to carry out a subsidiarity analysis when assessing the continued relevance and European added value of existing measures and when considering new initiatives in areas where the EU does not have exclusive competence. The Commission carries out such subsidiarity analysis for both legislative and non-legislative initiatives.

The purpose of this analysis is twofold:

1. To assess whether action at national, regional or local level would be sufficient to achieve the objectives pursued; and
2. To assess whether action at EU level would provide added value compared to action at national level.

Under the principle of proportionality, the content and form of EU action must not exceed what is necessary to meet the pursued objectives. Respect for the principle of proportionality means ensuring that the approach chosen and intensity of the regulatory action are necessary to achieve its objectives. All impact assessments, evaluations and fitness checks should carry out such analysis.

### **Impact assessments**

The Commission analyses the principles of subsidiarity and proportionality in all impact assessments prepared for policy proposals. To ensure their quality, these assessments are subject to an independent quality control by the Regulatory Scrutiny Board<sup>12</sup>.

In the last year of its mandate, the Juncker Commission focused its work on ensuring that the proposals it had already made proceeded for adoption by the co-legislators, and it adopted few new legislative proposals. In 2019, the Board therefore issued an opinion on one single impact assessment, which concerned the recast of the European Institute of Innovation and Technology

---

<sup>10</sup> The Joint Research Centre has been involved in numerous initiatives to improve the quality of local and regional policymaking, e.g. through the “Science meets Regions” pilot, promoting evidence-informed policymaking throughout the EU.

<sup>11</sup> [https://ec.europa.eu/info/files/better-regulation-toolbox\\_en](https://ec.europa.eu/info/files/better-regulation-toolbox_en)

<sup>12</sup> The Regulatory Scrutiny Board comprises a Chair (Director-General level) and six full-time members, of whom three are recruited from outside the Commission. All members of the Board are independent and work in a personal capacity based on their individual expertise. The Board reviews the quality of impact assessments, fitness checks and major evaluations. Subsidiarity and proportionality are part of this quality check. [https://ec.europa.eu/info/law/law-making-process/regulatory-scrutiny-board\\_en](https://ec.europa.eu/info/law/law-making-process/regulatory-scrutiny-board_en)

and the establishment of a Strategic Innovation Agenda for the Institute<sup>13</sup>. This impact assessment concluded that the Institute provides clear EU added value in terms of economies of scale, scope and speed of investment in research and innovation, compared to national and regional initiatives and solutions.

### **Evaluations and fitness checks**

Subsidiarity and proportionality are essential aspects of evaluations and fitness checks, which assess whether EU-level action has delivered the expected results in terms of efficiency, effectiveness, coherence, relevance and European added value. In 2019, the Commission finalised some 70 evaluations, including four fitness checks (evaluations of broader policy areas), concerning the water framework and floods directive, air quality, supervisory reporting, and public reporting by companies.

The Regulatory Scrutiny Board examined 18 major evaluations and fitness checks in 2019. These assessments covered many aspects, some of which were particularly relevant in terms of subsidiarity and proportionality:

- Evaluation of the Urban Waste Water Treatment Directive<sup>14</sup>

In line with the subsidiarity principle, it is the responsibility of the Member States to ensure that citizens can connect to the waste water collection system, as appropriate. However, action at EU-level is necessary as transboundary river basins cover 60% of the EU's territory. In the absence of an EU Directive on waste water, which imposes on all Member States a similar rhythm of establishing waste water collection and treatment infrastructures, any failure to act by Member States located upstream of a transboundary river could have undermined the action carried out by Member States located downstream.

- Fitness check of the Water Framework Directive and Floods Directive<sup>15</sup>

The two Directives brought in a flexible framework that promotes an integrated approach to dealing with different pressure on water from different policy areas. This leaves considerable discretion to the Member States to set location-specific objectives, methods and measures, while ensuring harmonisation and a level playing field. The evaluation found one drawback to this approach, namely that for certain issues, there were considerable variations in how Member States had implemented the Directives when a more uniform approach would have been desirable. For instance, there is no clear justification for having very different standards for river basin-specific pollutants in Member States that share the same river basin. These variations may in some cases be due to local differences, but in many cases can only be explained by other factors, such as political will (on cost recovery), resistance to change, or lack of technical capacity (on monitoring).

## **2.2. The European Parliament**

---

<sup>13</sup> SWD(2019)330 final, 11.7.2019.

<sup>14</sup> SWD(2019)700 final, 13.12. 2019. Evaluation of the Urban Waste Water Treatment Directive 91/271/EEC.

<sup>15</sup> SWD(2019)439 final, 10.12.2019. Fitness check of the Water Framework Directive, Groundwater Directive, Environmental Quality Standards Directive and Floods Directive.

In 2019, the European Parliament formally received 62 submissions from national Parliaments under Protocol No 2 on the application of the principles of subsidiarity and proportionality<sup>16</sup>. None of these submissions were reasoned opinions in the sense of the Protocol, raising issues related to compliance with the subsidiarity principle. By comparison, in 2018, the European Parliament formally received 46 reasoned opinions and 427 other submissions. These figures indicate that national Parliaments do not see the mechanism of subsidiarity control as a way to stall the EU law-making process, but as a way to voice their views and concerns. All submissions from national Parliaments are made available on Connect, the European Parliament's database of national parliamentary documents<sup>17</sup>.

Under Annex VI to the European Parliament's Rules of Procedure, the Committee on Legal Affairs (JURI) has across-the-board responsibility for ensuring compliance with the principle of subsidiarity. Every six months, a member of the JURI committee is appointed as standing rapporteur for subsidiarity on a rotation basis among the political groups. MEP Angel Dzhambazki (European Conservatives and Reformists) was the standing rapporteur in the first half of 2019, followed by MEP Nacho Sanchez Amor (Socialists & Democrats) in the second half of the year.

The JURI Committee also contributes to the bi-annual reports by COSAC<sup>18</sup> on questions related to subsidiarity and proportionality.

The European Parliamentary Research Service has continued to assist the European Parliament in its work to take into account the principles of subsidiarity and proportionality:

- by systematically scrutinising the subsidiarity and proportionality aspects of Commission impact assessments and by drawing attention to any concerns expressed in this respect, notably by national Parliaments and by the Committee of the Regions;
- by ensuring that the European Parliament's own work follows these principles in full, for example when carrying out impact assessments of its own substantial amendments or analysing the added value of Parliament's proposals for new legislation, based on Article 225 TFEU, and the cost of the absence of action at EU level;
- by scrutinising the subsidiarity and proportionality aspects when drafting impact assessments, focusing on EU added value.

### **2.3. The Council**

On 1 July 2019, the Council took note of the new arrangements, proposed by the Commission to the Council and the European Parliament, under which the period between 20 December and 10 January would, except in urgent cases for which due reasons have been given, not be taken into account to determine the eight-week period set out in Protocol No. 2 to the Treaties<sup>19</sup>. The Council communicated this to the Commission on 4 July via the Chair of the Committee of Permanent Representatives. In this letter, the Council considers the new arrangement as a way

---

<sup>16</sup> For the procedure on how the European Parliament deals with national Parliaments' reasoned opinions, see the Annual Report 2016 on Subsidiarity and Proportionality, point 2.3.

