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REPORT FROM THE COMMISSION

ANNUAL REPORT 2023

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

2023 ANNUAL REPORT

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1. INTRODUCTION

This is the 31st report on the application of the principles of subsidiarity and proportionality that has been submitted under Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality (Protocol No 2) to the Treaty on European Union and the Treaty on the Functioning of the European Union. Since 2018, the report has also covered the Commission's relations with national Parliaments, which play a major role in applying these principles.

2023 saw an increase in the participation of national Parliaments in the political dialogue with the Commission, with a total of 402 opinions (over 10% more than in 2022). It also saw several noteworthy innovations as regards the way in which national Parliaments expressed the wide range of their positions at EU level. This demonstrated the flexibility that the political dialogue with the Commission offers. Some chambers also undertook internal reforms in order to improve their ability to make their voices heard at EU level.

2023 was the last full year of the Commission's term of office and a year in which it focussed on implementing its commitments of its 2019 Political Guidelines ahead of the 2024 European elections. Consequently, national Parliaments also remained thematically focused on the main Commission priorities, paying particular attention to the European Green Deal, a new push for European democracy and promoting our European way of life.

The challenging geopolitical and economic context, especially Russia's continuing war of aggression against Ukraine and the ongoing Middle East crisis, and their impact, also featured prominently in exchanges, including in interparliamentary meetings such as COSAC¹. Besides giving full attention to how its proposals take into account the principles of subsidiarity and proportionality under its better regulation agenda, the Commission in 2023 increased its focus on simplifying rules and cutting red tape for citizens and businesses.

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

2.1. THE COMMISSION

Implementing the better regulation commitments and fine-tuning its toolbox

The Commission's comprehensive better regulation system, which is ranked at the top level by the Organisation for Economic Cooperation and Development², is based on the guidelines and toolbox adopted in 2021³ following the 2021 Better Regulation Communication⁴. The Commission has since then attached a subsidiarity assessment grid to all politically sensitive and important proposals accompanied by an impact assessment. In July 2023, the Commission further updated

¹ Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union.

² [OECD Regulatory Policy Outlook 2021 | en | OECD](#)

³ [Better regulation: guidelines and toolbox \(europa.eu\)](#)

⁴ COM(2021) 219 final.

several elements of its toolbox⁵. These included introducing a new competitiveness check as a mandatory annex to its impact assessments, as announced in the Commission's Communications on the long-term competitiveness of the EU and on relief for small and medium-sized enterprises (the SME relief package)⁶. As in 2022, the Commission achieved a positive outcome on the implementation of its 'one in, one out' approach, which acts as a kind of 'cost brake' for new proposals, and took action to cut the burden resulting from reporting requirements by 25%⁷, without undermining the related policy objectives.

The Commission continued to systematically apply the principles of subsidiarity and proportionality to its legislative proposals, and it placed an increased focus on territorial impact assessments and rural proofing⁸, which it had strengthened and introduced, respectively, in 2022. All impact assessments issued in 2023 accordingly included a comprehensive screening process to identify significant asymmetric effects of the Commission's legislative proposals on specific EU territories (e.g. cross-border, rural, insular, mountainous, outermost and sparsely populated areas). This screening methodology identifies, in a three-step process⁹, any disproportionate territorial consequences that might merit a territorial impact assessment.

Input to simplification and burden reduction via the 'Fit for Future' platform

In 2023, the 'Fit for Future' platform¹⁰ – a high-level expert group that helps the Commission to simplify EU laws and reduce unnecessary regulatory burdens – adopted 8 opinions¹¹. These covered a broad range of topics: public procurement; professional mobility; the Digital Europe programme; the functioning of the European Standardisation Regulation; the General Data Protection Regulation; and three cross-cutting topics that focused on a future-proof regulatory framework, the application of the 'SME test' (which assesses the impacts of proposals on small and medium-sized enterprises) and social economy entities. Many of the opinions put forward

⁵ The changes were: Tool #3 (The role of the Regulatory Scrutiny Board) – reflecting the changes in the Board's composition; Tool #11 (Format of the impact assessment report) – affecting the way in which the information related to the 'one in, one out' approach is presented; and the introduction of an 'Appendix – Competitiveness check'. See [BR toolbox - Jul 2023 - FINAL.pdf \(europa.eu\)](#).

⁶ COM(2023) 168 final and COM(2023) 535 final.

⁷ The forthcoming 2023 Annual Burden Survey will present an overview of the different work strands to cut red tape. It will be made available at [Annual Burden Survey - European Commission \(europa.eu\)](#).

⁸ Rural proofing means reviewing policies through a rural lens (see Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 30 June 2021, *A long-term vision for the EU's rural areas – towards stronger, connected, resilient and prosperous rural areas by 2040*, COM(2021) 345 final). Rural proofing therefore involves considering actual and potential, direct and indirect impacts on rural jobs and growth and development prospects, social well-being, and the environmental quality of rural areas and communities. If an EU intervention is expected to have significant adverse effects on these areas and communities, its design and implementation might need to be adjusted to their specific context.

⁹ The Commission examines the potential for territorial impacts on specific types of regions/areas with the help of exploratory questions (Tool #18: Identification of impacts). If appropriate, an online territorial impact necessity check (Tool #34: Territorial impacts) is carried out to assess whether a territorial impact assessment is advisable. When potential territorial impacts are deemed substantial, a territorial impact assessment provides insights into the likely patterns of impacts across the EU, and helps identify drivers and potential adjustment opportunities to ensure that the policy's impact is more evenly spread. See [BR toolbox - Jul 2023 - FINAL.pdf \(europa.eu\)](#).

¹⁰ The 'Fit for Future' platform taps into the expertise and experience of national, regional and local levels of governance and stakeholders. It comprises two groups: the government group (representatives from national, regional and local authorities from all EU Member States, and from the European Committee of the Regions) and the stakeholder group (experts on better regulation that represent business and non-governmental organisations, plus the European Economic and Social Committee). See https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f_en

¹¹ https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/adopted-opinions_en#adopted-opinions--2023

ideas for simplification and burden reduction that could lead to improvements at local and regional level and make it easier to comply with certain rules¹².

The European Committee of the Regions' RegHub network¹³ contributed to the work of the 'Fit for Future' platform on several of its opinions. For instance, RegHub carried out consultations on the Digital Europe Programme and on public procurement. The feedback and experience that was gathered improved understanding of problems that local and regional communities face when implementing EU policies and laws on the ground. The RegHub network also provided input into the platform's 2024 annual work programme by suggesting topics of particular interest to the local and regional levels, such as the European Social Fund+ and the European Regional Development Fund.

Impact assessments

The Commission analyses compliance with the principles of subsidiarity and proportionality in all impact assessments prepared for policy and legislative proposals. These assessments are subject to independent quality control by the Regulatory Scrutiny Board¹⁴, which scrutinised 50 impact assessments in 2023. In its 2023 annual report¹⁵, the Board noted positively the improved compliance of draft impact assessments with the new better regulation commitments and concluded that 'subsidiarity and EU value added' were amongst the strongest quality components observed in draft impact assessments. This demonstrates the Commission's focus on respecting the principle of subsidiarity in its proposals.

In assessing compliance with the principles of subsidiarity and proportionality, any cross-border aspects are of particular relevance – as highlighted, for example, in the impact assessment for the proposal on the accounting of greenhouse gas emissions of transport services¹⁶. This proposal aims to put in place a common EU framework to account for such emissions, and has an intrinsic and strong EU added value, because there is currently no EU-wide methodological framework. This means that transport stakeholders currently choose between different standards, methodologies, calculation tools and emissions default values to quantify their emissions. The strong cross-border dimension of the EU transport sector means that the principle of subsidiarity is a strong element. Continuing with the current different national approaches would be counterproductive and would compromise the comparability of greenhouse gas emissions, risk greenwashing, and give the wrong sustainability incentives to users.

¹² For example, the opinion on [social economy entities](#) emphasised that raising awareness of the rules for State aid that can support social economy enterprises could play an important role in preserving their competitiveness. The opinion on ensuring a [future-proof regulatory framework](#) for the single market called for EU-wide standardisation and interoperability in order to facilitate cross-border transactions and the reduction of administrative burdens, at the same time strengthening compliance and improving market access for businesses of all sizes. The opinion on [public procurement](#) put forward suggestions aimed at simplifying EU legislation in this field and encouraging procurement for innovation. It noted that local and regional authorities are careful in their approach to new opportunities, especially due to a lack of experience with them. The opinion on [the application of the SME test](#) asked the Commission to further emphasise the SME perspective in impact assessments, *ex post* evaluations and fitness checks of EU law in order to assess whether obligations for small and medium-sized enterprises (e.g. reporting obligations) are still necessary or adequate. It pointed to technological developments or new approaches that may enable simplification or reduction of obligations or procedures, while maintaining existing protection standards and their effective enforcement. The opinion on the [Digital Europe Programme](#) called for the promotion of voluntary benchmarking tools (e.g. the Local and Regional Digital Maturity Assessment tool (LORDIMAS)) in applications for programme funding.

¹³ RegHub is a network of local and regional authorities that aims to collect experiences of EU policy implementation by consulting players at local level: <https://portal.cor.europa.eu/reghub/Pages/default.aspx>. For further information on the work of the RegHub network, see Section 2.4.

¹⁴ https://commission.europa.eu/law/law-making-process/regulatory-scrutiny-board_en

¹⁵ The 2023 report was published in May 2024 and is available at https://commission.europa.eu/publications/regulatory-scrutiny-board-annual-report-2023_en

¹⁶ COM(2023) 441 final.

A further example is labour market statistics¹⁷ that aim to provide a complete and comparable labour market statistical overview at EU level to meet the needs of multiple users, for the purposes of facilitating decision-making at all levels in the EU, research and informing the general public. Without an EU framework, Member States would not achieve the same results in terms of data, harmonised methodology and comparability of outputs and consistence.

Evaluations and fitness checks

The principles of subsidiarity and proportionality are also essential aspects for evaluations and fitness checks, which assess whether action at EU level has delivered the expected results in terms of efficiency, effectiveness, relevance and EU added value. Evaluations also help assess whether EU action continues to comply with the principles of subsidiarity and proportionality.

In 2023, the Regulatory Scrutiny Board scrutinised eight major evaluations. For example, in the evaluation of the European Marine Observation and Data Network¹⁸ (an EU-funded initiative), the subsidiarity argument was substantiated by the transnational nature of assembling data and knowledge across sea basins or at EU level. According to the evaluation, no entity is better placed than the EU to steer and finance gathering data at EU level, access to data and data products, and services of interest to EU seas and oceans. The European Marine Observation and Data Network brings together a previously fragmented set of data providers, thus creating clearer additional value than a national, regional, or local solution.

2.2. THE EUROPEAN PARLIAMENT¹⁹

In 2023, the European Parliament received 294 submissions from national Parliaments under Protocol No 2. Of these submissions, 22 were reasoned opinions²⁰ and 272 were other contributions that did not raise concerns about subsidiarity. By comparison, in 2022 the European Parliament received 249 submissions, of which 34 were reasoned opinions.

Once the European Parliament receives submissions from national Parliaments, they are transmitted to the relevant committee(s) according to the European Parliament's Rules of Procedure²¹.

Mr Gilles Lebreton (ID/FR) and Ms Karen Melchior (Renew/DK) were the standing rapporteurs for subsidiarity in the Committee on Legal Affairs (JURI) in 2023, in the first and second halves of 2023 respectively.

¹⁷ SWD(2023) 265 final presenting the impact assessment accompanying the proposal COM(2023) 459 final.

¹⁸ SWD(2023) 281 final.

¹⁹ Sections 2.2 to 2.4 of this report are based on contributions from the respective EU institutions and bodies.

²⁰ Although this is not relevant for 2023, the European Parliament and the Commission interpret the number of reasoned opinions differently. The Commission counts a reasoned opinion relating to more than one proposal as only one reasoned opinion for statistical purposes; while, for determining whether the threshold for a 'yellow card' or 'orange card' has been reached for a proposal, a reasoned opinion counts as one reasoned opinion for each of the proposals covered. By contrast, the European Parliament counts a reasoned opinions for each proposal involved. The thresholds are set in Article 7 of Protocol No 2.

²¹ According to Rule 43, if a national Parliament sends a reasoned opinion to the President of the European Parliament, that opinion is referred to the committee responsible for the subject-matter and is forwarded for information to the Committee on Legal Affairs (JURI), which is responsible for respect of the principle of subsidiarity.

