



National Parliaments and EU law-making: how is the 'yellow card' system working?

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Many EU Member States have long sought a greater role in the European Union decision-making process. Since the *Treaty on European Union* (the Maastricht Treaty) came into force in November 1993, there has been a Treaty Article on the principle of subsidiarity – that action should be taken at national level, unless there are compelling reasons for the EU (or formerly the European Community) to act. In addition, EU Treaty Declarations and Protocols since Maastricht have sought to give national parliaments a greater role in responding to EU proposals.

Attached to the *Treaty of Lisbon*, which came into force in December 2009, was an enhanced subsidiarity and proportionality Protocol, which set out a 'yellow/orange card' subsidiarity early warning mechanism giving national parliaments an opportunity to object to legislative proposals with a view to having them amended or withdrawn. National parliaments may submit a 'reasoned opinion' within an eight-week period to the institution proposing the draft legislative act (usually the Commission), outlining why the proposal does not comply with the principle of subsidiarity. If a third or more of EU national parliaments submit reasoned opinions (the threshold drops to a quarter for legislation in the field of cooperation in criminal matters), the originating institution is usually bound to review its proposal with a view to maintaining, amending or withdrawing it. If more than half the Member States submit reasoned opinions and the institution decides to maintain the proposal, it must submit a reasoned opinion in support of this decision to the Council and European Parliament, each of which can strike down the proposal. Under the Protocol national parliaments can apply to the Court of Justice (through their Member State government) for judicial review of EU legislation on the grounds of infringement of the subsidiarity principle.

This Note considers the background to the 'yellow card' mechanism and its application in practice since the Lisbon Treaty came into force.

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1 An enhanced role for national parliaments in the EU

1.1 Background

Successive EC/EU Treaty amendments tried to tackle the problems raised by national parliamentarians dissatisfied with the perceived failure of the European legislative process to take their views into account. The problem lies to some extent in the way that national governments inform their own parliaments about EU matters, while the lack of national parliamentary representation at EU level has led to a feeling of alienation and the criticism of a lack of democratic legitimacy in the EU. The Edinburgh European Council of 11-12 December 1992 set out a global approach towards the application of the principles of subsidiarity and proportionality and the principle of ‘subsidiarity’ was introduced in Article 3b of the *Treaty on European Union* (TEU – the Maastricht Treaty):

In areas which do not fall within its exclusive competence, the Community shall take action in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

The Conservative Government at the time hailed Article 3b as a triumph for the nation states, as it presumed action at national level, unless there were good reasons not to. However, the principle as it was expressed in Article 3b was vague and its enforceability uncertain. Under the terms of the 1993 Inter-Institutional Agreement on subsidiarity,¹ the European Parliament and Council must ensure that a legislative proposal conforms with the principles of subsidiarity and proportionality, and provide a relevant justification if an amendment they

¹ OJ C 329, 6 December 1993 p. 132

make affects the scope of EU action. Since the TEU came into force in 1993, both Conservative and Labour UK governments have headed calls to strengthen the subsidiarity principle and the mechanisms to enforce it at EU level.

In a speech in Cardiff in November 2002, the previous Labour Prime Minister, Tony Blair, expressed support for an 'early warning system' involving national parliaments.² The then Foreign Office Minister, Peter Hain, told the Commons European Scrutiny Committee (ESC) that he did not want judges to make rulings on this issue. For the Government, this "was a basic principle: elected politicians should be the arbiters on this matter, not judges".³

In a December 2002 debate on the Convention on the Future of Europe, the then Shadow Foreign Secretary, Michael Ancram, welcomed proposals on subsidiarity, but said they did "not go nearly far enough".⁴ He agreed that subsidiarity decisions needed to be made by a political watchdog, not the European Court of Justice, and also suggested that "National parliamentarians should be able to intervene on subsidiarity at the level of national Parliaments and through a subsidiarity panel or watchdog".⁵ He proposed that subsidiarity reservations "expressed by, say, five national parliaments should be enough to halt a piece of legislation".⁶ Michael Moore, for the Liberal Democrats, supported the early warning system proposal⁷ and emphasised that national parliamentarians "should not shirk [their] responsibilities in Parliament".⁸

“Subsidiarity is a guiding principle for defining the boundary between Member State and EU responsibilities – that is, *who should act?* If the Union has exclusive competence in a particular area, then clearly it is the Union which should act. If the Union and the Member States share competence, the principle establishes a presumption in favour of the Member States taking action. The Union should only act if Member States cannot achieve the objectives sufficiently and if, by reason of the scale or effects, the Union can achieve them better”.

