



SENATE OF THE REPUBLIC OF POLAND
THE EUROPEAN UNION AFFAIRS COMMITTEE

Warsaw, December 10, 2009

Ms. Anna Kinberg Batra
Chairwoman of the Committee on European Union Affairs
Swedish/Sveriges Riksdag

Dear Ms Kinberg Batra,

According to the provisions of Protocol 2 on the Application of the Principles of Subsidiarity and Proportionality attached to the Treaty of Lisbon, the European Union Affairs Committee of the Senate of the Republic of Poland, at the sitting on 9th December 2009, conducted a subsidiarity check concerning **the proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession (COM(2009) 154)**. The European Union Affairs Committee, with the co-operation of the Human Rights, the Rule of Law and Petitions Committee, has come to the conclusion that the above mentioned EU proposal **does not breach the subsidiarity principle**.

We have prepared our reply in the form of answers to the questions posed in the aide-mémoire provided by the COSAC Secretariat.

Please find enclosed the report on the subsidiarity check.

Yours sincerely,

Edmund Wittbrodt
Chairman of the European Union Affairs Committee



Warsaw, December 10, 2009

SENATE OF THE REPUBLIC OF POLAND

Report on the subsidiarity check under the Treaty of Lisbon on the proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession (COM(2009) 154).

At the sitting on 9th December 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 Human Rights, the Rule of Law and Petitions 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 Human Rights, the Rule of Law and Petitions Committee joined the EU Affairs Committee at the second sitting concerning the subsidiarity check. After a discussion both committees 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 Analyses and Documentation Office (seeking external experts and concluding agreements with them), the European Union Unit (preparing a sitting, drafting an opinion, making a report).

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

No.

6. 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 draft regulation, submitted to the parliament, included their opinion on the compliance with the subsidiarity and proportionality principles. A government official took part in the committee sitting and provided the senators with additional information.

7. Did you consult your 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.

9. What was the chronology of events? Please specify the dates.

- *21 October 2009, the European Commission published all linguistic versions of the Proposal for a Regulation*
- *3 November 2009 – 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*
- *9 December 2009 – the joint sitting of the European Union Affairs Committee and the Human Rights, the Rule of Law and Petitions Committee:*
 - *hearing the opinions of the government representatives*
 - *hearing the opinions of the Committee expert*
 - *discussion*
 - *adopting an opinion on the basis of the tabled motions*
- *11 December 2009 - preparing and forwarding the report to the COSAC secretariat.*

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.

Findings:**12. Did you find any breach of the principle of subsidiarity?**

*The European Union Affairs Committee came to the conclusion that the proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession **does not breach the subsidiarity principle.***

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

No.

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

Yes.

15. Did you encounter any specific difficulties during this subsidiarity check?

No.

16. Any other comments?

In view of the entry into force of the Treaty of Lisbon on 1 December 2009 the latest subsidiarity scrutiny on the draft regulation constitutes an exercise of the Senate's newly acquired powers resulting from the *Protocol on the application of principles of subsidiarity and proportionality*. The procedure applied during the check has been developed throughout s COSAC previous subsidiarity tests. The said procedure may be changed following the amendment of the *Act on Cooperation of the Council of Ministers with the Sejm and the Senates in matters related to Poland's membership in the EU* (the cooperation act). One major change likely to be introduced is to empower the Senate plenary to issue a reasoned opinion on the non-compliance of a given proposal with the principle of subsidiarity, with a draft opinion having been prepared by the EU Affairs Committee and a sectoral committee. The amendment of the cooperation act will make it necessary to change the Senate Rules and Regulations.

Accepted by:

Edmund Wittbrodt
Chairman
EU Affairs Committee
Senate of the Republic of Poland