In addition, some committees of the European Parliament contributed to the 39th²² and 40th²³ bi-annual reports presented in 2023 by COSAC²⁴ on developments in EU procedures and practices relevant to parliamentary scrutiny. The 39th bi-annual report – dealing with the Fit for 55 climate legislation, the role of parliaments in accelerated decision-making processes in response to crises, and best practices for information exchange between parliaments, including the use of IPEX²⁵ – received input from 8 committees. The 40th bi-annual report – covering the role of parliaments as regards open strategic autonomy, renewable energy policies and Russia’s invasion of Ukraine – received input from 9 committees.

In November 2023, the European Parliament adopted 2 resolutions related to national Parliaments and the principles of subsidiarity and proportionality:

- in its first resolution on proposals for the amendment of the Treaties²⁶, it suggested that the subsidiarity review by the Court of Justice of the European Union should be strengthened; and called for the opinion of regional Parliaments with legislative powers to be taken into account in the reasoned opinions on legislative drafts of national Parliaments, for the extension of the deadline for ‘yellow card’ procedures to 12 weeks, and for the introduction of a ‘green card mechanism’ for legislative proposals by national or regional Parliaments with legislative powers in order to make EU legislation more responsive to local needs;
- in its second resolution on EU regulatory fitness and subsidiarity and proportionality²⁷, it reiterated the major role of national Parliaments in the subsidiarity check as the natural guardians of the subsidiarity principle with the right to monitor it through the subsidiarity control mechanism.

The European Parliament also adopted, in January 2024, an own-initiative report on the implementation of the Treaty provisions on national Parliaments²⁸. This report had been prepared by the Committee on Constitutional Affairs (AFCO) in 2023. It highlighted the point that the active involvement of national Parliaments in EU affairs and the enhanced scrutiny of national governments by national Parliaments are essential to ensuring the democratic accountability and legitimacy of the EU’s institutional system. It also recalled that parliamentary scrutiny can be facilitated by greater transparency within the Council of the European Union and that access to the documents of the other EU institutions enables national Parliaments to exercise appropriate scrutiny.

The European Parliamentary Research Service²⁹ has continued to assist the members and committees of the European Parliament with its analysis across all policy fields and by incorporating subsidiarity and proportionality considerations into its work, via a comprehensive

²² <https://secure.ipex.eu/IPEXL-WEB/download/file/8a8629a8881d935701881eeb09e40005/39th%20Bi-annual%20Report%20of%20COSAC.pdf>

²³ <https://secure.ipex.eu/IPEXL-WEB/download/file/8a8629a88bcc3697018bcd41d910010/3%20-%2040th%20Bi-annual%20Report%20of%20COSAC.pdf>

²⁴ Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union. The European Parliament is a component member.

²⁵ <https://www.ipex.eu>

²⁶ European Parliament resolution of 22 November 2023 on proposals of the European Parliament for the amendment of the Treaties (2022/2051(INL)) (https://www.europarl.europa.eu/doceo/document/TA-9-2023-0427_EN.html); Rapporteurs: Mr Guy Verhofstadt (Renew/BE), Mr Sven Simon (EPP/DE), Ms Gabriele Bischoff (S&D/DE), Mr Daniel Freund (Greens/EFA/DE) and Mr Helmut Scholz (GUE/NGL/DE).

²⁷ European Parliament resolution of 23 November 2023 on European Union regulatory fitness and subsidiarity and proportionality – report on Better Law-Making covering 2020, 2021 and 2022 (2023/2079(INI)) (https://www.europarl.europa.eu/doceo/document/TA-9-2023-0442_EN.html); Rapporteur: Ms Catharina Rinzema (Renew/NL).

²⁸ European Parliament resolution of 17 January 2024 on the implementation of the Treaty provisions on national parliaments (2023/2084(INI)) (https://www.europarl.europa.eu/doceo/document/TA-9-2024-0023_EN.html); Rapporteur: Mr Paulo Rangel (EPP/PT).

²⁹ [European Parliamentary Research Service \(europa.eu\)](https://www.europarl.europa.eu/eprs/)

range of products and services. In 2023, it produced 41 initial appraisals and 1 detailed appraisal of Commission impact assessments as well as 1 substitute impact assessment³⁰ and 1 complementary impact assessment³¹. On the *ex post* side, it also published 7 EU implementation assessments, 22 implementation appraisals, 2 ‘implementation in action’ papers (including a publication which scrutinises the Commission’s annual work programme), 2 detailed rolling checklists and 4 other studies. With regard to EU added value, there were also 3 reports on the cost of non-Europe, 3 EU added value assessments and 4 other related publications.

2.3. THE COUNCIL OF THE EUROPEAN UNION

In 2023, the Council of the European Union (the Council) – including via its relevant working parties – continued to monitor the effective implementation of conclusions that the Council and the European Council had adopted in previous years with regard to the principles of subsidiarity and proportionality (especially those already mentioned in the previous edition of this annual report). These were the European Council Conclusions on ‘Further completing the Single Market Agenda’³²; the Council Conclusions on ‘Better Regulation – ensuring competitiveness and sustainable, inclusive growth’³³; the Council Conclusions on ‘Regulatory sandboxes and experimentation clauses as tools for an innovation-friendly, future-proof and resilient regulatory framework that masters disruptive challenges in the digital age’³⁴; and the Council Conclusions on ‘Data technologies to improve Better Regulation’³⁵.

The European Council also addressed on several occasions during 2023 the issues of regulatory simplification and ways of reducing the regulatory burden on Member States, particularly in the context of competitiveness, the single market and the economy. In this respect, it noted that ‘the European Council has invited the Commission and Member States to further improve framework conditions for investment that are more conducive to competitiveness. The European Council also called on all relevant institutions to make progress in their work to simplify regulation and reduce the unnecessary administrative burden (including reporting requirements), particularly for SMEs and start-ups’³⁶.

In 2023, the Council forwarded 1 legislative proposal to national Parliaments that had originated from the Court of Justice of the European Union³⁷. It also distributed 2 national Parliaments’ opinions on the application of the principles of subsidiarity and proportionality on this legislative proposal to Member States and also forwarded them to the Court of Justice of the European Union.

In addition to its Treaty obligations, the Council keeps the Member States informed of national Parliaments’ opinions on legislative proposals. In 2023, the General Secretariat of the Council distributed 20 reasoned opinions received under Protocol No 2 and 291 opinions issued as part of the political dialogue³⁸.

³⁰ Substitute impact assessment: proposal for a regulation addressing situations of instrumentalisation in the field of migration and asylum, October 2023, PE 753.156.

³¹ Complementary impact assessment on the proposal for a regulation laying down rules to prevent and combat child sexual abuse, April 2023, PE 740.248.

³² EUCO document 17/18, points II/2 and IV/15 and EUCO document 13/20, point II/4; and, in terms of implementation, Council document ST 11654/21.

³³ Council document ST 6232/20, points 2 and 12.

³⁴ Council document ST 13026/1/20 REV 1, points 3 and 12.

³⁵ OJ C 241, 21.6.2021, p. 13.

³⁶ EUCO document 14/23.

³⁷ Council document ST 15936/22 on the CJEU’s legislative proposal on ‘Amendment to Protocol No 3 on the Statute of the Court of Justice of the EU’.

³⁸ The General Secretariat of the Council does not systematically receive all the opinions of the national Parliaments, so the different institutions may receive a differing number of opinions (see also footnote 20).

2.4. THE EUROPEAN COMMITTEE OF THE REGIONS

The European Committee of the Regions (the CoR) has worked on subsidiarity, proportionality and better regulation, guided by the priorities for its 2020-2025 term of office³⁹, and has promoted an active subsidiarity culture through its actions.

The CoR's Better Regulation and Active Subsidiarity Steering Group (BRASS-G)⁴⁰ has steered the CoR's different better regulation tools, ensuring coherence and synergies between them and promoting the contribution of local and regional authorities to better EU regulation throughout its lifecycle from conception to *ex post* evaluation. This included the phases of early identification of trends and issues (via strategic foresight); policy development (*ex ante* through subsidiarity and proportionality monitoring, territorial impact assessments, and rural proofing); legislative review (*ex post* focusing on implementation via the RegHub network); and possible policy revision (via the CoR's contribution to the work of the 'Fit for Future' platform).

The CoR worked on building its foresight capacity; on mainstreaming foresight in its policy work; and on identifying and linking foresight capacity in some cities and regions with the same capacity in other cities and regions, and to the level of the EU and the CoR⁴¹. It is gradually building a network of regions and cities with experience in strategic foresight and is supporting the sharing of good practices and foresight culture at subnational level. This is evidenced by a participatory laboratory on strategic foresight for regions and cities⁴² that is co-organised with the Commission; by a pilot foresight exercise⁴³ for the members of the CoR's 'Green Deal Going Local' working group in cooperation with the Commission's Joint Research Centre; and by including a foresight dimension in all relevant externally commissioned studies. The CoR also issued an opinion⁴⁴ on strategic foresight that highlighted the point that it was also important for local and regional leaders.

The CoR adopted 53 opinions and 6 resolutions⁴⁵. More than half of these⁴⁶ included either explicit references to compliance with the principles of subsidiarity and proportionality, or concrete recommendations to improve such compliance. In addition, and with the same objective, it adopted its 2023 annual subsidiarity work programme⁴⁷, which identified 5 initiatives from the Commission's 2023 annual work programme as monitoring priorities due to their clear political interest for local and regional authorities and the impact on their competences. These were the initiatives on healthy soils, waste reduction, economic governance, sustainable food systems and

³⁹ Resolution of the European Committee of the Regions of 2 July 2020 on the European Committee of the Regions' priorities for 2020-2025 – Europe closer to the people through its villages, cities and regions, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XR1392>.

⁴⁰ Ms Antje Grotheer (DE/PES), a member of the CoR and President of the Bremen regional Parliament, succeeded Mr Karl-Heinz Lambertz (BE/PES) in 2024 as BRASS-G chair. For more information on BRASS-G, see <https://cor.europa.eu/en/our-work/Pages/Better-Regulation-and-Active-Subsidiarity.aspx>.

⁴¹ The CoR was involved in many activities on strategic foresight organised by the EU's institutions, mainly in the context of the European Strategic Policy Analysis System (ESPAS). This included its participation in the ESPAS Global Trends Report 2024 core drafting team, the ESPAS project team, the ESPAS Steering Group, the ESPAS Young Talent Network and the 2023 ESPAS annual conference.

⁴² <https://cor.europa.eu/en/news/Pages/strategic-foresight-capacity-better-prepare-future.aspx>

⁴³ <https://cor.europa.eu/en/news/Pages/green-deal-going-local-working-group-strategic-foresight.aspx>

⁴⁴ CIVEX-VII/022: Strategic foresight as an instrument of EU governance and better regulation.

⁴⁵ For full details, see [EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu).

⁴⁶ 29 opinions and 4 resolutions. The 'Resolution of the European Committee of the Regions on the 2023 State of Regions and Cities in the European Union and proposals in view of the next EU Strategic Agenda 2024-2029' (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202301321) emphasised that 'optimisation of the current Treaty provisions should actively ensure greater transparency and accountability in the EU decision-making process, including increased emphasis on subsidiarity, multilevel governance and the role of the (European Committee of the Regions)' and considered 'in that respect indispensable a revision of the interinstitutional agreement on better law-making during the next policy cycle'.

⁴⁷ <https://portal.cor.europa.eu/subsidiarity/Publications/Documents/Subsidiarity-Work-Programme/2023.pdf>

the SME relief package. The CoR issued opinions on most of them⁴⁸. The CoR's Subsidiarity Monitoring Network⁴⁹ also facilitated the exchange of observations related to compliance with the principles of subsidiarity and proportionality between the local and regional authorities, in particular thanks to the members of REGPEX⁵⁰.

In February 2023, the Bureau of the CoR adopted a renewed territorial impact assessment strategy. It guided three territorial impact assessment workshops in 2023⁵¹. In May, the CoR also issued an opinion⁵² which stressed the need for a systematic *ex ante* assessment of the potential differentiated territorial impacts of all new EU policies with a territorial dimension in their design phase. In September, it presented its work on territorial impact assessments to the Council Working Party on Competitiveness and Growth, under the Council's better regulation formation.

Moreover, the CoR developed a methodology for rural proofing to ensure that the specificities of rural areas are considered before adopting EU legislation. For instance, rural proofing was the focus of the first territorial impact assessment workshop on the topic of sustainable food systems in June 2023.