[European Commission, 18th Report on Better Lawmaking covering 2010](#)

Declaration No 13⁹ annexed to the Maastricht Treaty and Protocol 13 annexed to the 1997 *Treaty of Amsterdam* both purported to involve national parliaments to a greater extent in EU matters. The Amsterdam Treaty changed the subsidiarity article number from 3b to Article 5, but not the text of the article, and included a new, legally binding protocol to the Treaty setting out the principles of

subsidiarity and proportionality.¹⁰ This Protocol obliged the Commission to "consult widely before proposing legislation and, wherever appropriate, publish consultation documents", and to justify the relevance of its proposals with regard to the principle of subsidiarity. Separate justification was required for the financing of Community action in whole or in part from the Community budget. The Commission was also required to submit annual reports to the European Council, the Council of Ministers and the EP on the application of Article 5. The new Protocol required that the reasons for concluding that a Community objective could be better

² Tony Blair, "A clear course for Europe", 28 November 2002

³ Peter Hain, [Evidence to ESC, 20 November 2002](#)

⁴ HC Deb 2 December 2002 c 687

⁵ HC Deb 2 December 2002 c 688

⁶ Ibid

⁷ Ibid c 696

⁸ Ibid

⁹ Declaration No 13 encouraged "greater involvement" of national parliaments in EU activities, the exchange of information and improved relations between national parliaments and the EP, and the timely provision of Commission proposals for legislation "for information and possible examination".

¹⁰ [Protocol on the application of the principles of subsidiarity and proportionality](#)

achieved by the Community be substantiated by qualitative or, wherever possible, quantitative indicators.

Declaration 23 annexed to the 2001 *Treaty of Nice* invited national parliaments to participate in the debate on the future of the Union and the *Laeken Declaration* of 2001 proposed specific questions about the role of national parliaments that the Convention on the Future of Europe, launched in February 2002, should tackle. The Convention Working Group on the role of national parliaments identified some basic factors influencing the effectiveness of scrutiny and acknowledged that national parliaments did not always make use of the powers they had to scrutinise their governments.

In addition to recommendations on the provision of documents directly to national parliaments, more time for parliamentary scrutiny and regular exchanges of information between the European Parliament (EP) and national parliaments, the Working Group also suggested that national parliaments should be involved early in the legislative process and be provided with all the relevant information, using a simple mechanism that would not delay the legislative process unnecessarily.

An early warning subsidiarity mechanism was included in the Protocol on on Subsidiarity and Proportionality attached to the 2004 *Treaty Establishing a Constitution for Europe*, which never came into force following its rejection by France and the Netherlands in negative referendums in 2005. In September 2004 the UK Government published a *White Paper on the Treaty establishing a Constitution for Europe*, in which it claimed credit for the final agreement by the Intergovernmental Conference (IGC) on the subsidiarity mechanism protocol, describing its “twofold” importance:

21. [...] First, it will be very difficult to ignore the strongly-held views of one-third of the national parliaments. In practice any proposal meeting such opposition would be very unlikely to prosper, not least because, if a third of national parliaments were against any proposal, so too would their Governments be, and it would be hard to put together the qualified majority needed to pass the law in question. So the protocol gives real teeth to subsidiarity.

22. Secondly, it gives the national parliaments a direct say in the EU’s lawmaking procedures for the first time. At present, there is no obligation on Member States or the Commission even to inform national parliaments about draft EU laws, still less to let them have any power. Under the new mechanism, all national parliaments must be notified independently, and given six weeks to respond.