<sup>17</sup> <http://www.europarl.europa.eu/relnatparl/en/connect/welcome.html>

<sup>18</sup> On the COSAC, see section 5 below.

<sup>19</sup> Council document ST 10722/19, available in the [Council register](#). On these arrangements, see also section 2.1 above.

forward to facilitate national Parliaments' scrutiny of draft legislative acts for compliance with the principle of subsidiarity, in line with Protocol No 2 to the Treaties.

Under Article 4 of Protocol No 2, it is for the Council to forward to national Parliaments all draft legislative acts originating from a group of Member States, the Court of Justice of the EU, the European Central Bank and the European Investment Bank. In March 2019, the Council sent national Parliaments a request from the European Investment Bank to the Council to amend the European Investment Bank's Statute in accordance with the special legislative procedure laid down in Article 308 TFEU<sup>20</sup>.

In addition to its obligations under the Treaty, the Council also keeps Member States informed of opinions issued by national Parliaments on Commission legislative proposals. In 2019, the General Secretariat of the Council distributed to the delegations 26 opinions issued under the political dialogue process<sup>21</sup>. The Council did not receive any reasoned opinions under Protocol No 2 in 2019.

#### **2.4. The Committee of the Regions<sup>22</sup>**

Throughout 2019, the Committee of the Regions ('the Committee') continued its work to ensure that the recommendations of the Task Force on Subsidiarity, Proportionality and 'Doing less more efficiently' take root and that 'active subsidiarity' becomes a reality<sup>23</sup>. It organised a high-level discussion on active subsidiarity at the 8<sup>th</sup> European Summit of Regions and Cities in Bucharest on 14-15 March 2019, which launched the Committee's pilot project to set up Regional Hubs to review how EU policies are implemented at regional and local level (RegHub). In 2019, the RegHub pilot project carried out two consultations, one on public procurement and the other on air quality, each resulting in an in-depth implementation report<sup>24</sup>.

As a direct response to the Commission's Communication entitled 'Better regulation: taking stock and sustaining our commitment'<sup>25</sup>, the Committee adopted an opinion in October 2019<sup>26</sup> (rapporteur: Olgierd Geblewicz, European People's Party), which developed the Committee's views on better regulation and the role of 'active subsidiarity' in EU policymaking. It reiterated the Committee's support for better regulation, highlighting that it must be a shared effort.

---

<sup>20</sup> 2019/0804 (CNS) — Council doc. 2338/19, available in the [Council register](#).

<sup>21</sup> There is a discrepancy in the number of opinions registered by the European Parliament, the Council and the Commission, as not all of them received all opinions and they have different ways of counting opinions sent jointly by several national Parliaments.

<sup>22</sup> A more detailed description of subsidiarity-related activities is provided in the 2019 Subsidiarity Annual Report issued by the Committee of the Regions, available after adoption by the Committee of the Region's Bureau on <http://portal.cor.europa.eu/subsidiarity/Pages/default.aspx>.

<sup>23</sup> On the work and follow-up of this Task Force, see also sections 2.1 of the 2018 Annual Report (COM(2019) 333) and of this report. For the Task Force, 'active subsidiarity' *inter alia* meant to 'promote opportunities for national Parliaments and local and regional authorities to participate at an early stage to shape new initiatives and signal concerns', building on their specific competences and concrete experiences with the implementation of EU Policies. Thus, the concept would help 'to ensure that there is a better appreciation and acceptance of why policies are implemented at the EU level, and ultimately greater ownership of those policies at all governance levels'.

<sup>24</sup> Reports available on <https://cor.europa.eu/en/our-work/Pages/network-of-regional-hubs.aspx>

<sup>25</sup> COM(2019) 178 final, 15.4.2019. See also section 2.1.

<sup>26</sup> <https://cor.europa.eu/EN/our-work/Pages/OpinionTimeline.aspx?opId=CDR-2579-2019>



The Committee's 9<sup>th</sup> Subsidiarity Conference<sup>27</sup> was an important event to develop the debate on 'active subsidiarity' and its role in the discussions on the future of Europe. It brought together all levels of government to debate how best to implement 'active subsidiarity' across the EU and how to use this approach to reconnect the EU with its citizens. A new pilot project on input from political debates in regional Parliaments was launched at the conference in cooperation with the Conference of European Regional Legislative Assemblies (CALRE). The aim of the project is to provide a regional perspective on the Commission's annual work programme by giving a say to regional Parliaments with legislative powers on the preparation of the work programme.

In 2019, the Committee again implemented its subsidiarity work programme as a practical way to monitor the subsidiarity principle. As the initiatives listed in the 2019 European Commission Work Programme were mostly non-legislative, only three priority initiatives were identified for the subsidiarity work programme: 'A sustainable European future', 'Fair and Future-proof Single Market' and 'Completing the Digital Single Market'.

The Committee assessed compliance with the subsidiarity and proportionality principles in the legislative proposals on which it issued opinions<sup>28</sup>. In 2019, it adopted 49 opinions, of which only five were related to legislative proposals.

All five opinions on legislative proposals contained either a direct assessment of compliance with subsidiarity and proportionality, or specific recommendations to improve compliance with these principles. For instance, the opinion on road safety and automated mobility concluded on the need '...to get local and regional stakeholders involved in the implementation of the extended scope of the directive, especially with regard to determining which roads are covered by its provisions ...' and put forward amendments to the Commission's proposal on how to better comply with subsidiarity.

Although most initiatives were non-legislative, the Committee maintained its commitment to implementing the 'active subsidiarity' approach in 2019, as many opinions on non-legislative proposals included both an assessment of subsidiarity and proportionality in the relevant policy field, as well as constructive recommendations to deal with potential issues. An example is the opinion on the implementation report on public procurement. Based on the first consultation of the Committee's network of Regional Hubs, the opinion provides a detailed overview of the key challenges encountered by local and regional authorities when implementing the 2014 Directives on public procurement, as well as the most frequent sources of their incorrect application. Using empirical data from regional and local levels, the opinion also highlights substantive issues, considering for instance that '...cross-border procurement has not brought any added value for local and regional authorities. Though EU-wide procurement procedures are carried out regularly, costing considerable time and money, few if any cross-border contracts are awarded'. The opinion provides policy recommendations to overcome these issues.

The Subsidiarity Expert Group carried out two consultations in 2019.

The first relates to a priority initiative in the subsidiarity work programme. As part of the priority initiative on 'Completing the Digital Single Market', the Subsidiarity Expert Group was

---

<sup>27</sup> This conference, co-organised by the Committee of the Regions and the Italian Conference of the Presidents of regional Parliaments, took place in Rome on 22 November 2019: <https://cor.europa.eu/en/news/Pages/changing-the-way-the-eu-works.aspx>

<sup>28</sup> Rule 55.2 of the Rules of Procedure OJ L65, 5.3.2014, p41, <https://cor.europa.eu/en/members/Documents/CoR-Rules-of-Procedure-EN.pdf#search=Rules%20of%20Procedure>

consulted to support the Committee's rapporteur of the opinion on the action plan against disinformation. It did not highlight any major subsidiarity or proportionality issues, as the activities outlined in the action plan rely on cooperation between the various levels of government. The analysis concluded that, other than the issues of subsidiarity or proportionality, it would be useful for the action plan against disinformation to promote the principle set out in the Treaty of 'sincere cooperation' or multilevel governance.