The CoR continued to apply its *ex post* better regulation tools in partnership with the Commission and the European Parliament, notably through its active participation in the 'Fit for Future' platform with the contribution of its RegHub⁵³ network. RegHub consulted regional hubs on the report 'The future of the Green Deal: taking stock and looking ahead' and gathered the experiences of local and regional authorities in implementing measures of the European Green Deal. These were published in an implementation report⁵⁴ and highlighted in the CoR's '2023 EU Annual Report of the State of Regions and Cities'⁵⁵. Regional hubs were also consulted on the regional dimension of the common agricultural policy strategic plans. The results of the first phase of this consultation were gathered and collected in an implementation report⁵⁶, thus informing the CoR's discussions with its institutional partners and contributing to the work on the mid-term review of the common agricultural policy.

The Commission and the CoR jointly reviewed in 2023 their Protocol on cooperation with a view to reinforcing their institutional partnerships and promoting the development of a more participatory EU. In the revised protocol⁵⁷, which was signed in March 2024, both parties committed themselves to jointly striving to advance active subsidiarity and better regulation; and agreed on concrete steps to this end. This cooperation also relates to the work on the application of the principles of subsidiarity and proportionality to ensure that the regional and local dimensions are taken into account.

⁴⁸ ENVE-VII/042 – Soil monitoring and resilience (Soil Monitoring Law); ECON-VII/030 – Reform of the EU economic governance framework; NAT-VII/033 – Legislative framework for sustainable food systems; and ECON-VII/035 – The SME relief package and the BEFIT framework.

⁴⁹ The Subsidiarity Monitoring Network brings together Parliaments and governments of regions with legislative powers; local and regional authorities without legislative powers; and local government associations in the EU. It is also open to the national delegations of the CoR and to national Parliaments.

⁵⁰ REGPEX is a subgroup of the Subsidiarity Monitoring Network that brings together regional Parliaments with legislative powers (<https://portal.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx>).

⁵¹ 'A Drone Strategy 2.0' in May, 'Sustainable Food Systems' in June and 'Strategic Technologies for Europe Platform (STEP)' in October.

⁵² COTER-VII/026: Do no harm to cohesion – a cross-cutting principle contributing towards cohesion as an overall objective and value of the EU.

⁵³ See Section 2.1 for more information on the CoR's contribution to the work of the 'Fit for Future' platform through RegHub.

⁵⁴ <https://cor.europa.eu/en/engage/Documents/RegHub/green-deal-taking-stock-looking-ahead.pdf>

⁵⁵ <https://cor.europa.eu/en/engage/brochures/Documents/EU%20Annual%20Report%20on%20the%20State%20of%20Regions%20and%20Cities%202023/4892%20-%202023%20Annual%20Report%20EN.pdf>

⁵⁶ <https://cor.europa.eu/en/engage/Documents/RegHub/1st-report-regional-dimension-cap-strategic-plans.pdf>

⁵⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024Y02478>

2.5 THE COURT OF JUSTICE OF THE EUROPEAN UNION

In 2023, the Court of Justice of the European Union referred to the principles of subsidiarity and proportionality in its judgment on the Regulation establishing the EU Agency for the Cooperation of Energy Regulators⁵⁸. The General Court was called upon by national transmission system operators to examine whether the Regulation enabled the Agency to adopt a decision on issues which the national regulatory authorities had submitted to it as having been agreed between them. The General Court concluded⁵⁹, on the basis of the explanatory memorandum accompanying the Commission's proposal for the regulation establishing the Agency, that the Agency has been granted an autonomous decision-making power and is therefore not bound by the position taken by the national regulatory authorities.

The explanatory memorandum had considered that the Agency's power would be in line with the principle of subsidiarity because it would intervene in those areas where fragmented national decision-making on issues with cross-border relevance would lead to problems or inconsistencies for the internal market. The explanatory memorandum also considered that the Agency's power would be in line with the principle of proportionality, because the Agency was to be given additional tasks, especially in the regional operation of the energy system, but the national regulators were to retain their central role in energy regulation. The Court concluded, on the basis of the explanatory memorandum, that the EU legislator clearly intended to make decision-making on difficult cross-border issues more efficient and faster by strengthening the Agency's individual decision-making powers in a way that was compatible with maintaining the national regulatory authorities' central role in energy regulation. The case is currently pending on appeal before the Court.

3. APPLICATION OF THE SUBSIDIARITY CONTROL MECHANISM BY NATIONAL PARLIAMENTS

3.1 OVERVIEW

The Commission received **22 reasoned opinions**⁶⁰ from national parliaments in 2023⁶¹. This was a third fewer than the 32 received in 2022, in line with a long-term downward trend in the number of opinions overall and particularly in the number of reasoned opinions. The downward trend for reasoned opinions becomes even more evident if the number of reasoned opinions is expressed as a percentage of the overall number of opinions⁶².

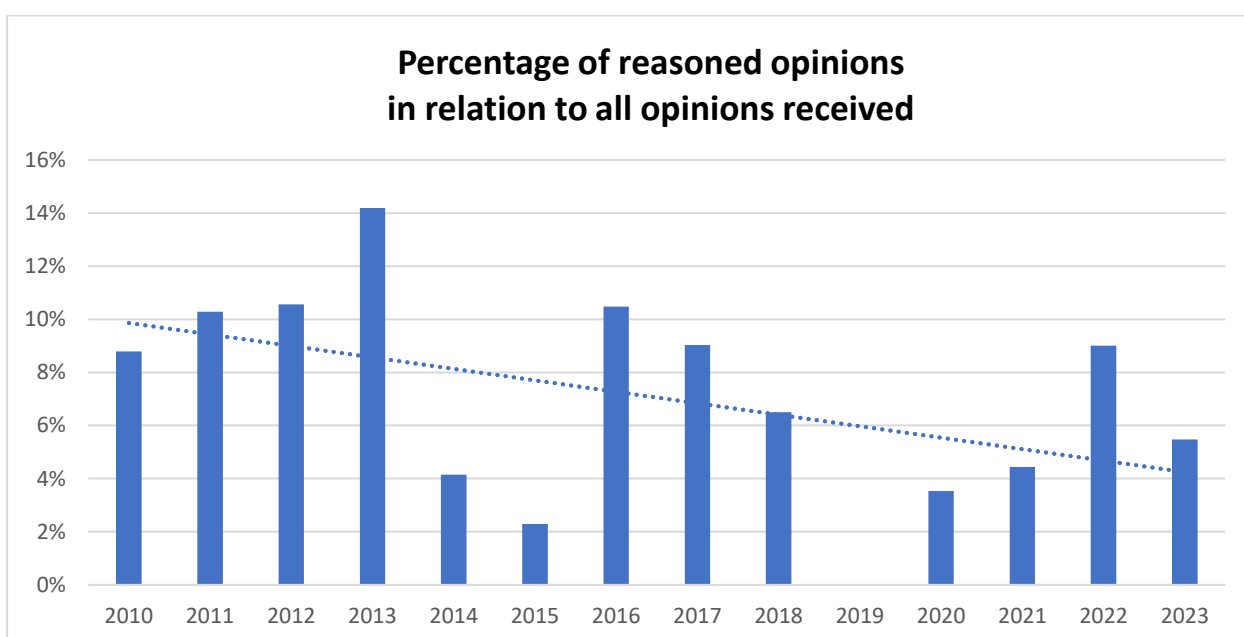
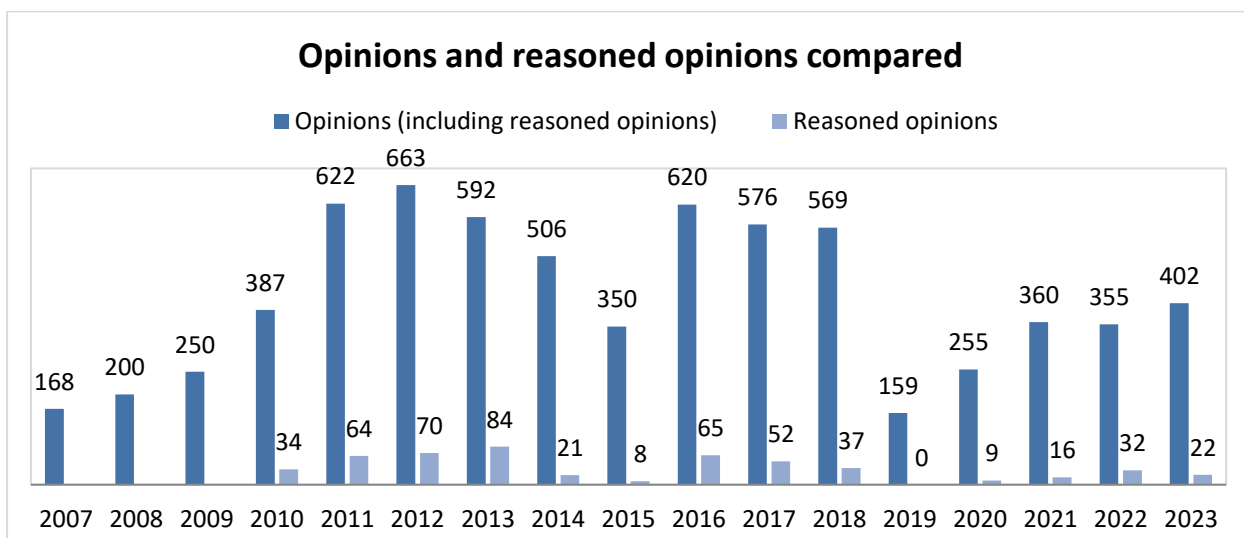
⁵⁸ Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (recast).

⁵⁹ Judgment of the Court of Justice of 15 February 2023, *Austrian Power Grid and others v ACER*, T-606/20, ECLI:EU:T:2023, paragraphs 45 to 49 (appeal pending; Case C-281/23 P).

⁶⁰ Under Protocol No 2, any national Parliament or chamber of a national Parliament may, within 8 weeks from the date of transmission of a draft legislative act in the official languages of the EU, issue a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. See also footnote 61.

⁶¹ This number refers to the total number of reasoned opinions received from parliamentary chambers under Protocol No 2 in 2023. See also footnote 20 and Annex 1 for the list of Commission documents on which the Commission received reasoned opinions.

⁶² Given the rather small number of reasoned opinions, even a small increase in the number of reasoned opinions can cause an apparently extraordinary increase in the percentage of reasoned opinions. This can explain the 'jump' between 2021 and 2022, which was caused not least by the European Parliament's 'Electoral Law' proposal that triggered 8 reasoned opinions (see the Commission's annual report for 2022, COM(2023) 640 final, p. 10).



Note: the dotted line represents the linear trendline.

In 2023 (as in 2022), most reasoned opinions originated from a single national Parliament. In 2023, the Italian parliament issued 9 reasoned opinions: 6 from the *Camera dei Deputati* and 3 from the *Senato della Repubblica*. The Swedish *Riksdag* issued 5 reasoned opinions in 2023, equalling 23% of the total number (in 2022, it had issued 14 reasoned opinions, more than 40% of all the reasoned opinions). Together, these **two parliaments issued two thirds of all the reasoned opinions** received in 2023.

The other 2023 reasoned opinions were issued by the French *Sénat* (3) and by the Czech *Poslanecká sněmovna*, the Hungarian *Országgyűlés*, the Cypriot *Vouli ton Antiprosopon*, the Dutch *Eerste Kamer* and the Dutch *Tweede Kamer* (1 each). This means that 9 of the 39 national Parliaments or chambers coming from 7 Member States issued reasoned opinions in 2023 (13 in 2022, 7 in 2021 and 8 in 2020).

From the thematic perspective, the 22 reasoned opinions received in 2023 were spread out thinly and related to **14 different Commission proposals**, none of which received more than 3 reasoned opinions. 6 of those proposals belonged to the Commission headline priority⁶³ of ‘A European

⁶³ https://commission.europa.eu/strategy-and-policy/priorities-2019-2024_en

Green Deal’, 3 to ‘A Europe fit for the digital age’, 3 to ‘A new push for European democracy’ and 2 to ‘An economy that works for people’.

The proposal that triggered reasoned opinions corresponding to the highest number of national Parliament votes⁶⁴ in 2023 was the proposal on plants obtained by certain new genomic techniques⁶⁵, which triggered 2 reasoned opinions that corresponded to 4 votes. However, it did not reach the threshold for an aggregated response by the Commission⁶⁶, let alone for a ‘yellow card’ that would require the Commission to give reasons for maintaining, changing, or withdrawing its proposal. 6 other proposals received between 2 and 3 reasoned opinions that corresponded to either 2 or 3 votes. The remaining 7 proposals only triggered 1 reasoned opinion each (see Annex 1 for full details).