23. It is obviously for national parliaments, including the UK Parliament, to decide how they wish to make use of this new power. The Government hopes that it will give parliaments an incentive to work together even more closely than now, to maximise their effectiveness at EU level, and thus make the EU more attuned to the views of the EU’s electorates. The Government welcomes the progress already made by Parliament’s Scrutiny Committees in giving thought to how this mechanism can be made to work effectively, and how the devolved parliaments and assemblies can be consulted on its use.¹¹

In a debate on 9 September 2004 the then Foreign Secretary, Jack Straw, welcomed the subsidiarity mechanism, which had become known as the ‘yellow/orange card procedure’,

¹¹ Cm 6309 p 19

and confirmed that it would be for Parliament, not the Government, to decide how it will make use of the new power.¹² The Liberal Democrat European Affairs Spokesman, Menzies Campbell, had concerns about the new mechanism:

On subsidiarity, I am one of those who is supportive of the so-called yellow card—the early warning mechanism. Here the Foreign Secretary and I may part company. I am not convinced that five countries is necessarily the basis upon which to have a red card, but I do think that that principle would have been worth exploring a little further. Indeed, on a previous occasion I may have put forward the suggestion that two thirds of the Parliaments, if they took the view that what was being proposed was unacceptable, ought to have the ability not just to hold up their hand and issue a warning but to say, "This is legislation emanating from the European Union, which should be stopped in its tracks".¹³

Jack Straw conceded that this was an important point, on which he had “thought long and hard”.¹⁴ When *The Economist* commented that the new subsidiarity provisions were “weak at best, non-existent at worst”,¹⁵ Jack Straw took issue:

At present, there is no obligation on member states or the European Commission even to inform national parliaments about draft EU laws, still less to let them have any power. But under the new provisions all national parliaments must be notified independently of all draft laws, and given six weeks to respond. If a third of them object, the commission must “review” the draft. Yes, in theory, the commission could then re-submit the original proposals unamended, but in practice they would be unlikely to do so, not least because, if a third of national parliaments are against a proposal, so will be their governments, and the commission would be close to losing the qualified majority needed to pass laws.¹⁶

In February 2005 the Commission adopted a ten-point plan which aimed to involve all relevant parties, particularly national parliaments, in European integration. This was developed in 2006 as part of “Plan D” for democracy, dialogue and debate,¹⁷ as a result of which Commissioners attended over 100 meetings with national parliaments and also participated in inter-parliamentary meetings between the EP and national parliaments. In its Communication, “[A Citizens’ Agenda: Delivering Results for Europe](#)”¹⁸ the Commission stated that it would “transmit directly all new proposals and consultation papers to national parliaments, inviting them to react so as to improve the process of policy formulation”. This commitment, described as potentially “revolutionary” by the eurosceptic Danish MEP, Jens-Peter Bonde¹⁹ was welcomed by the European Council in June 2006:

37. The European Council notes the inter-dependence of the European and national legislative processes. It therefore welcomes the Commission's commitment to make all new proposals and consultation papers directly available to national parliaments, inviting them to react so as to improve the process of policy formulation. The Commission is asked to duly consider

¹² [HC Deb 9 September 2004 c882](#)

¹³ [Ibid c 909](#)

¹⁴ [Ibid](#)

¹⁵ [Economist 26 June 2004](#)

¹⁶ [Jack Straw The Economist 10 July 2004](#)

¹⁷ [COM/2005/0494 final, 13 October 2005](#)

¹⁸ [COM \(2006\)211, 10 May 2006](#)

¹⁹ [EUobserver 16 June 2006](#)

comments by national parliaments – in particular with regard to the subsidiarity and proportionality principles. National parliaments are encouraged to strengthen cooperation within the framework of the Conference of European Affairs Committees (COSAC) when monitoring subsidiarity.²⁰

The Commission began to provide national parliaments directly with non-legislative and consultative documents and its new legislative proposals (except classified documents) in September 2006. The Commission also introduced a new internal procedure for taking action to respond to feedback from national parliaments under the new arrangement.²¹