The purpose of the second consultation of the Subsidiarity Expert Group was to support the rapporteur of the opinion entitled 'The European Semester and Cohesion Policy: aligning structural reforms with long-term investments', to which three experts provided contributions. In line with the 'active subsidiarity' approach, the experts put forward proposals to address issues of compliance with subsidiarity and proportionality. They stated that the Committee '...stresses that the best way of avoiding infringements of the subsidiarity principle and ensuring that the policy is effectively coordinated is to get local and regional authorities fully involved in the European Semester in a structured way, in line with the principles of partnership and multilevel governance'.

The composition of the Subsidiarity Monitoring Network<sup>29</sup> did not change in 2019 (156 partners). REGPEX<sup>30</sup>, the sub-network of the Subsidiarity Monitoring Network open to Parliaments<sup>31</sup> and governments of regions with legislative powers, saw a steep fall in workload due to the lack of legislative proposals made in 2019. It issued only two contributions in 2019, compared to 95 in 2018.

## 2.5. The Court of Justice of the European Union

In 2019, the Court of Justice of the European Union (the Court) issued a ruling in one case on the compatibility of EU legislation with the principle of subsidiarity. In its judgment of 6 June 2019 in Case C-264/18<sup>32</sup>, the Court considered that the EU legislator did not breach the subsidiarity principle by excluding legal services from Directive 2014/24/EU on public procurement<sup>33</sup> as, in so doing, the legislator considered that it was for national legislatures to determine whether such services should be subject to the public procurement rules.

The Court also clarified the application of the principle of proportionality in two cases in which a Member State had challenged a legislative act adopted by the European Parliament and the Council<sup>34</sup>.

---

<sup>29</sup> <http://portal.cor.europa.eu/subsidiarity/thesmn/Pages/default.aspx> Launched in April 2007, the Subsidiarity Monitoring Network was set up to facilitate the exchange of information between local and regional authorities and the Union level regarding various documents and legislative and political proposals from the Commission. The network serves as an access point enabling all of its partners not only to obtain information but also to express their views.

<sup>30</sup> <http://portal.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx>.

<sup>31</sup> On regional Parliaments, see also Section 6.

<sup>32</sup> Judgment of 6 June 2019, Case C-264/18 (request for a preliminary ruling from the Belgian Constitutional Court), P. M. and Others v Ministerraad, EU:C:2019:472.

<sup>33</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.

<sup>34</sup> Judgment of 13 March 2019, Poland v European Parliament and Council, C-128/17, EU:C:2019:194; Judgment of 3 December 2019, Case C-482/17, Czech Republic v European Parliament and Council, EU:C:2019:1035.

As regards the standard of review of compliance with this principle, the Court recalled that the EU legislature must be allowed broad discretion in areas in which its action involves political, economic and social choices and in which it is called upon to undertake complex assessments and evaluations. For the Court, therefore, the criterion to apply is not whether a measure adopted in such an area was the only or the best possible measure, since the legality of the measure can be affected only if it is manifestly inappropriate having regard to the pursued objective<sup>35</sup>.

Accordingly, the Court considered that it had not been demonstrated that the EU legislature had committed a manifest error in adopting Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants. In that context, the Court clarified that the EU legislature is not obliged to take into consideration the particular situation of a Member State if the EU measure concerned has an impact in all Member States and requires striking a balance between the different interests involved, taking account of the objectives of that measure. Therefore, the attempt to strike this balance, taking into account not the particular situation of a single Member State but that of all EU Member States, cannot be regarded as contrary to the principle of proportionality<sup>36</sup>.

In the other judgment<sup>37</sup>, the Court upheld the validity in the light of the proportionality principle of certain provisions of Directive (EU) 2017/853 by which the European Parliament and the Council amended Council Directive 91/477/EEC on control of the acquisition and possession of weapons<sup>38</sup>. In its judgment, the Court considered that the EU legislature's broad discretion applies not only to the nature and scope of the contested measure but also, to some extent, to the finding of the basic facts. Still, even where it has broad discretion, the EU legislature must base its choice on objective criteria and examine whether the aims pursued by the measure chosen are such as to justify even substantial negative economic consequences for certain operators. The Court considered that the EU institutions that adopted the measure in question must be able to show before the Court that in adopting the measure they did exercise discretion. This presupposes that they had taken into consideration all the factors and circumstances relevant to the situation that the measure was intended to regulate. Therefore, the institutions must at the very least be able to produce and set out clearly and unequivocally the basic facts which had to be taken into account as the basis of the contested measure and on which the exercise of their discretion depended. In this case, the Court dismissed the plea that the EU legislature did not have sufficient information on the potential impact of the contested directive in order to assess compliance with the principle of proportionality. The Court considered that, during the legislative procedure, the EU institutions had taken into account the available scientific data and other findings that became available. This included data and findings obtained from the REFIT evaluation carried out by the Commission, various studies, a public consultation, consultations with Member States and stakeholders and impact assessments submitted by the Member States.

---

<sup>35</sup> Judgment in Case C-482/17, paragraph 77. See also the proportionality assessment in the judgment of 30 January 2019, Case C-220/17, *Planta Tabak-Manufaktur Dr Manfred Obermann GmbH & Co. KG v Land Berlin*, EU:C:2019:76.

<sup>36</sup> Judgment in Case C-128/17, paragraph 106.

<sup>37</sup> Judgment in Case C-482/17, paragraphs 86-93.

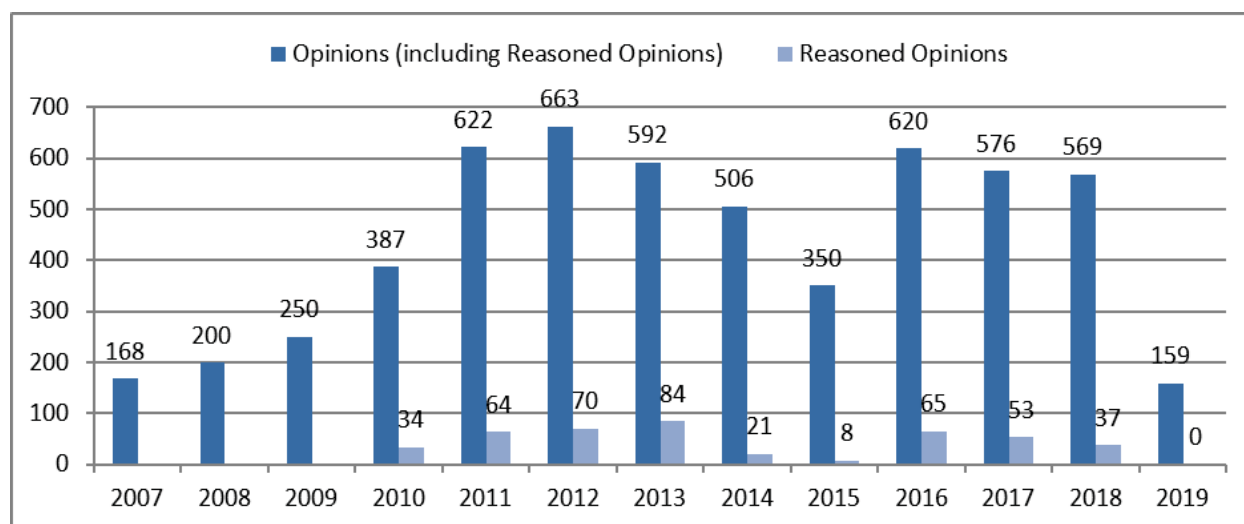
<sup>38</sup> Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons, OJ L 137, 24.5. 2017, p. 22.