The following Section 3.2 covers the key cases of proposals that triggered more than one reasoned opinion.

3.2 KEY CASES

Under the Commission headline priority of ‘A European Green Deal’, the proposal for a regulation **on packaging and packaging waste**⁶⁷ triggered the highest number of opinions in 2023: 3 reasoned opinions⁶⁸ and 6 opinions in the framework of the political dialogue⁶⁹.

In their reasoned opinions, both Italian chambers stated that they saw no need for legislation at EU level, in particular, to promote reuse models, to the detriment of successful recycling models at national level. The French *Sénat* pointed to the risk of undermining more ambitious national legislation in relation to the use of Article 114 of the Treaty on the Functioning of the European Union as the sole legal basis, and highlighted the need to respect the principle of technological neutrality in relation to the requirement to set up deposit and return systems for single-use plastic bottles and metal cans. The Italian *Camera dei Deputati* considered that Member States that recycle large quantities of packaging waste should be exempted from the obligation to reuse and to set up deposit and return systems. All three chambers considered that a directive would have been a more appropriate legal instrument than a regulation and indicated that the envisaged use of delegated acts should not allow the Commission to regulate beyond the scope of non-essential elements. Both Italian chambers considered that the restrictions on certain single-use packaging were disproportionate and entailed risks for food safety. The Italian *Senato della Repubblica* also saw a risk that medicinal products’ packaging might be recycled and called for this to be exempted from the recyclability requirement. The Italian *Camera dei Deputati* expressed concerns over the mandatory recycled content requirements for packaging for medical products and for food-contact packaging, and also called for expanding the list of applications for packaging to be made of compostable materials.

Opinions within the framework of the political dialogue also underlined the need for this proposal to allow Member States more flexibility. Similarly to the Italian Parliament, the Polish *Senat*

⁶⁴ Each national Parliament has two votes. Each chamber in bicameral systems has one vote.

⁶⁵ COM(2023) 411 final.

⁶⁶ The Commission has made a commitment to reply with an aggregated response if a proposal triggers a ‘significant’ number of reasoned opinions (‘significant’ in this context means that the number of reasoned opinions corresponds to at least 7 national parliament votes), even if the proposal has not triggered enough reasoned opinions to reach the ‘yellow card’ threshold, which triggers a mandatory review of a draft legal act. The ‘yellow card’ threshold is usually reached when the number of reasoned opinions received from national Parliaments is at least a third of all votes allocated to them (i.e. 18 out of 54). For draft legislative acts submitted in the area of freedom, security and justice, the threshold is one quarter of the votes (14 out of 54).

⁶⁷ COM(2022) 677 final.

⁶⁸ The French *Sénat* and the Italian *Camera dei Deputati* and *Senato della Repubblica*.

⁶⁹ The Czech *Poslanecká sněmovna* and *Senát*, Spanish *Cortes Generales*, Italian *Camera dei Deputati*, Polish *Senat* and Romanian *Senat*.

criticised the impact assessment and called for an in-depth analysis to ensure that the proposed new targets are realistic, measurable, and technically feasible. The Czech *Poslanecká sněmovna* suggested that the packaging waste reduction target should be calculated on the basis of the amount of packaging waste produced per resident. The Romanian *Senat* requested clarifications regarding the definitions used and the responsibilities of economic actors.

In its replies, the Commission argued that the proposed measures were necessary in order to ensure a circular economy and prevent the unsustainable growth of packaging waste. It considered that the deposit and return systems were one of the main enabling measures to meet these objectives. It also flagged the point that Member States that achieve a high collection rate of the targeted packaging formats by other means could opt out of such systems. As regards the choice of legal instrument, the Commission maintained that a regulation was crucial in order to achieve the objectives of the proposal and that the request to allow the Member States more flexibility was addressed by clearly defining the boundaries of the legal provisions in the text of the proposal. As regards packaging for medicinal products, the Commission pointed out that the proposal provided for a longer transitional period for compliance with recyclability requirements and exempted medicinal products from recycled content requirements. Regarding concerns about the impacts on food safety, the Commission argued that single-use packaging does not increase food safety but agreed on the need to exempt delicate fruits and vegetables from the packaging bans. Regarding the impact assessment and the need for clarification, the Commission explained that the methodology was based on the principles of environmental foot-printing and that it was working with the co-legislators to ensure greater clarity regarding definitions and the allocation of responsibilities to economic actors.

The proposal for a regulation on **certain new genomic techniques**⁷⁰ triggered 2 reasoned opinions⁷¹ and 7 opinions within the framework of the political dialogue⁷². In their reasoned opinions, the Cypriot *Vouli ton Antiprosopon* and Hungarian *Országgyűlés* considered that the principle of subsidiarity was breached by the provision to prevent Member States adopting measures that restrict or prohibit in all or part of their territory the cultivation of category 2 new genomic techniques (NGT) plants (i.e. plants which, unlike category 1 NGT plants, could not also occur naturally or be produced by conventional breeding techniques). This argument was also echoed in some political dialogue opinions. The proposal was also criticised for an insufficient legal basis; concerns about transparency and freedom of choice for consumers; consumer protection and the impact on consumers of limiting the labelling requirements for category 1 NGT plants to plant reproductive material; concerns about compliance with the proportionality and precautionary principles; and concerns about risks of distorting competition if some breeders get patents on NGTs. The opinions also included various requests, such as to prohibit patenting of category 1 NGT and to prevent the monopolisation of the sector; for a study on the impact of patents and related licences; for the same level of control for plants produced in third countries; and to regulate the use of NGT on microorganisms.

In its replies, the Commission explained that the ‘opt-out’ option could not be used to address risks for human or animal health or the environment that arise from genetically modified organisms (GMOs). Such risks were already assessed through a scientific assessment harmonised at EU level. In addition, the exclusion of the ‘opt-out’ option for category 2 NGT plants was unrelated to safety considerations of such plants, precisely because category 2 NGT plants would only be authorised if they are safe. On the legal basis, the Commission pointed to its consistency with the current GMO legislation on the deliberate release and placing on the market of GMOs. On labelling, the Commission made it clear that requiring the genetically modified label for products from such

⁷⁰ COM(2023) 411 final.

⁷¹ The Cypriot *Vouli ton Antiprosopon* and Hungarian *Országgyűlés*.

⁷² The Czech *Senát*, Danish *Folketing*, Croatian *Hrvatski Sabor*, Italian *Senato della Repubblica*, Dutch *Eerste Kamer*, Portuguese *Assembleia da República* and Romanian *Senat*.

plants would not accurately reflect the fact that the same product can be obtained by conventional means. On the proportionality and precautionary principles, the Commission referred to the European Food Safety Authority's view that there are no new hazards specifically linked to targeted mutagenesis and cisgenesis (as compared with conventional breeding or established genomic techniques). On patents and competition, the Commission stated that it was aware that patentability of NGT plants was a matter of concern for many and that it would therefore assess the impact of patenting plants on innovation in plant breeding; on breeders' access to genetic material and techniques; on availability of seeds to farmers; and on the overall competitiveness of the EU biotech industry. It also stated that it would publish a report with its findings by 2026.

The proposal for a **Soil Monitoring Law**⁷³ received 2 reasoned opinions⁷⁴ and 3 opinions in the framework of the political dialogue⁷⁵. In their identical reasoned opinions, both Dutch chambers argued that the effects of pollution via air and water on soil were a national issue and the benefits of the proposed measures had not been demonstrated on individual Member States. In their view, the proposal would not ensure a level playing field because it related to the effects of pollution and not to its sources. The opinions from the Czech *Senát*, the Italian *Senato della Repubblica* and the Austrian *Bundesrat* highlighted the point that Member States need to be able to take account of local conditions, existing policies, and subnational-level competences. They also pointed out that the proposal might increase the administrative burden for Member States.

In its replies, the Commission stressed that a solid monitoring and assessment framework with measures on sustainable soil management and contaminated sites is necessary in order to achieve healthy soils by 2050 – given the scale and negative evolution of the problem in recent decades, the cross-border impacts linked to soil health and the significant cost of managing the impact of unhealthy soil. It explained that its proposal aimed to address transboundary impacts of soil degradation; to secure equal market conditions; and to promote policy coherence at EU and national level, leaving flexibility to Member States to implement the required measures in a way that allows them to take account of the variability of soils, local conditions, existing policies and practices, and regional-level competences in some Member States. In addition, the proposal contained provisions that are necessary and suitable for achieving healthy soils but minimised the administrative burden of doing so. Member States would be given sufficient time to gradually put in place the governance, mechanisms to monitor and assess soil health, and measures needed to implement the sustainable soil management principles and to address contaminated sites.

The proposal on **CO₂ emission performance standards and reporting obligations for new heavy-duty vehicles**⁷⁶ triggered 2 reasoned opinions⁷⁷ and 1 political dialogue opinion⁷⁸. Both Italian chambers argued that the principle of subsidiarity was not respected because the proposed CO₂ emission reduction targets were neither feasible nor justified, and also because the sector produces only modest emissions. They stressed the point that the target of achieving zero emissions for local bus transport by 2030 was excessively ambitious and that EU incentives for investment were needed. The Czech *Senát* argued that the targets set in 2019 should only be reviewed in 2027.

In its replies, the Commission referred to the detailed impact assessment accompanying the proposal⁷⁹, which demonstrates the necessity, added value and proportionality of the initiative. On the level of ambition and the date of application of the targets, the Commission recalled that transport was the only major sector in the EU economy where CO₂ emissions were still higher than

⁷³ COM(2023) 416 final.

⁷⁴ The Dutch *Eerste Kamer* and *Tweede Kamer*.

⁷⁵ The Czech *Senát*, Italian *Senato* and Austrian *Bundesrat*.

⁷⁶ COM(2023) 88 final.

⁷⁷ The Italian *Camera dei Deputati* and *Senato della Repubblica*.

⁷⁸ The Czech *Senát*.

⁷⁹ SWD(2023) 88 final.

in 1990 and that road transport is responsible for over 20% of the EU's total greenhouse gas emissions. It therefore highlighted the point that heavy-duty vehicles have a key role to play in meeting the EU's climate targets. According to the impact assessment, the sector has a high potential for the deployment of zero-emission vehicles. The uptake of zero-emission buses in the fleet would be gradual and Member States facing difficulties might in certain circumstances exclude a limited number of buses from the regulatory scope. Concerning the investments required to renew the vehicle technology fleet and the acceleration of the adaptation of the industry, the Commission pointed to a number of EU funding opportunities.

Under the priority 'A new push for European democracy', the proposal for a directive on **combating corruption**⁸⁰ triggered 2 reasoned opinions⁸¹ and 6 opinions under the political dialogue⁸². The Swedish *Riksdag* considered that the proposed directive would infringe the principle of subsidiarity by banning someone who has been prosecuted for corruption from standing for election to public office. This point was shared by the Italian *Camera dei Deputati*, which disagreed with the requirement for all Member States to treat an abuse of function as a criminal offence. Immunity and the right to stand in elections were also a central point in the political dialogue opinions. The Italian *Senato della Repubblica* and both Austrian chambers stressed the point that rules to waive immunity should be reserved to national parliaments. Both Czech chambers also expressed doubts on this provision, especially in view of subsidiarity. By contrast, the Portuguese *Assembleia da República* stated that the proposed directive would comply with the principles of subsidiarity and proportionality.

In its replies, the Commission underlined that its proposal was limited to what is necessary for and proportionate to efficiently preventing and combating corruption. On the introduction of the offence of abuse of functions, the Commission considered that this is an important tool in the fight against corruption, because it covers the illegal use of public power for personal gain and was already a crime in 25 of the 27 Member States. On the ban on standing for election, the Commission recalled that the termination or prohibition of holding a position of public office (elected or not) would prevent persons convicted of corruption from remaining in certain positions of power in which they carried out their corrupt actions. The Commission emphasised the point that the proposed directive would merely require national legislators to envisage the possibility of imposing these additional sanctions, and that the final decision would remain with national courts.

Under the same priority, the proposal for a Council regulation on the **recognition of parenthood between Member States**⁸³ also triggered 2 reasoned opinions and 6 political dialogue opinions. The French *Sénat* feared that the proposed Council regulation would require the recognition of parenthood established in another Member State, also in cases of surrogacy. It therefore opposed the choice of a Council regulation as the type of legal instrument. The Italian *Senato della Repubblica* expressed concern that Member States would be able to invoke reasons of public policy to refuse the recognition of parenthood only on a case-by-case basis.