1.2 The Lisbon Treaty

The Lisbon Treaty, which came into force in December 2009, contained many of the Constitutional Treaty provisions, including the subsidiarity ‘yellow/orange card’ system, in the [Protocol on the Application of the Principles of Subsidiarity and Proportionality](#). Lisbon also contained a [Protocol on the Role of National Parliaments](#) which enshrined EU commitments on the provision of documentation directly to national parliaments, the right to submit a reasoned opinion on conformity with subsidiarity and proportionality, an eight-week period for national parliaments to scrutinise proposals before consideration by the Council, and to better inter-parliamentary cooperation between national parliaments and the EP.

2 The Lisbon Treaty subsidiarity and ‘yellow card’ provisions

The subsidiarity and proportionality Protocol set out the detailed ‘yellow/orange card’ procedures. To summarise, national parliaments may submit a ‘reasoned opinion’ within an eight-week period to the institution proposing the draft legislative act (usually the Commission), outlining why the proposal does not comply with the principle of subsidiarity. If a third or more of EU national parliaments submit reasoned opinions (the threshold drops to a quarter for legislation in the field of cooperation in criminal matters), the originating institution is usually bound to review its proposal with a view to maintaining, amending or withdrawing it. If more than half the Member States submit reasoned opinions and the institution decides to maintain the proposal, it must submit a reasoned opinion in support of this decision to the Council and European Parliament, each of which can strike down the proposal if national parliaments agree. Under the Protocol national parliaments can apply to the Court of Justice (through their Member State government) for judicial review of EU legislation on the grounds of infringement of the principle of subsidiarity.

The general subsidiarity and proportionality provisions are in Article 5 of the [Treaty on European Union](#) (TEU), as amended by the Lisbon Treaty, which states:

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.
2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to

²⁰ [European Council Presidency Conclusions 16 June 2006](#)

²¹ According to the Commission’s annual report on relations with national parliaments, during the first eight months of implementation (up to April 2007), 83 opinions were expressed by 22 parliaments on 44 Commission proposals. 55 of these were from second chambers or both chambers together. During this period the French Senate, which alone accounted for 30 requests, asked for additional information regarding the Commission’s replies on four proposals. [Memo to Interinstitutional Relations Group, SP \(2007\) 2202/4, 8 May 2007](#).

attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

Mike Thomas, the Legal Adviser to the [Lords EU Committee](#) noted the difference between the two principles:

Subsidiarity is about who should take action; proportionality is about the nature of any action there should be. The subsidiarity check comes first. If a proposal complies (or if it is an area of exclusive competence – see paragraph 12 below), the principle of proportionality can then be considered as part of normal scrutiny. In practice, the two concepts are closely related.

The [Protocol on the Application of the Principles of Subsidiarity and Proportionality](#) incorporated the same provisions as foreseen in the Constitutional Treaty. The yellow and orange card procedures are set out in Article 7(2) and (3):

Article 1

Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 5 of the Treaty on European Union.

Article 2

Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal.

Article 3

For the purposes of this Protocol, 'draft legislative acts' shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Article 4

The Commission shall forward its draft legislative acts and its amended drafts to national Parliaments at the same time as to the Union legislator.

The European Parliament shall forward its draft legislative acts and its amended drafts to national Parliaments.

The Council shall forward draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by them to national Parliaments.

Article 5

Draft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality.

Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

Article 6

Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, in the official languages of the Union, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.

Article 7

1. The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

2. Where reasoned opinions on a draft legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the draft must be reviewed. This threshold shall be a quarter in the case of a draft legislative act submitted on the basis of Article 76 of the Treaty on the Functioning of the European Union on the area of freedom, security and justice.

After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, may decide to maintain, amend or withdraw the draft.

Reasons must be given for this decision.

3. Furthermore, under the ordinary legislative procedure, where reasoned opinions on the noncompliance of a proposal for a legislative act with the principle of subsidiarity represent at least a simple majority of the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the proposal must be reviewed. After such review, the Commission may decide to maintain, amend or withdraw the proposal.