### 3. APPLICATION OF THE SUBSIDIARITY CONTROL MECHANISM BY NATIONAL PARLIAMENTS

2019 was the first year since bringing in the subsidiarity control mechanism in which the Commission received **no reasoned opinion** from national Parliaments. This was largely due to the sharp decrease in the Commission's legislative activity in the transition year between two Commissions. In 2019, the Commission sent 28 legislative proposals subject to subsidiarity control to the co-legislators and to national Parliaments, compared to 139 in 2018. On these 28 proposals, national Parliaments adopted 39 opinions. This confirms the trend noted in the previous annual report: the proportion of reasoned opinions is decreasing compared to both the overall number of opinions (10.5% in 2016; 9% in 2017; 6.5% in 2018; none in 2019) and the number of opinions on Commission proposals subject to the subsidiarity control mechanism (17.6% in 2016; 16% in 2017; 10.5% in 2018; none in 2019).

This could be the result of the Commission applying a reinforced better regulation agenda and of its commitment to integrate the principles of subsidiarity and proportionality at all stages of policymaking, to evaluate existing policy frameworks before submitting revised legislation and to initiate action at European level only if this provides clear added value<sup>39</sup>.

### 4. POLITICAL DIALOGUE WITH NATIONAL PARLIAMENTS



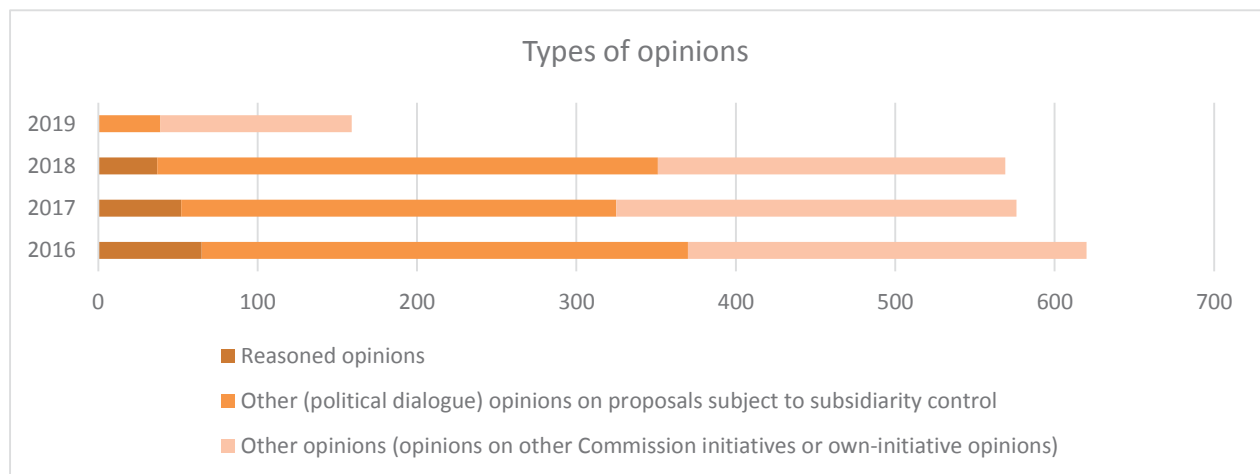
#### General observations on the written opinions

In 2019, national Parliaments sent 159 opinions to the Commission. This is much fewer than in previous years (576 in 2017 and 569 in 2018) and even fewer than in the previous transition year, 2015 (350). It is the lowest number since the beginning of the political dialogue in 2007.

Of these 159 opinions, only 39 (25%) concerned Commission proposals subject to the subsidiarity control mechanism. The remaining 120 opinions (75%) either concerned non-legislative initiatives such as communications or were own-initiative opinions. This

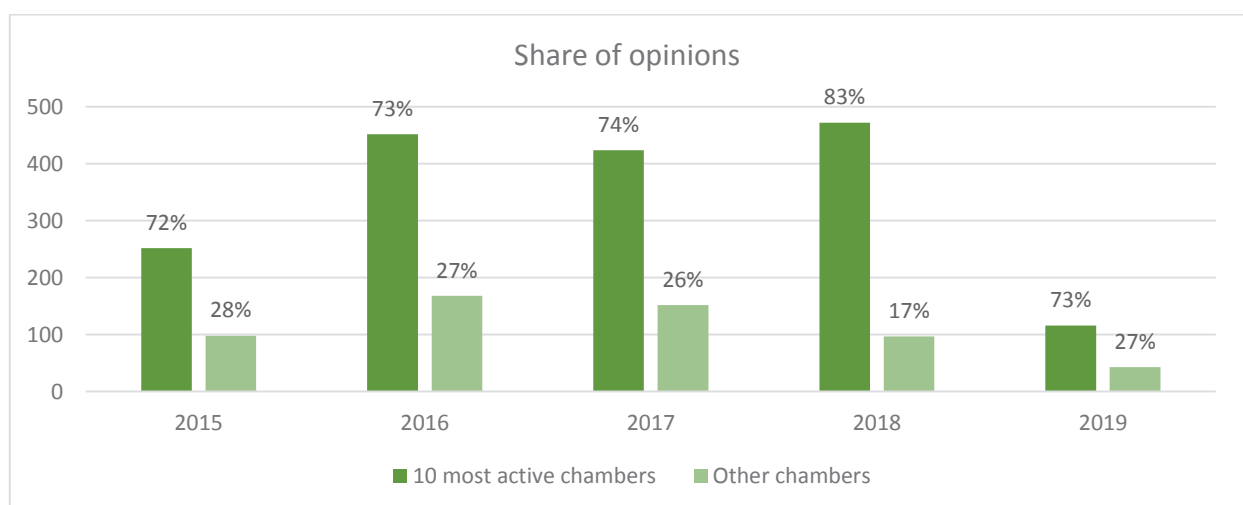
<sup>39</sup> In February 2020, the Commission received an opinion from the *Czech Poslanecká sněmovna* which challenges this view and considers that the decrease in the number and proportion of reasoned opinions is instead an alarming indication of a loss of ambition for national Parliaments to actively engage in the EU's legislative process.

exceptionally high proportion<sup>40</sup> reflects the temporary slowdown in the volume of legislative proposals the Commission submitted but also shows national Parliaments' interest in making their positions known to the Commission at an early stage in the decision-making process



### Participation and scope

As in previous years, the number of opinions sent to the Commission differed substantially between the national Parliaments. The 10 most active chambers issued 116 opinions, i.e. 73% of the total, a smaller share of the total than in 2018 (83%), but similar to previous years (74% in 2017, 73% in 2016 and 72% in 2015). 17 chambers<sup>41</sup> (10 in 2018) did not issue any opinions.