Surrogacy was also the main topic in the political dialogue opinions. The Romanian *Senat* asked for clear definitions of 'parentage', 'parent' and 'family'; and for a situation to be avoided in which children born from surrogacy could be automatically recognised, possibly in breach of the existing law of a Member State. The Czech *Senát* similarly asked for surrogacy to be excluded from the scope of the proposal and for Member States to be allowed to refuse recognition of parenthood in cases where the cross-border element was set up with the intention of circumventing national legislation. The Dutch *Eerste Kamer* asked several questions, including on the number of cases concerned by the absence of common rules on the recognition of parenthood and on where there

⁸⁰ COM(2023) 234 final.

⁸¹ The Italian *Camera dei Deputati* and Swedish *Riksdag*.

⁸² The Czech *Poslanecká sněmovna* and *Senát*, French *Sénat*, Italian *Senato della Repubblica*, Austrian *Nationalrat* and *Bundesrat*, and Portuguese *Assembleia da República*.

⁸³ COM(2022) 695 final.

might be alternative solutions that do not require recourse to new EU legislation. The Lithuanian *Seimas* endorsed the proposal, which it thought would have a ‘positive impact’, and asked for clarifications to make sure that the public policy clause is applied in observance of fundamental rights. The Portuguese *Assembleia da República* and the Spanish *Cortes Generales* stated that the proposal complied with the principles of subsidiarity and proportionality.

In its replies, the Commission recalled that the Court of Justice of the European Union had ruled that the concept of public policy must be interpreted strictly, and noted that the option of refusing to recognise parenthood on grounds of public policy could not apply if that led to a situation of discrimination. The Commission also underlined that the proposed Council regulation would not affect the Member States’ competence to regulate or ban surrogacy on their own territory. However, according to the proposal, once the parenthood of a child born out of surrogacy had been established in one Member State, the other Member States would need to recognise it, because failure to do so would be incompatible with the fundamental rights of children born out of surrogacy.

Under the priority ‘A Europe fit for the digital age’, the proposal for a Regulation on **combating late payment in commercial transactions**⁸⁴ triggered 2 reasoned opinions⁸⁵ and 4 political dialogue opinions⁸⁶. In their reasoned opinions, the Italian *Camera dei Deputati* and the Swedish *Riksdag* did not question the necessity or added value of legislative action at EU level to remedy the shortcomings of the current directive, but they were concerned that the proposed legal instrument was a regulation. They feared that constraining Member State action (by setting a maximum payment period of 30 days and a fixed interest rate for default interest, and by excluding the option for a creditor to waive the right to interest and compensation for late payment) would restrict the freedom of contract for undertakings. The same concerns were also included in the 4 political dialogue opinions. Furthermore, the Irish *Houses of the Oireachtas* criticised the lack of distinction between late payments and long payment terms and opposed the proposed body to enforce late payment legislation. The Romanian *Senat* saw a potential negative impact on businesses in particular and on the economy in general.

In its replies, the Commission emphasised that combating late and unfairly long payments is necessary in order to protect the resilience of supply chains and to enhance SME competitiveness. It stressed the point that its impact assessment had shown that the proposed 30-day payment cap was a more cost-effective option of promoting a prompt payment culture than longer payment terms. This was also the option most favoured by stakeholders and SMEs in the public consultations and recommended by the European Parliament and the ‘Fit for Future’ platform. The Commission explained that it did not distinguish between late payments and long payment terms, because payment delays also occurred when long payment terms were imposed on creditors. A regulation was justified by the need to lay down stricter and more streamlined rules that can be applied in the same way in all Member States. The impact assessment had identified the absence of provisions to monitor compliance with and enforcement of rules as one of the key weaknesses of the current directive. The Commission had therefore proposed to set up compulsory enforcement authorities, while leaving wide flexibility to Member States to designate existing authorities or create new ones. The Commission also highlighted the economic benefits of a better payment culture that would increase and strengthen trust in the EU business environment.

⁸⁴ COM(2023) 533 final.

⁸⁵ The Italian *Camera dei Deputati* and Swedish *Riksdag*.

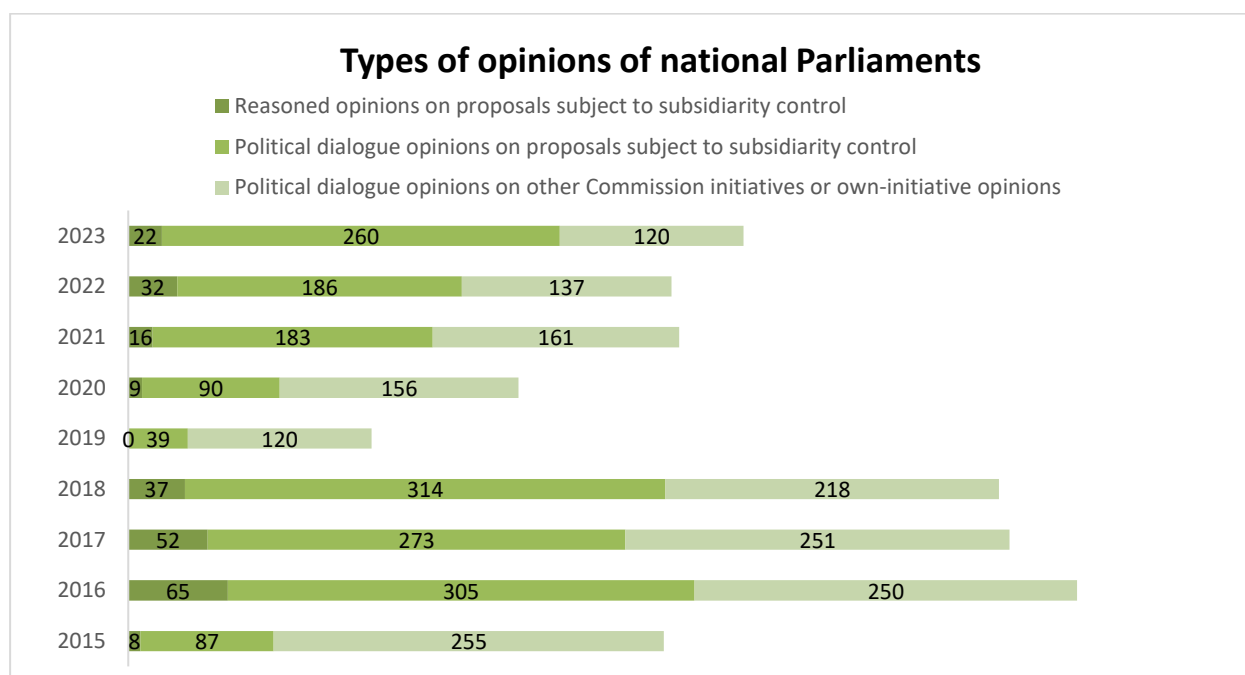
⁸⁶ The Irish *Houses of the Oireachtas*, Italian *Senato della Repubblica*, Portuguese *Assembleia da República* and Romanian *Senat*. During the first 4 months of 2024, the Commission received four additional political dialogue opinions (from the Czech *Senát* and *Poslanecká sněmovna*, French *Sénat* and Maltese *Kamra tad-Deputati*) that largely echoed the arguments in the opinions received in 2023.

4. WRITTEN POLITICAL DIALOGUE WITH NATIONAL PARLIAMENTS

In addition to the subsidiarity scrutiny mechanism established by Protocol No 2, the Commission's relations with national Parliaments also cover other activities and particularly the political dialogue put in place in 2006. This includes written exchanges on any Commission initiative into which national Parliaments want to provide input, or on any subjects they want to raise on their own initiative. It also includes the oral political dialogue (described in Chapter 5).

4.1 GENERAL OBSERVATIONS

In 2023, national Parliaments sent a total of **402 opinions** to the Commission. This was the first time since 2008 that the Commission received more opinions during the last full year of its term of office than during the previous year. As already mentioned in this present annual report, this was unusual and went against the trend highlighted in the annual report for 2022 that the number of national Parliament opinions generally peaks in the middle of each Commission's term of office⁸⁷. However, as already indicated in the annual report for 2022, the overall number of opinions received during the von der Leyen Commission remains significantly lower than the number received during the Barroso II and Juncker Commissions.



282 (70%) of these 402 opinions related to legislative proposals that were subject to the subsidiarity control mechanism⁸⁸. The other 120 opinions (30%) mainly concerned non-legislative initiatives (e.g. communications) or were own-initiative opinions not directly related to a Commission initiative. The latter percentage is the lowest during the current term of office. It shows that national Parliaments focused their analysis of Commission initiatives in 2023 even more than in previous years on draft legislative acts subject to subsidiarity control (thus excluding proposals in policy fields where the EU has exclusive competences, such as trade or competition). It also suggests that the decrease in the number of reasoned opinions over recent years was not due

⁸⁷ The Spanish *Cortes Generales*, which ranked either first or second in the previous 3 years in the political dialogue with the Commission, issued opinions only during the first 4 months of 2023 due to parliamentary elections in Spain.

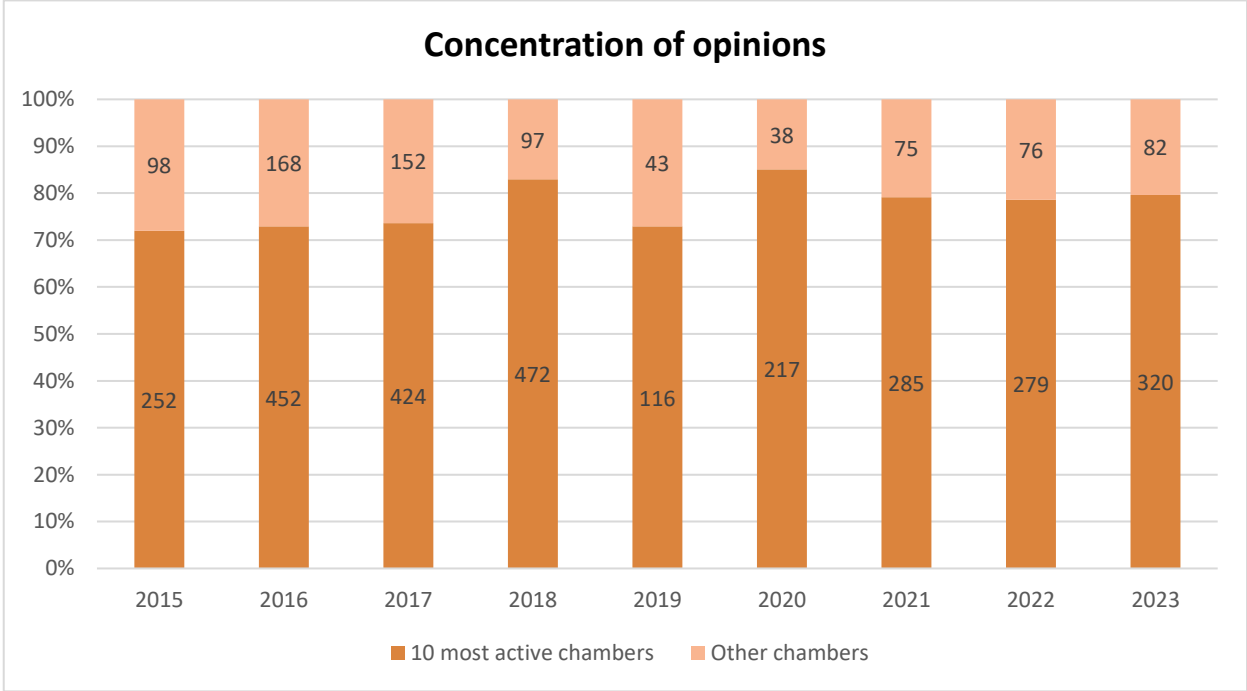
⁸⁸ For more information on the subsidiarity control mechanism and the political dialogue, see https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments_en. Legislative proposals that relate to policy areas in which the EU has exclusive competence are not subject to subsidiarity scrutiny by national Parliaments.

to a less intensive scrutiny of Commission proposals. This assumption is also underpinned by the high number of opinions received in the context of the political dialogue that also explicitly confirm the respective proposals' compliance with the subsidiarity principle.

Within the Commission, the points raised by the national parliaments or chambers are specifically brought to the attention of the relevant Members of the Commission and Commission departments and, for legislative proposals, to the Commission representatives taking part in the negotiations between the co-legislators.

