

SENATE OF THE REPUBLIC OF POLAND

Report on the subsidiarity check under the Treaty of Lisbon on the proposal for a Directive of the European Parliament and the Council on standards of quality and safety of human organs intended for transplantation, COM(2008) 818

At the sitting on 3rd February 2009 the Senate's European Union Affairs Committee carried out a subsidiarity check following the procedure agreed by the COSAC. The check was completed and the conclusions formulated as follows:

Procedures:

- 1. Which parliamentary committees were involved in the subsidiarity check and how?**

Two parliamentary committees were involved in the subsidiarity check in the Senate of the Republic of Poland: the European Union Affairs Committee and the Health Committee.

At the first sitting concerning the subsidiarity check the European Union Affairs Committee discussed the procedures regarding the subsidiarity check, as well as approved the working agenda, the sectoral committees to give opinions on the said proposal and the choice of the experts.

The Health Committee joined the EU Affairs Committee at the second sitting concerning the subsidiarity check. After a discussion the EU Affairs Committee, with the co-operation of the Health Committee, came to the conclusion that the above-mentioned proposal complies with the principle of subsidiarity.

- 2. Was the plenary involved?**

No.

- 3. At which level the final decision was taken and who signed it?**

The decision was taken by the European Union Affairs Committee and signed by the chairman of the Committee.

- 4. Which administrative services of your parliament were involved and how (please specify)?**

The Information and Documentation Bureau (seeking external experts and concluding agreements with them), the European Union Unit (preparing a sitting, drafting an opinion, making a report).

5. Did your government provide any information on the compliance of the Proposal with the principle of subsidiarity?

The government's written position on the proposed directive, submitted to the parliament, included their opinion on the compliance with the subsidiarity and proportionality principles. A government's official took part in the Committee's sitting and provided the senators with additional information.

6. In case of a bicameral parliament, did you coordinate the subsidiarity check with the other chamber?

No.

7. Did you consult regional parliaments with legislative powers?

No. There are no regional parliaments or any similar bodies in Poland.

8. Did you consult any non-governmental organisations, interest groups, external experts or other stakeholders?

Yes, the Committee was provided with an external expertise prepared by an independent expert on internal medicine and clinical transplantology.

9. What was the chronology of events?

Ø 10 December 2008, the European Commission published all linguistic versions of the *Proposal for a Directive*

Ø 18 December 2008 – the sitting of the European Union Affairs Committee

- *discussing the procedures regarding the subsidiarity check*
- *approving the working agenda*
- *appointing the sectoral committees to give opinions on the said proposal*
- *choosing the experts*

Ø 3 February 2009 – the joint sitting of the European Union Affairs Committee and the *Health Committee.*

- *hearing the opinions of the government representatives*
- *hearing the opinions of the Committee experts*
- *discussion*
- *adopting an opinion on the basis of the tabled motions*

Ø Preparing and forwarding the report to the COSAC secretariat (before 6 February).

10. Did you cooperate with other national parliaments in the process? If so, by what means?

No.

11. Did you publicise your findings? If so, by what means?

Yes, a report on the subsidiarity check has been publicised on the website of the European Union Affairs Committee and in the IPEX network.

12. Has your parliament introduced any procedural changes with regard to subsidiarity check mechanism since September 2008? If so, please specify how.

In the present subsidiarity check the same procedure was applied as in the previous tests. Before the possible entry into force of the Treaty of Lisbon, a selection system of documents has to be worked out to seek those legislative proposals which may raise doubts about their compliance with the subsidiarity principle. It will make therefore necessary for an experienced team of parliamentary staff to specify precise selection criteria.

Findings:

13. Did you find any breach of the principle of subsidiarity?

*The European Union Affairs Committee came to the conclusion that the proposal for a Directive of the European Parliament and the Council on standards of quality and safety of human organs intended for transplantation **does not breach the subsidiarity principle.***

14. Did you adopt a reasoned opinion on the Proposal? (If so, please enclose a copy)

No.

15. Did you find the Commission's justification with regard to the subsidiarity principle satisfactory?

Yes.

16. Did you encounter any specific difficulties during the examination?

No.

17. Any other comments?

The possible entry into force of the Treaty of Lisbon will make it necessary to make amendments both in the so-called "cooperative act", which deals with the cooperation between the government and the Sejm and the Senate in matters related to Poland's EU membership, and the rules of procedure of each chamber. It will be also indispensable to formulate a new legal basis to enable the Sejm and the Senate to exercise their newly acquired powers resulting from the Protocol on the application of principles of subsidiarity and proportionality. Changes will have to be introduced to the rules of procedure of the Sejm

and the Senate to make it clear whether the opinions on the compliance with the subsidiarity principle - because of their special status - should be adopted by the plenary of each chamber or their authorised EU committees. Legal expert opinions on possible changes in this respect are being prepared now.