The chamber that submitted the highest number of opinions in 2019 was the Czech *Senát* (21 opinions). The other 10 national Parliaments or chambers that sent the highest numbers of

<sup>40</sup> In 2018, 62% of opinions concerned initiatives subject to subsidiarity control and 38% concerned other opinions.

<sup>41</sup> Austrian *Bundesrat* and *Nationalrat*, Belgian *Chambre des représentants/Kamer van volksvertegenwoordigers*, Bulgarian *Narodno Sabranie*, Croatian *Hrvatski Sabor*, Cypriot *Vouli ton Antiprosopon*, Danish *Folketing*, Estonian *Riigikogu*, Finnish *Eduskunta*, Greek *Vouli ton Ellinon*, Irish Houses of the *Oireachtas* (*Dáil* and *Seanad Éireann*), Latvian *Saeima*, Luxembourg *Chambre des Députés*, Slovenian *Državni svet* and *Državni zbor*, United Kingdom's House of Commons.

opinions in 2019 were the Romanian *Camera Deputaţilor* (15 opinions), the Portuguese *Assembleia da República* (14 opinions), the Czech *Poslanecká sněmovna* (13 opinions), the French *Sénat* (12 opinions), the German *Bundesrat* (11 opinions), the Spanish *Cortes Generales* (8 opinions), the United Kingdom's *House of Lords* (8 opinions), the Italian *Senato della Repubblica* (7 opinions), the Romanian *Senat* (7 opinions) and the Swedish *Riksdag* (7 opinions). These chambers were also the most active chambers in 2018 (though in a different order).

Although most chambers recorded a sharp fall in the number of opinions submitted, two submitted more opinions in 2019 than in 2018: the Hungarian *Országgyűlés* (5 opinions in 2019, 3 in 2018) and the Dutch *Eerste Kamer* (6 opinions in 2019, 2 in 2018).

Annex 1 details the number of opinions sent by each chamber.

### **Main topics of the opinions in political dialogue**

In 2019, as in previous years, the opinions submitted by the national Parliaments' covered various topics. The five following files, which attracted between 5 and 9 opinions each<sup>42</sup>, elicited the most attention from the national Parliaments:

1. Extension of qualified majority voting — 9 opinions;
2. Subsidiarity and better regulation — 8 opinions;
3. Strengthening the rule of law — 6 opinions;
4. Towards a sustainable Europe — 5 opinions;
5. Fight against online disinformation — 5 opinions.

- *Extension of qualified majority voting*

The Commission had committed to examining ways to make decision-making more efficient by identifying areas for increasing the use of qualified majority voting.<sup>43</sup> For that purpose, it had adopted four communications on four key policy areas: common foreign and security policy, on 12 September 2018<sup>44</sup>; taxation, on 15 January 2019<sup>45</sup>; energy and climate, on 9 April 2019<sup>46</sup>; and social policy, on 16 April 2019<sup>47</sup>.

These communications triggered nine opinions from six national Parliaments<sup>48</sup>. These opinions generally expressed opposition to extending qualified majority voting as they considered that it was necessary to maintain unanimous decision-making in these areas to protect national sovereignty and interests. Some chambers were also of the opinion that unanimous decision-making worked correctly in these areas and was not an obstacle to making progress at EU level.

---

<sup>42</sup> No single document attracted more than six opinions. Annex 2 lists the documents that had triggered more than 4 opinions, none of which was a legislative proposal.

<sup>43</sup> See President Juncker's 'State of the Union' speech of 12 September 2018 and the Commission's 2019 Work Programme (COM(2018) 800 final, 23.10.2018).

<sup>44</sup> COM(2018) 647 final, 12.9.2018.

<sup>45</sup> COM(2019) 8 final, 15.1.2019.

<sup>46</sup> COM(2019) 177 final, 9.4.2019.

<sup>47</sup> COM(2019) 186 final, 16.4.2019.

<sup>48</sup> Czech *Poslanecká sněmovna* (issued two opinions, one on taxation and one on energy and climate), Czech *Senát* (three opinions, on taxation, energy and climate and social policy respectively), Hungarian *Országgyűlés* (a single opinion covering taxation, common foreign and security policy and social policy), Maltese *Kamra tad-Deputati*, (taxation), Dutch *Eerste Kamer* (energy and climate) and Swedish *Riksdag* (taxation).

The Commission replied that, on foreign and security policy, the unanimity rule has, on certain occasions, affected the speed and ability of the EU to take action on global matters and that to be able to continue to shape its future, the EU should improve its decision-making by using the full range of options available under the Treaties. On taxation, it stressed that coordinated EU action was essential to protect Member States' revenue, and ensure fairness in the taxation environment and the proper functioning of the internal market.

Although globalisation and digitalisation have created common challenges concerning taxation policy that require common solutions, the EU has not been able to act or react quickly due to the limitations of the unanimity rule. Under qualified majority voting, Member States would be able to reach quicker and more effective solutions on taxation matters. Also, under the ordinary legislative procedure, taxation decisions would benefit from the input of the European Parliament, thereby representing citizens' views and increasing accountability. On energy and climate policy, the Commission noted that the current energy taxation regime causes distortions in the internal market due to different tax rates and tax bases on competing fuels. Therefore, equal treatment of all energy sources according to their contribution to the Energy Union objectives (such as to promote sustainable energy and avoid wasteful energy consumption) is an aspect that needs to be reflected in a future energy taxation reform. For this, it will be crucial to be able to find compromise solutions that reflect the interests and the specific economic and social conditions in the Member States.

Lastly, on social policy, the Commission explained that it had taken a targeted approach to the use of '*passerelle*' clauses. It suggested using these clauses only on issues of non-discrimination and for the adoption of recommendations on social security and social protection of workers, where qualified majority voting would make it easier for Member States to tackle common challenges swiftly.

- *Subsidiarity and proportionality*

In the Communication entitled 'The principles of subsidiarity and proportionality: strengthening their role in the EU's policymaking'<sup>49</sup>, adopted on 23 October 2018, the 2017 annual report on subsidiarity and proportionality<sup>50</sup> and the report on relations with national Parliaments<sup>51</sup>, the Commission set out its follow-up to the recommendations of the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently'.

In 2019, this package triggered six opinions from six national Parliaments<sup>52</sup> and one opinion from a regional Parliament<sup>53</sup>. All chambers generally welcomed the work of the Task Force, supported the concept of 'active subsidiarity' and approved the follow-up action already taken by the Commission.

---

<sup>49</sup> COM(2018) 703 final, 23.10.2018. See also Annual Report 2018, Section 2.1 and, for the measures implemented in 2019 Section 2.1 of this report.

<sup>50</sup> COM(2018) 490 final, 23.10.2018.

<sup>51</sup> COM(2018) 491 final, 23.10.2018.