4.2 PARTICIPATION AND SCOPE

As in previous years, the number of opinions sent to the Commission varied significantly from one national Parliament to another. The number of national Parliaments or chambers that did not issue any opinions increased slightly⁸⁹ from 7 to 9 chambers⁹⁰ out of 39 (see Annex 2). This means that in 2023 the parliaments of 6 Member States⁹¹ (2022: 5) did not engage in the written political dialogue in the form of sending formally adopted opinions. However, it is worth mentioning that the 6 that did not issue an opinion included, for example, the Estonian *Riigikogu*, which used direct letters to communicate with the Commission, and the Slovenian *Državni svet*, which organised visits of their members of parliament to the Commission.



The **10 most active chambers issued 320 opinions (80% of the total)**. This was in line with the average for recent years⁹². In 2023, these chambers were: the Czech *Senát* and the Portuguese *Assembleia da República* (41 opinions each), the Czech *Poslanecká sněmovna* and the Italian *Camera dei Deputati* (36 opinions each), the German *Bundesrat* and the Romanian *Camera Deputaţilor* (35 opinions each), the Romanian *Senat* (29 opinions), the Italian *Senato della Repubblica* (26 opinions), the Spanish *Cortes Generales* (24 opinions) and the French *Sénat* (17 opinions). These were also among the most active chambers in recent years. Annex 2 details the number of opinions each chamber sent.

⁸⁹ 2022: 7; 2021: 8; 2020: 12; 2019: 17; 2018:10.

⁹⁰ See Annex 3.

⁹¹ The national Parliaments in Bulgaria, Greece, Estonia, Latvia, Malta and Slovenia.

⁹² 2022: 79%; 2021: 79%; 2020: 85%; 2019: 73%; 2018: 83%; 2017: 74%; 2016: 73%.

The nature of the opinions also varied from one national Parliament or chamber to another. Some focused mostly on verifying whether a Commission proposal complied with the principles of subsidiarity and proportionality. Others commented in greater detail on the content of the proposals or sent own-initiative opinions that did not refer to a concrete Commission proposal. Recurrent topics of the 25 own-initiative opinions included not only the forced transfer of Ukrainian civilians – including children – to Russia, as well as the Gaza Strip and the Israeli-Palestinian conflict, but also specific policy issues like nuclear energy, abortion, and external relations.

It is worth highlighting that several new types of national Parliament submissions were received in 2023. For instance, 2 chambers reacted to the discussion of legislative proposals by means of either an opinion submitted during the trilogue negotiations (the French *Sénat* on the proposal for an Artificial Intelligence Act) or by different consecutive opinions from the same parliament issued at different stages of the legislative process (the 4 opinions of the German *Bundesrat* on the proposal for the EU Media Freedom Act). 14 national Parliaments addressed a joint statement to the EU institutions in view of a trilogue, calling on them to ensure that the risk of instrumentalising migration is appropriately addressed during the trilogue negotiations on the revision of the Schengen Border Code. The Finnish *Eduskunta* submitted an own-initiative opinion on several draft delegated and implementing acts related to materials in contact with drinking water – the first case of a submission on draft delegated and implementing acts.

4.3 MAIN TOPICS OF THE OPINIONS IN THE POLITICAL DIALOGUE

In terms of single initiatives most commented upon, national Parliaments sent the most opinions on the **2023 Commission work programme**, the proposal on **packaging and packaging waste** *⁹³ and the proposal on **plants obtained by certain new genomic techniques and their food and feed** * (9 opinions each); the proposal on the **creation of a European Certificate of Parenthood** * and the proposal on **combating corruption** * (8 opinions each); the proposal on **ambient air quality and cleaner air for Europe** and the proposal establishing a **Union certification framework for carbon removals** (7 opinions each); the proposal for a **European Media Freedom Act**, the proposal on **urban wastewater treatment**, the proposal on the **Union code relating to medicinal products for human use**, the proposal on **medicinal products for human use and rules governing the European Medicines Agency**, the proposal on **requirements for budgetary frameworks** of the Member States, the proposal for a **Soil Monitoring Law** * and the proposal on **combating late payment in commercial transactions** * (6 opinions each).

As in previous years, a growing number of national Parliaments⁹⁴ analysed the **2023 Commission work programme**⁹⁵, which in 2023 triggered 9 opinions (in addition to 1 opinion already triggered in 2022). This made it the Commission document that received the most opinions in the framework of the political dialogue. It also meant that the 2023 Commission work programme triggered the highest number of opinions issued on any Commission work programme up until then. The number of opinions was significantly higher than the 6 for the 2022 Commission work programme (5 opinions received in 2022 and 1 in 2021). Scrutiny without issuing an opinion is

⁹³ Annex 3 lists the Commission initiatives that triggered at least five opinions. This section provides an overview across the Commission's six headline priority areas where at least 6 opinions were received. The opinions covering the proposals marked with an asterisk (*) have not been included in this section because they have also triggered at least two reasoned opinions and are therefore already covered under Section 3.2 of this report.

⁹⁴ The French *Sénat*, Croatian *Hrvatski Sabor*, Lithuanian *Seimas*, Luxembourgish *Chambre des députés*, Hungarian *Országgyűlés*, Dutch *Tweede Kamer* and *Eerste Kamer*, Portuguese *Assembleia da República* and Romanian *Senat* sent opinions in 2023. The Swedish *Riksdag* sent an opinion at the end of 2022. There were 6 such opinions on the 2022 Commission work programme.

⁹⁵ COM(2022) 548 final.

also reported to be high ⁹⁶. Taken altogether, this shows the increased strategic use that national Parliaments made of the specific instrument of opinions regarding the Commission work programme in order to underline their support for the priorities and Commission initiatives that had been announced, relating them to their own national political priorities; and to signal national particularities that they believed should be considered.

In their opinions on the 2023 Commission work programme, national Parliaments referred to the impact of Russia's war of aggression against Ukraine, encouraged the Commission to support Ukraine for as long as necessary and expressed support for the EU's enlargement. 3 chambers called for a reform of the electricity market. Taking into consideration the 2024 European Parliament elections, 5 chambers underlined the importance of the Commission's 'Defence of Democracy Package', including the initiative to protect the EU's democratic sphere from covert foreign influence. The Hungarian *Országgyűlés* criticised the European Media Freedom Act for what they saw as its fundamental limitation of the competence of the Member States in the field of media. 3 chambers pointed to the importance of an economic governance review, and 2 of them also stressed the importance of strengthening the euro (including in its digital form). 4 chambers underlined the importance of strengthening security and defence in different forms (including space defence; strengthening EU external borders and effective action against illegal migration flows and human trafficking networks; and maritime strategy). All chambers acknowledged the importance of finding a more suitable framework for migration. The French *Sénat* called for more transparent and comprehensive work programmes and for the Commission to systematically support its legislative initiatives with impact assessments ⁹⁷.

In its replies, the Commission underlined that the 2023 Commission work programme aimed at continuing to support the EU's recovery from the COVID-19 pandemic; and to respond to urgent needs raised by Russia's war of aggression against Ukraine and the ensuing energy and cost-of-living crises. The recent crises had also shown the need to accelerate delivery on the priorities of the Commission, particularly combating climate change and completing the digital transition. The many related initiatives of the 2023 Commission work programme demonstrate the Commission's clear commitment to follow up on the recommendations made by the Conference on the Future of Europe. The Commission mentioned its prioritisation of a green, carbon-free, and digital Europe with a strong economic basis founded on the single market. The Commission pointed out that disinformation attacks on the EU's democratic and media spheres were a growing concern, particularly in recent years and in the context of Russia's invasion of Ukraine. The Commission had taken decisive action under the European Democracy Action Plan to promote free and fair elections, safeguard media pluralism, and fight against disinformation.

Under the priority 'A European Green Deal', several proposals drew considerable attention from national Parliaments without triggering any reasoned opinions: the proposal for a **Regulation on carbon removals**, the proposal for a **Directive on ambient air quality and cleaner air for Europe** and the proposal for a **Directive on urban wastewater treatment**.

⁹⁶ According to the 41st Bi-annual Report on 'Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny' prepared in March 2024 by the COSAC Secretariat, only 8 of the 34 national Parliaments/chambers that replied to the questions on the Commission work programme (all except the Belgian *Sénat/Senaat* and German *Bundestag*; the bicameral national Parliaments of Ireland, Spain and Austria each submitted a single set of replies to the questionnaire) stated that they had not scrutinised this document. The report is available at <https://ipexl.europarl.europa.eu/IPEXL-WEB/conferences/cosac/event/8a8629a88c42a971018c43c0bdee000a>.

⁹⁷ Even in the rare cases when an impact assessment is not presented with a proposal (although it would have been required in principle, but it was not possible in practice and a derogation had been granted, for example due to its urgency), the Commission still presents 'an analytical document in the form of a staff working document presenting the evidence behind the proposal and cost estimates' within 3 months of the initiative's adoption, according to the Commission's Better Regulation Guidelines (SWD(2021) 305 final).

The proposal for a Regulation establishing an EU certification framework for **carbon removals**⁹⁸ triggered 7 opinions⁹⁹. Several chambers expressed doubts concerning the compatibility of the EU framework with national schemes and saw the need for clarifications on the governance and funding of certification frameworks and on the setting-up of an EU registry on carbon-removal activities. Some were worried about the administrative burden of establishing this new framework and questioned the delegation of powers to the Commission.

In its replies, the Commission pointed out that under its proposed regulation Member States could, under certain conditions, apply for EU recognition of any existing national certification scheme; that its proposal included provisions to minimise certification costs; and that operators would be able to reduce monitoring and reporting costs by using the certification methodologies adopted by the Commission and by using remote-sensing technologies (e.g. Copernicus). The Commission also explained that the EU quality criteria would need to be implemented through technical certification methodologies that are tailored to the wide range of existing carbon-removal activities. This would require extensive technical work and wide-ranging stakeholder consultation and would be best be carried out through delegated acts.

The proposal for a **Directive on ambient air quality and cleaner air for Europe** (recast)¹⁰⁰ triggered 7 political dialogue opinions¹⁰¹. Several chambers considered that an objective for zero air pollution would be hard to achieve and that the targets set out in the proposal were too ambitious or had budgetary implications that were too extensive. 1 chamber saw a lack of focus in dealing with transboundary air pollution caused by neighbouring countries. 1 chamber stressed the need for a joint responsibility mechanism involving both the EU and Member States (as in the EU Climate Law) and insisted on the need to ensure an appropriate interplay between the pillars of emissions legislation (including the proposed limit values for 2030 and the Euro 7 emission standard). One chamber proposed to include indoor air quality standards and rules for odorous emissions in the directive. Two chambers considered that the right to compensation for health damage was too broad, because it included even a possibility of collective action to claim compensation for damage to health as a result of non-compliance with the air quality rules and there was no time limit for claims.

In its replies, the Commission stressed that it was aiming to set out a credible pathway to achieve a zero pollution objective for air pollution by 2050 by setting air quality targets that were ambitious but achievable. The proposed directive could not be likened to the EU Climate Law, because greenhouse gas emissions have the same effect regardless of where they were emitted, but air quality impacts differ according to local circumstances and measures. As to transboundary issues, the proposed directive would strengthen the arrangements for cooperation and swift exchange of information between Member States in order to address breaches of air quality standards due to transboundary air pollution. The Commission agreed that the policy context had developed further since the adoption of the proposal, in part due to the adoption of the Euro 7 proposal. The competent authorities should take this into account when developing an air quality strategy and air quality plans. Indoor air quality and odorous emissions were outside the scope of the proposed directive. The Commission underlined that the proposal aimed to establish an effective right for people to claim and obtain compensation for damage to human health, including the possibility of collective action.

⁹⁸ COM(2022) 672 final.

⁹⁹ The German *Bundesrat*, Spanish *Cortes Generales*, Italian *Camera dei Deputati*, Lithuanian *Seimas*, Dutch *Eerste Kamer*, Portuguese *Assembleia da República* and Romanian *Senat*.

¹⁰⁰ COM(2022) 542 final.

¹⁰¹ The Czech *Senát* and *Poslanecká sněmovna*, German *Bundesrat*, Spanish *Cortes Generales*, Italian *Senato della Repubblica*, Portuguese *Assembleia da República* and Romanian *Senat*.

