

José Manuel Barroso
President of the European Commission

Margot Wallström
Vice-President of the European Commission

Brussels, 1st December 2009

Dear President,

The Treaty of Lisbon, which enters into force today, represents a major advance as regards the role of national Parliaments in the work of the European Union. By making clear for the first time that "national Parliaments contribute actively to the good functioning of the Union", the new Treaty recognises the central importance of national Parliaments in the democratic fabric of the EU. The Treaty underlines this approach by making a number of specific steps to enhance the role of national Parliaments.

We are convinced that the role played by the 40 Chambers will contribute to making the European Union more democratic and more transparent. As you know, this Commission has always been a strong advocate of an increased role for national Parliaments. We and our colleagues have held over 500 meetings with national Parliaments and their representatives since taking office in 2004. In 2006, we set up the mechanism for political dialogue to put in place a privileged channel of communication between the Commission and national Parliaments. We are grateful for the enthusiastic response of national Parliaments to this mechanism.

The Commission is now putting in place the measures required to implement the key new Treaty provisions, and namely articles 70, 85, 88 and 352 TFEU, as well as the parts of Protocols No 1 and 2 for which it has a particular responsibility. Of particular significance is the new mechanism giving national Parliaments a particular role in scrutiny of the principle of subsidiarity.

First of all, we would like to emphasise that the Commission sees this mechanism as part of a wider political relationship between the Commission and national Parliaments, to be applied alongside the political dialogue, which will of course be pursued in the future. It is a welcome opportunity to improve the process of policy formulation and the effective application of this central principle of the Treaty.

The Commission is committed to making the operation of this mechanism both transparent and effective. We are grateful for the input from national Parliaments in contacts undertaken in COSAC and other fora, which have been an essential component in our reflections. We have been assessing on how this objective can best be achieved,

and in annex you will find a paper setting out the procedures we will put in place, so that the system can start to operate as soon as the first proposals falling within the scope of the mechanism are adopted. Of course, these procedures might need to be adapted in the future taking into account the practical experience all of us will gain in the course of the following months.

We are convinced that the Treaty opens the door to further deepening the active and constructive role of national Parliaments in the European policy-making and we are looking forward to intensifying our contacts and exchanges and to developing our political partnership.

Yours Sincerely,

José Manuel Barroso

Margot Wallström

**PRACTICAL ARRANGEMENTS FOR THE OPERATION OF THE SUBSIDIARITY CONTROL
MECHANISM UNDER PROTOCOL NO 2 OF THE TREATY OF LISBON**

There are some practical issues that need to be clarified with each Chamber in order to ensure the smooth operation of the mechanism.

- **First, we would ask for confirmation of the language(s) in which your Chamber would like to receive the Commission documents and to which electronic address, preferably a functional mailbox, you would like the Commission to send these documents.**
- **Second, we would appreciate if you could inform us on how to ensure that the reasoned opinions the Commission receives represent the established opinion of your Chamber.**

Transmission of documents:

The Commission will send all its consultation documents and draft legislative acts to national Parliaments electronically, at the same time as they are sent to the European Parliament and/or the Council. IPEX will be put in copy of these transmissions. The different language versions, as requested by each Chamber, will be sent successively, according to their availability.

Draft legislative acts falling under the scope of the subsidiarity control mechanism, i.e. all draft legislative acts in the field of shared competences, will be accompanied by a transmission letter ("*lettre de saisine*"), mentioning explicitly the procedure referred to in Protocol No 2 and specifying the deadline concerned.

At the end of each week, the Commission will send a recapitulative list of documents that have been sent to each national Parliament in the course of the preceding week. The Commission will copy these recapitulative lists to the European Parliament, the Council and IPEX for information. If a national Parliament realizes that it has not received all documents contained in this list, it should immediately inform the Commission, which will then resend the documents in question. In case no national Parliament reacts within 3 working days, the Commission considers that the documents contained in the weekly list have been duly received. This weekly list of documents should replace an individual acknowledgement receipt for each of the documents sent by the Commission.

Deadlines

The eight weeks deadline will start with the transmission of the *lettre de saisine*, which will be sent at the same time as the transmission of the last language version of a given document. The European Parliament, the Council and IPEX will be informed on the same day about the transmission of these *lettres de saisine*.

Should the non-receipt of a document by a national Parliament have an impact on the deadline mentioned in Protocol No 2, the Commission will fix a new deadline on an ad-hoc basis, taking into account the respective delay, and inform the national Parliament accordingly. For any other national Parliament the original deadline will apply.

In order to take account of national Parliaments' summer recesses, the Commission considers that the month of August should not be taken into account when determining the deadline referred to in Protocol No 2. A specific reference to this effect will be systematically included in the *lettre de saisine*.

Scope of national Parliaments' opinions

As the subsidiarity control mechanism will be applied alongside the political dialogue, which covers all aspects of those documents transmitted to national Parliaments, and not only compliance with the principle of subsidiarity, the Commission invites national Parliaments to distinguish in their opinions as far as possible between subsidiarity aspects and comments on the substance of a proposal, and to be as clear as possible as regards their assessment on a proposal's compliance with the principle of subsidiarity. However, the Commission is of course fully aware of the fact that each national Parliament chooses its own way to work as well as the format in which it will send its reasoned opinions to the Commission.

Thresholds

The Commission has always favoured a political interpretation of opinions received from national Parliaments and will therefore consider all reasoned opinions raising objections as to the conformity of a legislative proposal with the principle of subsidiarity towards the thresholds indicated in the Treaty, even if the different reasoned opinions provide different motivations as to the non-compliance with the principle of subsidiarity or refer to different provisions of the proposal.

The Commission will analyse each negative opinion sent to the Commission within the deadline of eight weeks and check whether or not the threshold has been reached. After the deadline has expired, the Commission will provide a political assessment of the files for which the threshold has been reached and confirm the triggering of the

subsidiarity control mechanism. National Parliaments, the European Parliament, the Council and IPEX will be informed accordingly.

If the thresholds are not met after eight weeks or if opinions arrive after the deadline has expired, the Commission will reply to the respective national Parliaments in the context of the political dialogue.

Opinions from national Parliaments on proposals which are subject to the subsidiarity control mechanism will be published on the Commission's website after the eight weeks deadline has expired.

Review of proposals

Both in the case of the yellow and orange card procedure, the College will decide whether to maintain, amend or withdraw the legislative proposal in question, and give reasons for its decision in the form of a Commission Communication, which will be subsequently sent to all national Parliaments, as well as to the legislator and to IPEX. In the case of the orange card procedure, the reasoned opinions received from national Parliaments on a particular file will be annexed to this Communication.

Transition

It should be noted that pending proposals and modified proposals would not be covered by the scope of the mechanism foreseen in Protocol No 2.