<sup>52</sup> Czech *Senát*, German *Bundesrat*, Italian *Camera dei Deputati*, Lithuanian *Seimas*, Romanian *Camera Deputaţilor*, Swedish *Riksdag*. The Finnish *Eduskunta* did not send an opinion to the Commission but published a statement on the communication on its website. The Polish *Senat* had already provided an opinion in December 2018 (see Annual Report 2018, Section 2.1).

<sup>53</sup> *Landtag* of Bavaria.

Some chambers made suggestions on how the Commission could improve its interaction with them when preparing its proposals, by improving the planning of its initiatives to better allow national Parliaments to plan their subsidiarity checks and/or by improving the quality of impact assessments and giving more information on them in all official languages. Other suggestions were made to improve scrutiny by the national Parliaments' during the legislative phase, such as organising debates with representatives of national Parliaments and of the European Parliament when a proposal triggers a number of reasoned opinions, or discussing the observations made by national Parliaments in Council working parties. Some Parliaments also suggested measures that would require Treaty changes, such as extending the period to issue reasoned opinions to 12 weeks, reducing the number of reasoned opinions needed to trigger a 'yellow card', allowing reasoned opinions to be based on proportionality, setting a formal deadline for Commission replies and giving powers to the European Parliament to initiate legislation.

In its replies, the Commission welcomed the national Parliaments' support for the initiatives it announced in the communication and confirmed that it was preparing to implement them. It agreed on the need to provide information on how the proposals comply with the principles of subsidiarity and proportionality and stressed that executive summaries of impact assessments were indeed published in all EU languages. It highlighted its work to increase the level of detail and reliability of information on initiatives announced in its work programme, and noted with interest the suggestions to organise debates on the proposals made. Taking note of the suggestions requiring a Treaty change, the Commission pointed out that no such change was envisaged in the near future.

- *Rule of law*

On 3 April 2019, the Commission adopted a Communication entitled 'Further strengthening the rule of law within the Union – State of play and possible next steps'<sup>54</sup>. The aim of this was to give an overview of the current toolbox to address challenges to the rule of law in the EU and to open a debate on how to strengthen it. As a follow-up, the Commission adopted on 17 July 2019 a communication on 'Strengthening the rule of law within the Union – A blueprint for action'<sup>55</sup>, which set out specific measures for action on this area.

These communications triggered six opinions from five national Parliaments<sup>56</sup>. They generally welcomed the Commission's work to promote and defend the rule of law in the EU and agreed with the need to improve and strengthen the tools available to protect the fundamental values of the EU. Some chambers also emphasised the importance of permanent dialogue with the Member States on the rule of law.

In its replies, the Commission stressed that, as the case law of the European Court of Justice had clarified, respect for the rule of law is both a national and an EU matter, and it is the responsibility of the EU institutions to address these issues within the institutional framework. It highlighted the key role national Parliaments play in ensuring the rule of law in Member States, both as lawmakers and in holding the executive accountable. It also explained that the proposed

---

<sup>54</sup> COM(2019) 163 final, 3.4.2019.

<sup>55</sup> COM(2019) 343 final, 17.7.2019.

<sup>56</sup> German *Bundesrat* (two opinions, one on each communication), Dutch *Eerste Kamer* (on COM(2019) 343) and *Tweede Kamer* (on COM(2019) 163), Romanian *Senat* (on COM(2019) 163), Swedish *Riksdag* (on COM(2019) 163).



‘rule of law review cycle’ should be a preventive tool to identify problems and create a space for dialogue. Commission will monitor the process in close cooperation with the national authorities.

- *Towards a sustainable Europe*

On 30 January 2019, the Commission adopted a reflection paper entitled ‘Towards a sustainable Europe by 2030’<sup>57</sup> to steer the discussion on how the EU can best achieve the United Nations 2030 Sustainable Development Goals.

This paper triggered five opinions from four national Parliaments<sup>58</sup> raising a range of issues. They include the regional and social aspects of the transition towards sustainability, the need to involve all stakeholders in this transition, the compatibility between growth and the development of world trade, on the one hand, and sustainability, on the other hand, and the need to support education, both in the EU and in developing countries.

In its replies, the Commission agreed that achieving the Sustainable Development Goals required effective cooperation at global, EU, national, regional and local levels, respecting the principles of subsidiarity and proportionality. It observed that national Parliaments were in a key position as progress depends largely on action taken by the Member States at all levels. It also stressed that actions such as the initiative for coal and carbon-intensive regions in transition had been launched to ensure that the transition to climate neutrality would be fair and based on solidarity, with no regions or citizens left behind.

- *Fight against online disinformation*

On 26 April 2018, the Commission adopted a communication entitled ‘Tackling online disinformation: a European approach’<sup>59</sup>. On 2 December 2018, it followed this up with a report<sup>60</sup> on implementation of this communication, accompanied by an action plan on disinformation<sup>61</sup>.

In 2019, these initiatives triggered five opinions from four national Parliaments<sup>62</sup>. They asked for clarification on issues such as how to define disinformation, the boundary between tackling disinformation and censorship, the role and independence of fact checkers and targeting of disinformation from Russia.

In its replies, the Commission agreed that the terms used in the communication, such as ‘disinformation’, as well as the actions announced, should not be used for purpose of censorship and stressed that the communication expressly avoided criminalising speech or creating new categories of illegal content. It explained that a dense network of strong and independent fact checkers was an essential requirement for a healthy digital ecosystem, and that it had therefore facilitated networking between European organisations of independent fact checkers by providing the infrastructure for cross-border cooperation, without providing financial support nor

---

<sup>57</sup> COM(2019) 22 final, 30.1.2019.

<sup>58</sup> Czech *Poslanecká sněmovna* and *Senát*, Dutch *Eerste Kamer* (two successive opinions), Romanian *Camera Deputaţilor*.

<sup>59</sup> COM(2018) 236 final, 26.4.2018.

<sup>60</sup> COM(2018) 794 final, 5.12.2018.

<sup>61</sup> JOIN(2018) 36 final, 5.12.2018.

<sup>62</sup> Czech *Poslanecká sněmovna* and *Senát*, German *Bundesrat* (opinions on COM(2018) 794 and JOIN (2018) 36), Dutch *Eerste Kamer* (two new opinions on COM(2018) 36, following up on the one from 2018). In 2018, the German *Bundesrat* and the Dutch *Eerste Kamer* had already issued one opinion on COM(2018) 236.

exercising any control over their editorial line. Regarding external sources of disinformation, the Commission noted that there was strong evidence of disinformation originating in Russia and, although other non-EU countries were also deploying disinformation strategies, action by Russia was systematic, well-resourced and on a larger scale than the action taken by other countries.

### **Joint own-initiative opinions**

In 2019, the Commission received two joint own-initiative opinions from national Parliaments. Both were signed by the six chambers of the Visegrád Group countries ('V4')<sup>63</sup>. One concerned the enlargement of the European Union, supporting the enlargement to the Western Balkans. The other joint opinion was on the multiannual financial framework, for which the V4 national Parliaments have requested allocating the same level of funding as under the previous financial framework to the common agricultural policy and to cohesion policy.