The proposal for a recast of the **Urban Wastewater Treatment Directive**¹⁰² triggered 6 opinions¹⁰³. Most opinions welcomed the proposal, but some chambers considered that it was hardly feasible to achieve the energy neutrality of this sector by 2040 because of the increasing demands on urban wastewater treatment related to the expansion of technological equipment and because of the need for high levels of investment. Different views were expressed regarding the proposed extended producer responsibility scheme: two chambers explicitly supported it and one suggested extending it to other sectors. Another chamber argued that it was not possible to completely avoid the exposure of wastewater to toxic residues for all pharmaceutical products and that the competitiveness and innovativeness of the EU's pharmaceutical industry had to be taken into account. One chamber signalled that the proposed extension of monitoring tasks and the provision of information would considerably increase the administrative burden on authorities and operators. Two chambers objected to what they saw as an excessive recourse to delegated acts.

In its replies, the Commission insisted that achieving energy neutrality of urban wastewater treatment is feasible, even with the increased treatment requirements included in the proposal. Initial investment to achieve the new objectives would take place between 2030 and 2040. This would make the wastewater sector more resilient to energy price volatility and contribute to the EU's energy independence. As regards the proposed extension of the producer responsibility scheme, the Commission referred to its impact assessment, which showed that the economic impact on the pharmaceutical sector would be marginal and neutral for the overall competitiveness of the EU industry, because importers and EU producers would be equally affected. As regards monitoring and information requirements, the Commission gave an assurance that it had designed the proposal in such a manner as to minimise the burden resulting from the increase in reporting requirements.

Under the priority 'A New Push for European Democracy', the proposal for a **European Media Freedom Act**¹⁰⁴ in 2023 triggered 6 opinions¹⁰⁵ in addition to 12 opinions already received in 2022¹⁰⁶. National Parliaments continued to question the interference with national competences in the area of media pluralism, the provisions for the assessment of media market concentrations and the independence of the European Board for Media Services. Several chambers called for further strengthening of the rules for protection of journalists, including for protection against abusive court proceedings. Several chambers also called for strengthening of provisions on large online platforms, obliging them to make public the reasons for the removal of content. One chamber called for the prohibition of content posted online being blocked without prior verification by a human being. One chamber, the German *Bundesrat*, sent 4 opinions on this proposal during the legislative cycle (the last 2 in 2023). Its third opinion expressed concerns regarding interference in national competences and the targeting of the start of trilogue negotiations. Its fourth opinion reiterated its key arguments for the final stage of trilogue negotiations.

In its replies, the Commission stressed that it fully recognised and preserved in the proposal Member States' competences in the area of media pluralism; and that the proposed act would not alter the ability of Member States to define in concrete terms the remit, organisation and financing of public service broadcasting. The Commission reiterated its commitment to reinforce the protection of journalists via the proposed act and the proposal for a directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings. Regarding the European Board for Media Services, it stressed that the Board's independence was

¹⁰² COM(2022) 541 final.

¹⁰³ The Czech *Senát* and Czech *Poslanecká sněmovna*, German *Bundesrat*, Spanish *Cortes Generales*, Italian *Senato della Repubblica* and Austrian *Bundesrat*.

¹⁰⁴ COM(2022) 457 final.

¹⁰⁵ The German *Bundesrat* (2 opinions in 2023), French *Assemblée nationale*, Italian *Senato della Repubblica* and *Camera dei Deputati*, and Dutch *Eerste Kamer*.

¹⁰⁶ See the annual report for 2022: COM(2023) 640 final.

ensured by the fact that it was composed of independent national media regulatory authorities and further strengthened by its decision-making, which requires a two-third majority of its members. Regarding the assessment of media market concentrations, the Commission pointed to its minimum harmonisation approach, which left a large margin of discretion for Member States to take into account their regulatory traditions and the specificities of their national media markets. Regarding the large online platforms, the Commission recalled that very large online platforms were obliged to make public the reasons for suspensions and restrictions of content.

Under the priority ‘Promoting our European way of life’, the **revision of the EU’s basic pharmaceutical legislation** triggered considerable interest on the part of national Parliaments. The proposal for a **Union code relating to medicinal products for human use**¹⁰⁷ and the proposal on laying down EU procedures for the **authorisation and supervision of medicinal products for human use** and establishing **rules governing the European Medicines Agency**¹⁰⁸ each triggered 6 opinions¹⁰⁹. Some chambers also addressed the other two documents included in the package: the accompanying Commission Communication¹¹⁰ and a proposal for a Council Recommendation on **combating antimicrobial resistance**¹¹¹. Some of the concerns that national Parliaments raised in their opinions related to an alleged breach of the proportionality principle; the reduction of the standard duration of market exclusivity for orphan medicines; the modification of the Bolar provision that concerns exemptions to the rights conferred by patents; the decentralised manufacturing sites of medicinal products; and the use of vouchers.

In its replies, the Commission argued that the proposals did not go beyond what was necessary to achieve the objectives of the revision. It acknowledged the reduction of the standard duration of market exclusivity for orphan medicines by one year but explained that for certain orphan medicines the duration would be extended by three years in order to boost research and development. It further explained that the proposed modification of the Bolar provision was to facilitate the entry into the market of generic medicines immediately after the expiry of the regulatory protection periods. The Commission made it clear that, even if certain manufacturing sites were to be decentralised, the central manufacturing site would still be responsible for supervising all aspects of the decentralised sites and that the proposal would therefore not reduce the levels of control and supervision. It also explained that the rules would govern the transferable data exclusivity vouchers for manufacturers who would develop novel antimicrobials.

Under the priority ‘An Economy that works for people’, the **package of legislative proposals for reforming EU economic governance rules**¹¹² received considerable attention from national Parliaments and triggered 6 opinions¹¹³. Several chambers pointed to the need to calibrate necessary debt and deficit-reducing parameters in order to suit the circumstances of the different Member States to which they applied. One chamber pointed to the lack of a criterion for exempting public investment (especially investment in the ecological and digital transitions) from the calculation of the annual deficit. Another chamber opposed the introduction of EU public sector accounting standards which, it argued, would not help to achieve the objectives of budgetary surveillance. One chamber pointed out that budgetary plans covering up to 17 years (including an adjustment period of between 4 and 7 years) would be incompatible with the frequency of national elections. One chamber recommended clarifying and limiting the Commission’s ability to adopt

¹⁰⁷ COM(2023) 192 final.

¹⁰⁸ COM(2023) 193 final.

¹⁰⁹ The Czech *Poslanecká sněmovna* and *Senát*, both Italian *Senato della Repubblica* and *Camera dei Deputati*, the Romanian *Senat* and the German *Bundesrat*.

¹¹⁰ COM(2023) 190 final.

¹¹¹ COM(2023) 191 final.

¹¹² COM(2023) 240 final, COM(2023) 241 final and COM(2023) 242 final.

¹¹³ The Czech *Senát*, German *Bundesrat*, Irish *Houses of the Oireachtas*, French *Sénat*, and Italian *Senato della Repubblica* and *Camera dei Deputati*.

delegated acts intended to ensure the effective coordination of economic policies and multilateral budgetary surveillance.

In its replies, the Commission emphasised the package's objective of increasing national ownership, which could be served by more intensive involvement of national Parliaments in economic and budgetary surveillance. It acknowledged that the Member States' fiscal situations, challenges and economic prospects vary greatly, but stated that the proposed revised framework would take more account of differences between countries and their specific public debt challenges. With these proposals, the Commission was seeking to move to a more risk-based surveillance framework that would have public debt sustainability at its core, while promoting sustainable and inclusive growth through investment and reforms. As for the EU's public sector accounting standards, the Commission stated that the proposed package would not prescribe any specific accrual-based accounting standards and would instead leave this to the discretion of Member States. The proposed directive on requirements for budgetary frameworks would not interfere with the principle of budgetary autonomy. As to the time horizon of the national plans, the Commission made it clear that they could cover a period of 4 or 5 years, depending on the electoral cycles of the Member States, and that a new government could propose a new plan upon taking office.

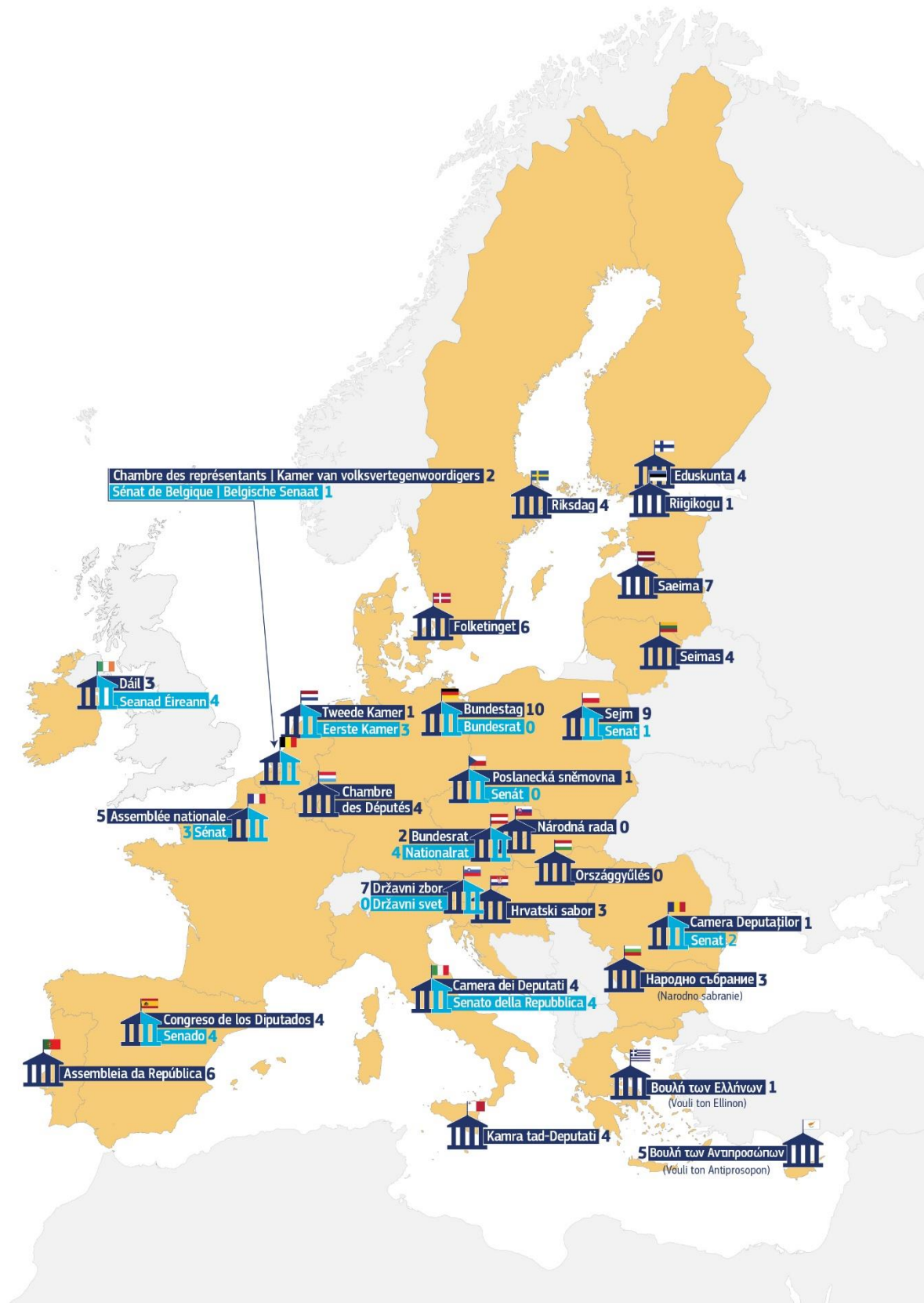
5. CONTACTS, VISITS, MEETINGS, CONFERENCES AND OTHER ACTIVITIES

5.1 Commission visits to and meetings with national Parliaments

The oral political dialogue between the Commission and national Parliaments involves various forms of interaction: visits by Members of the Commission to national Parliaments and of delegations from national Parliaments to the Commission; Commission participation in interparliamentary (committee) meetings and conferences (including COSAC); Commission presentations to the permanent representatives of national Parliaments in Brussels; ongoing debates on Commission work programmes; and European Semester dialogues.

In 2023, Members of the Commission participated in 127 visits to national Parliaments and meetings with national Parliaments' delegations, covering almost all the national Parliaments and chambers. This is fewer than in the 2 previous years but above the average for the past 4 years (143 visits in 2022, 130 in 2021, 101 in 2020 and 55 in 2019; due to the Covid-19 pandemic, in 2020 and 2021 fewer meetings were organised and had to take place mostly in virtual format). The Commission also received 6 visits from groups of staff from various national Parliaments, which are not reflected in the map below.