## **5. CONTACTS, VISITS, MEETINGS AND CONFERENCES**

### **Commission visits to and meetings with national Parliaments**

In 2019, Members of the Commission made a total of 55 visits to national Parliaments or meetings with national Parliaments' delegations (see map below), fewer than in previous years (140 in 2018) due to 2019 being a transition year between two Commissions. In total, they carried out 915 visits during the mandate of the Juncker Commission. This close engagement with national Parliaments is to continue as President von der Leyen has requested that each Commissioner visit all Member States within the first two years of the mandate and meet regularly with national Parliaments.

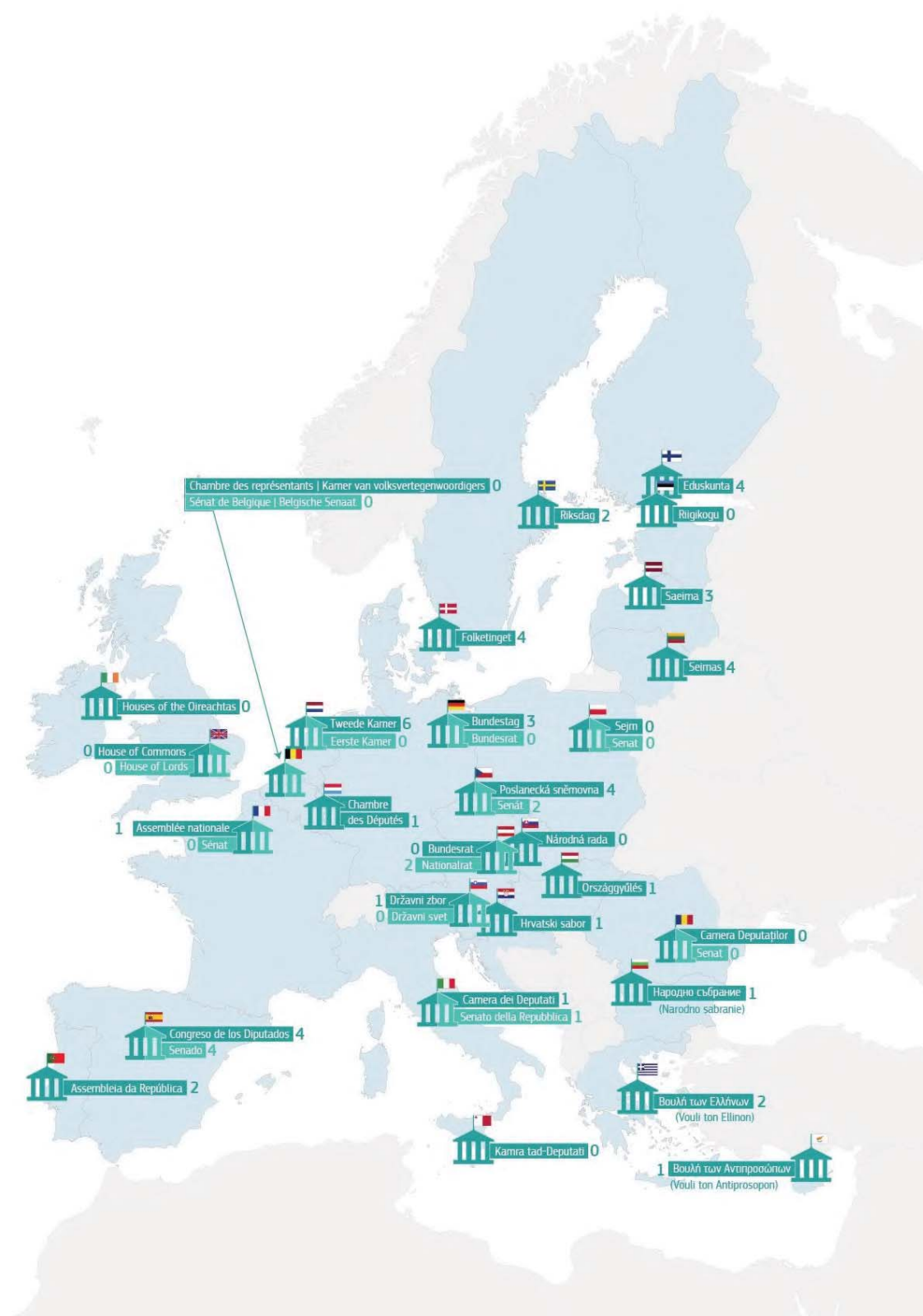
The EU's Chief Brexit Negotiator, Michel Barnier, also met with 13 national Parliaments in 2019, both in the context of his visits to EU27 capitals and during meeting in Brussels, to inform them about the negotiations with the United Kingdom. These contacts will be pursued and intensified in the context of the ongoing negotiations on the EU-UK future relationship.

Throughout 2019, Commission officials, mostly at senior level, attended over 40 meetings of committees of national Parliaments to discuss legislative proposals on a more technical level. Commission officials also gave 13 presentations to representatives of national Parliaments in Brussels on subjects such as better regulation, more efficient law-making on taxation and social policy, Brexit preparedness legislation and the EU-Mercosur Trade Agreement. Furthermore, Commission representations in Member States remained in frequent contact with national Parliaments, in particular on the European Semester process and on other economic issues.

---

<sup>63</sup> Czech Poslanecká sněmovna and Senát, Hungarian Országgyűlés, Polish Sejm and Senat, Slovakian Národná rada.

## Visits to and meetings with national Parliaments by Members of the Commission in 2019 (total for all Member States: 55)



## Inter-parliamentary meetings and conferences

Several important inter-parliamentary meetings and conferences took place in 2019<sup>64</sup>, including:

- the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC<sup>65</sup>);
- the Conference of the Speakers of European Union Parliaments<sup>66</sup>;
- the European Parliamentary Week<sup>67</sup>;
- the Inter-parliamentary Conference on Stability, Economic Coordination and Governance<sup>68</sup>;
- the Inter-parliamentary Conferences for the Common Foreign and Security Policy and the Common Security and Defence Policy<sup>69</sup> and
- the Europol Joint Parliamentary Scrutiny Group<sup>70</sup>.

The two 2019 COSAC Chairpersons meetings were held in Bucharest on 20-21 January and in Helsinki on 21-22 July. Commissioner Crețu participated in the Bucharest meeting. In terms of substance, delegates examined the priorities of the Romanian and Finnish Presidencies of the Council, cohesion and convergence (in Bucharest) and the European budget (in Helsinki).

The LXI COSAC plenary meeting, held in Bucharest on 23-25 June, discussed the achievements of the Romanian Presidency, international trade relations in the context of Brexit, the European Education Area as a driving factor in reshaping and strengthening the single market, and an innovation and technology-based economy.