**Number of visits to and meetings with national Parliaments
from Members of the Commission in 2023 (total for all Member States: 127)**



5.2 Interparliamentary meetings and conferences

Interparliamentary meetings and conferences¹¹⁴ were in 2023 generally marked by a focus on the continuing war in Ukraine. Recurring topics were democracy, energy supply and enlargement. Members of the Commission participated in:

- the Conference of Parliamentary Committees for Union Affairs of parliaments of the European Union (COSAC)¹¹⁵;
- the European Parliamentary Week¹¹⁶;
- the Joint Parliamentary Scrutiny Group on Europol¹¹⁷;
- various interparliamentary conferences (IPCs)¹¹⁸ and committee meetings (ICMs)¹¹⁹.

2023 saw a complete return to pre-COVID-19 practices as far as COSAC meetings are concerned. Two COSAC Chairpersons' meetings (29-30 January and 17-18 September) and two COSAC plenary meetings (14-16 May and 26-28 November) took place with an exclusively physical presence in the capitals of Sweden and Spain, which were each in turn holding the Presidency of the Council of the EU. Conclusions¹²⁰, a contribution¹²¹ and a bi-annual report were issued after each plenary session. The Commission provided written replies to the contributions adopted by COSAC¹²². The practice of the previous 2 years of having informal online COSAC exchanges with Members of the Commission was not followed in 2023, although the conclusions adopted by COSAC during the second plenary meeting of 2022 acknowledged their usefulness in enabling timely and detailed discussions on concrete EU initiatives.

The Commission was represented by one of its members in three of the four above meetings. During the LXIX COSAC plenary meeting in Stockholm, President von der Leyen underlined in a pre-recorded keynote video message the Commission's engagement with national Parliaments.

¹¹⁴ For more details, 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>.

¹¹⁵ COSAC – in which the Commission has observer status – is the only interparliamentary forum enshrined in the Treaties (in Protocol No 1 on the role of national Parliaments in the EU). For more information, see <https://secure.ipex.eu/IPEXL-WEB/conferences/cosac>.

¹¹⁶ The European Parliamentary Week brings together parliamentarians from EU, candidate and observer countries to discuss economic, budgetary, environmental and social matters. In 2023, it was titled 'EU economic governance from a parliamentary perspective' and was held on 27-28 February. Executive Vice-President Dombrovskis delivered key opening remarks in the session on 'Economic and social challenges in times of geopolitical uncertainty'. Commissioner Hahn introduced the session on 'Support for Ukraine – national and EU budgetary crisis responses and the role of parliaments'. Commissioner Gentiloni delivered introductory remarks during the plenary session on the 'Review of the EU economic governance framework'.

¹¹⁷ The Joint Parliamentary Scrutiny Group on Europol held its 12th and 13th meetings on 26-27 March in Stockholm and on 20-21 September in the European Parliament. Commissioner Johansson attended the first meeting in person and delivered a keynote intervention on the fight against organised crime. She delivered a video message during the second meeting.

¹¹⁸ The IPC on 'Circular bioeconomy: the pathway towards a more innovative, resource-efficient and competitive Europe' (20 February) was attended by Commissioner Sinkevičius. The IPC on 'Democracy in Europe: how can parliamentarians help safeguard and strengthen democracy and the rule of law?' (18-19 June) was attended by Commissioner Reynders. The IPC-Tax Symposium on 'The future of taxation in the EU: challenges ahead and changes needed' (24-25 October) featured a closing speech by Executive Vice-President Dombrovskis on the first day and a keynote speech of Commissioner Gentiloni on the second day. The IPC on 'Stability, economic coordination and governance in the EU' (26-27 October 2023) featured a video message delivered by Executive Vice-President Šefčovič.

¹¹⁹ The ICM on 'Children at the heart of Europe: 2 years of the European Child Guarantee' (28 June) was attended by Vice-President Šuica. The ICM on 'The future of cohesion policy: opportunities, challenges and next steps' (7 November) was attended by Commissioner Ferreira. The ICM on 'The situation of the rule of law in the EU' (4 December) featured a video message delivered by Commissioner Reynders.

¹²⁰ [Conclusions adopted in the LXIX COSAC](#) and [Conclusions adopted in the LXX COSAC](#) (in EN and FR).

¹²¹ [Contribution adopted in the LXIX COSAC](#) and [Contribution adopted in the LXX COSAC](#) (in EN and FR).

¹²² [Commission's reply to contribution adopted in the LXIX COSAC \(annex\)](#) and [Commission's reply to the contribution adopted in the LXX COSAC \(annex\)](#) (available only in EN).

Commissioner Johansson participated in the first Chairpersons' meeting (in person) and in the LXX COSAC plenary meeting (via videolink) to discuss organised crime and the Pact on Migration and Asylum.

Apart from these topics and the traditional focus on the priorities of the respective presidencies of the Council of the EU, other issues covered during these meetings were the situation in Ukraine and its future in the EU (covered in three of the four meetings, each time with the participation of Ms Ivanna Klympush-Tsintsadze, the Chairperson of the Ukrainian Parliament's Committee on Ukraine's Integration into the EU), 30 years of the single market, the energy crisis, the green transition, open strategic autonomy and relations with Latin America, and the situation in Israel and the Gaza Strip following Hamas' terrorist attacks on Israel of 7 October 2024.

6. THE ROLE OF REGIONAL PARLIAMENTS

Regional Parliaments indirectly contribute to the Commission's relations with national Parliaments. Under Protocol No 2 it is for each national Parliament, when carrying out the subsidiarity check for draft EU legislative acts with a view to issuing reasoned opinions, to consult, where appropriate, regional Parliaments with legislative powers.

Members of regional Parliaments are also represented in the European Committee of the Regions, which carries out monitoring work through the Subsidiarity Monitoring Network and its online platform, which is designed to support participation by regional Parliaments with legislative powers in the early warning mechanism on subsidiarity (REGPEX)¹²³.

The Treaties do not explicitly provide for direct interaction between the Commission and regional Parliaments, but the Commission takes their contributions into account and replies to them. Fewer regional Parliaments¹²⁴ submitted fewer resolutions to the Commission than in the previous years: 32 resolutions in 2023, compared to 72 in 2022, 50 in 2021 and 33 in 2020. These concerned various issues, such as the Brussels Declaration of the German-speaking regional Parliaments, the recognition of the Holodomor famine as genocide, the circular economy, human rights, the Conference on the Future of Europe, cryptocurrencies, the European Year of Youth, humanitarian cooperation, the Good Friday Agreement, and the status of Catalan in the EU. Roughly a third of the contributions focused on specific Commission proposals¹²⁵, 8 of them expressing detailed subsidiarity concerns. Others participated in the Commission's public consultations, although this channel has so far been actively used by only one regional Parliament that submitted replies to

¹²³ <http://portal.cor.europa.eu/subsidiarity/regpex/Pages/default.aspx>. See Section 2.4 for more details on the subsidiarity control activities of the European Committee of the Regions.

¹²⁴ The regional Parliaments of: Flanders (Belgium); Bavaria and Baden-Württemberg (Germany); the Balearic Islands and the Basque Country (Spain); Upper Austria and the Vienna Provincial Parliament (Austria); the European Conference of the Presidents of the German and Austrian regional Parliaments, the Regional Assembly of South Tyrol, the Parliament of the German-speaking Community of Belgium, together with the German *Bundestag* and *Bundesrat*, and the Austrian *Bundesrat*; and the Conference of the Presidents of the Austrian regional Parliaments. Bavaria's regional Parliament produced almost 50% of those resolutions (14). Other particularly active regional Parliaments were those from the Basque Country (5 resolutions), the Balearic Islands (4 resolutions), and Baden-Württemberg (3 resolutions).

¹²⁵ COM(2022) 542 final, COM(2022) 720 final, COM(2023) 31 final, COM(2023) 128 final, COM(2023) 185 final, COM(2023) 234 final, COM(2023) 242 final, COM(2023) 335 final, COM(2023) 411 final, COM(2023) 414 final, COM(2023) 415 final and COM(2023) 528 final.

several public consultations launched by the Commission¹²⁶. One regional Parliament used another channel, submitting 3 opinions through its national Parliament¹²⁷.

7. CONCLUSION

Compared with the previous years of this Commission's term of office, there was an overall increase in the intensity of national Parliaments' activity in 2023 in the written and oral dialogue and in their monitoring of respect for the principles of subsidiarity and proportionality in order to ensure that EU action is taken only when and to the extent necessary. The total number of opinions (including reasoned opinions) increased to 402 in 2023, compared with 355 in 2022 and 360 in 2021.

2023 was the first year since 2008 that the Commission received more opinions in the last full year of its term of office than in the previous year. However, compared with the two previous Commission terms of office, the trend that had already been highlighted in the 2022 annual report of a decrease in the overall number of opinions from national Parliaments continued.

The number of opinions continued to vary significantly from one national Parliament to another. The 10 most active chambers issued an almost identical percentage of opinions as in the 2 previous years (79%), while the number of chambers issuing opinions decreased by 2. In general, national Parliaments which have traditionally focused on verifying proposals' compliance with the principles of subsidiarity and proportionality continued to do so in 2023.

Overall, roughly 70% of national Parliaments' opinions focused on proposals that were subject to subsidiarity control. The remaining 30% focused on proposals that were not (i.e. policies where the EU has exclusive competences), on non-legislative documents or on other topics (through own-initiative opinions). This balance was typical for a year with a high number of legislative proposals.

As regards relations between the Commission and regional Parliaments, 2023 saw a considerable decrease in the number of their contributions (32) and a return to the level in 2020 (33) (following the peak in the previous 2 years of 72 in 2022 and 50 in 2021).

Thematically, national Parliaments remained focused on the main Commission priorities, paying particular attention to the European Green Deal, a new push for European democracy and promoting our European way of life. The ongoing wars in Ukraine and the Middle East meant that the challenging geopolitical context also featured prominently in exchanges (including in interparliamentary meetings and conferences, such as COSAC). Reflections on the future of the EU and enlargement, migration and security were therefore also prominent topics, as were energy supply and costs, the EU's competitiveness, open strategic autonomy, and a fair transition.

The main developments in 2023 regarding the scrutiny of respect for subsidiarity led to the following noteworthy conclusions.

- The number of reasoned opinions (22) claiming non-compliance with the principle of subsidiarity decreased by almost one third compared with the previous year (32).
- Almost two thirds of these reasoned opinions originated from two national Parliaments: both Italian chambers (9) and the Swedish *Riksdag* (5).

¹²⁶ Bavaria's regional Parliament submitted contributions for 6 public consultations for initiatives under a variety of policies, compared with over 20 in the previous year.

¹²⁷ The Flemish Parliament submitted opinions on the Armenia-Azerbaijan conflict, Nagorno-Karabakh and the armed conflict in the Middle East. According to Declaration 51 to the Treaties, the Flemish Parliament is a component of the Belgian national parliamentary system. Opinions of regional Parliaments are transmitted through the secretariat of the Conference of Presidents of Parliamentary Assemblies, with an address at the Belgian *Sénat/Senaat*. The Commission therefore registered them technically as opinions of the Belgian *Sénat/Senaat*, and replied both through the latter and directly to the regional Parliament.

- Several Parliaments have implemented internal changes to allow them to be better and earlier informed about the policy process at EU level and to express their views more effectively ¹²⁸.
- Increased strategic use has been made of the specific instrument of opinions regarding the Commission work programme. The number of opinions from national Parliaments that used this opportunity to inform the EU institutions about their own national priorities among the key initiatives at EU level and to flag specificities increased significantly from 6 in 2022 to 10 in 2023.

Similarly, it could also be observed that some national Parliaments have started using the political dialogue in innovative ways, such as to react to the evolving discussion of legislative proposals in trilogues by means of opinions – either with single or consecutive opinions issued by the same chamber or with a joint opinion issued by a number of Parliaments and submitted at a late stage in the legislative process – and to flag aspects of several draft delegated and implementing acts through a dedicated own-initiative opinion. This illustrates the strategic potential and flexibility that the dialogue between the national Parliaments and the Commission offers.

¹²⁸ For example, the Luxembourgish *Chambre des députés* in 2023 established a European affairs committee for the first time. Other Parliaments pursued internal reforms in 2023 in order to be able to more efficiently act in the EU policy process. One example of this was the Irish *Seanad Éireann*, which created a committee on scrutiny of draft EU-related statutory instruments in December 2022.