---

<sup>64</sup> For more details on these meetings, see the European Parliament's Report on relations between the European Parliament and national Parliaments:

<http://www.europarl.europa.eu/relnatparl/en/home/annual-reports.html>

<sup>65</sup> COSAC is the only inter-parliamentary forum enshrined in the Treaties, in Protocol No 1 on the role of national Parliaments in the European Union. It usually meets on two occasions (one Chairpersons meeting, one plenary) in the Member State that holds the rotating presidency of the Council of the European Union. The Commission has observer status in the COSAC. Information on COSAC can be found on:

<http://www.ipex.eu/IPEXL-WEB/conference/getconference.do?type=082dbcc564afa0210164b2da9f5102f8>

<sup>66</sup> The Conference of the Speakers of European Union Parliaments is organised annually in the Member State that holds the rotating presidency of the Council of the European Union during the second half of the preceding year. The 2019 meeting took place in Vienna from 8-9 April. More information:

<https://secure.ipex.eu/IPEXL-WEB/euspeakers/getspeakers.do?id=082dbcc56776849501677a126fd102fa>

<sup>67</sup> The European Parliamentary Week was held at the European Parliament from 18-19 February 2019. Vice-President Dombrovskis and Commissioners Moscovici, Oettinger and Thyssen participated. More information:

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

<sup>68</sup> This conference, held in Helsinki on 30 September and 1 October, was attended by Vice-President Katainen. In the first semester, the conference was, as in previous years, part of the European Parliamentary Week. More information:

<https://secure.ipex.eu/IPEXL-WEB/conference/getconference.do?id=8a8629a86b273e34016bae266fb84cab>

<sup>69</sup> Two conferences were held, one in Bucharest from 7-8 March and one in Helsinki from 4-6 September. High Representative/Vice-President Mogherini attended both via videoconference. More information:

<https://secure.ipex.eu/IPEXL-WEB/conference/getconference.do?id=082dbcc568350fdf0168380271d80410> and

<https://secure.ipex.eu/IPEXL-WEB/conference/getconference.do?id=8a8629a86b273e34016b6ff76cbb2295>

<sup>70</sup> Two conferences were held, one in Bucharest from 24-25 February and one in Brussels from 23-24 September. Commissioner King attended both. More information:

<https://secure.ipex.eu/IPEXL-WEB/conference/getconference.do?id=082dbcc568350fdf016837feb8770407> and

<https://secure.ipex.eu/IPEXL-WEB/conference/getconference.do?id=8a8629a86b273e34016bae32ac2b4cb7>

The LXII COSAC plenary meeting, held in Helsinki on 1-3 December, was attended by Vice-President Šefčovič and by EU Chief Negotiator Barnier, who discussed with delegates the set-up and political agenda of the new Commission, its relations with national Parliaments, and Brexit. Delegates also discussed the national Parliaments' potential role in the Conference on the Future of Europe, the results of the Finnish Presidency, the promotion of the rule of law in the EU, the EU Charter of Fundamental Rights and the climate strategy for Europe.

The Commission provided written replies to the contributions adopted by COSAC at both its plenary meetings<sup>71</sup>.

## 6. THE ROLE OF REGIONAL PARLIAMENTS

Regional Parliaments indirectly contribute to the Commission's relations with national Parliaments. Under Protocol No 2 to the Treaties, when carrying out the subsidiarity check of draft EU legislative acts with a view to issuing reasoned opinions, it will be for each national Parliaments to consult, where appropriate, regional Parliaments with legislative powers<sup>72</sup>.

Members of regional Parliaments are also represented in the Committee of the Regions, which carries out monitoring work through the Subsidiarity Monitoring Network and its online platform designed to support the participation of regional Parliaments with legislative powers in the early warning mechanism on subsidiarity (REGPEX)<sup>73</sup>.

Although there is no explicit provision made in the Treaties for direct interaction between the Commission and regional Parliaments, some regional Parliaments, notably from Germany, submitted resolutions directly to the Commission, commenting on subsidiarity (*Landtag* of Bavaria), the future of Europe (*Landtag* of Baden-Württemberg) and on policy aspects of several Commission proposals. Thus, regional Parliaments have underlined their interest in voicing their contribution to European policymaking directly. In 2019, the Regional Parliamentary Council of the Greater Region<sup>74</sup> submitted its recommendations on cohesion policy, development of the Moselle waterway, cross-border employment issues, the circular economy, rail transport, the promotion of multilingualism and the digital civil court. The Commission replied in substance to all resolutions received from regional Parliaments or organisations of regional Parliaments.

For its part, the Flemish Parliament sent an opinion to the Commission through the Belgian Federal Parliament, on the EU's post-Brexit strategy<sup>75</sup>.

Commissioner Crețu and EU Chief Negotiator Barnier participated in the 8<sup>th</sup> European Summit of Regions and Cities, organised in Bucharest on 14-15 March 2019 by the European Committee of the Regions. They had an exchange with the President of the Conference of European

---

<sup>71</sup> Published with other COSAC documents on:

<https://secure.ipex.eu/IPEXL-WEB/conference/getconference.do?id=082dbcc5677baaf301677f58eea00469> and <https://secure.ipex.eu/IPEXL-WEB/conference/getconference.do?id=8a8629a86bc08c43016bd61f04da09fb>

<sup>72</sup> Article 6, first paragraph, of Protocol No. 2 on the application of the principles of subsidiarity and proportionality.

<sup>73</sup> <http://portal.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx>. For more details on the subsidiarity control related activity of the Committee of the Regions, see Section 2.4.

<sup>74</sup> Composed of Parliamentarians from Saarland, Rhineland Palatinate (Germany), Luxembourg, Grand-Est (France), Wallonia and German speaking Community Parliaments (Belgium).

<sup>75</sup> The Commission registered it as an Opinion of the Belgian *Sénat/Senaat*.

Regional Legislative Assemblies (CALRE), Donatella Porzi, on regional policy issues and on the impact of Brexit.

In 2019, President Juncker gave speeches before the regional Parliaments of *Baden-Württemberg*, *Saarland* and *Thüringen* (Germany). He also participated in the European Conference of German-speaking regional Parliaments, which was organised jointly with the Austrian, Italian South Tyrol and Belgian German-speaking community Parliaments.

## 7. CONCLUSION

2019 was the first year since the entry into force of the Treaty of Lisbon in which national Parliaments sent no reasoned opinion to the Commission. Of the other types of opinions sent by national Parliaments, 75% concerned non-legislative Commission initiatives or were own-initiative opinions. This clearly shows the interest national Parliaments have in providing forward-looking political input to the Commission early in the decision-making process.

The Commission made significant efforts to follow up on the recommendations of the Task Force on Subsidiarity, Proportionality and ‘Doing less more efficiently’, notably as part of its work on better regulation, which aims to better prepare and justify EU legislation and ensure it follows the principles of subsidiarity and proportionality. It also helped national Parliaments to play their role more effectively by excluding the Christmas/New Year period when calculating the eight-week period for submitting reasoned opinions and by providing aggregate replies when a significant number of national Parliaments express subsidiarity-related concerns on a given file.

In 2019, Members of the Commission continued to engage with national Parliaments in regular debates, which have a crucial role to play in bringing the EU closer to its citizens.

The new Commission presided by Ursula von der Leyen took office on 1 December 2019. It will enhance the Commission’s close engagement with national Parliaments, through visits and exchanges, as President von der Leyen has requested that each Commissioner visit all Member States within the first two years of the mandate and meet regularly with national Parliaments. The von der Leyen Commission will also put particular emphasis on the principles of subsidiarity and proportionality in its policy and legislative work.