If it chooses to maintain the proposal, the Commission will have, in a reasoned opinion, to justify why it considers that the proposal complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national Parliaments, will have to be submitted to the Union legislator, for consideration in the procedure:

(a) before concluding the first reading, the legislator (the European Parliament and the Council) shall consider whether the legislative proposal is compatible with the principle of subsidiarity, taking particular account of the reasons expressed and shared by the majority of national Parliaments as well as the reasoned opinion of the Commission;

(b) if, by a majority of 55 % of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity, the legislative proposal shall not be given further consideration.

Article 8

The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article 263 of the Treaty on the Functioning of the European Union by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber thereof.

In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty on the Functioning of the European Union provides that it be consulted.

Article 9

The Commission shall submit each year to the European Council, the European Parliament, the Council and national Parliaments a report on the application of Article 5 of the Treaty on European Union. This annual report shall also be forwarded to the Economic and Social Committee and the Committee of the Regions.

3 The 'yellow card' early warning in practice

3.1 The EU institutions

Under the [Council's Rules of Procedure](#), the Committee of the Permanent Representatives of each Member State (Coreper) ensures that the subsidiarity and proportionality principles are respected. In the EP compliance is verified by the committees in charge of specific legislative dossiers, together with the Committee on Legal Affairs. The Council and the EP each have their own procedures for implementing the subsidiarity control mechanism. The [EPs Rules of Procedure](#) ensure that the reasoned opinions of national Parliaments are taken into consideration in parliamentary discussions. The Council's Rules stipulate that national parliaments are consulted on legislative initiatives originating from a group of Member States.

The Committee of the Regions (CoR) expresses its views when it is consulted or in own initiative opinions. The Lisbon Treaty empowered the CoR to challenge *ex post* the validity of legislation that could violate the subsidiarity principle, but only in the areas in which it is to be consulted. In 2010 the CoR amended its Rules of Procedure to the effect that all its opinions should contain an explicit reference to the subsidiarity and proportionality principles. By the end of 2010 the CoR's Subsidiarity Monitoring Network (SMN – launched in April 2007) included 113 regional partners. The Committee has published its first [Annual Report on Subsidiarity](#), covering 2010.

Reasoned opinions on Commission proposals

The Commission noted in its [18th Report on Better Lawmaking](#) (my emphasis):

Since 2006 the Commission has, within the framework of the political dialogue,²² transmitted all new proposals to national Parliaments, and replied to their opinions.²³ As from 1 December 2009, this framework has been used in parallel for the subsidiarity control mechanism. By the end of 2010, the Commission had sent out 82 draft legislative proposals falling within the scope of the Protocol and received 211 opinions. While most of the opinions concentrated on the content of the proposal, a total of 34 opinions raised subsidiarity concerns. **For five legislative proposals the Commission received more than one reasoned opinion,²⁴ but in all of these cases the threshold for a 'yellow card' was far from being reached.**

The Commission Report listed the initiatives on which national parliaments had delivered reasoned opinions regarding the subsidiarity principle in 2010:

²² FN 16: COM(2006) 211. See also the Commission 2010 Report on relations with national Parliaments.

²³ FN 17: See also http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/index_en.htm

²⁴ FN 18: See also Annex, further details via IPEX (a dedicated website for the inter-parliamentary exchange): <http://www.ipex.eu/ipex/>.

	Title	National chambers submitting reasoned ⁴⁹ opinions
1.	Seasonal Workers Directive, COM(2010) 379	Austrian <i>Nationalrat</i> and <i>Bundesrat</i> Czech <i>Senát</i> and <i>Poslanecká sněmovna</i> Dutch <i>Eerste Kamer</i> and <i>Tweede Kamer</i> Polish <i>Senat</i> The United Kingdom House of Commons and House of Lords
2.	Deposit Guarantee Schemes Directive, COM(2010) 368	German <i>Bundesrat</i> and <i>Bundestag</i> Swedish <i>Riksdag</i> Danish <i>Folketinget</i> The United Kingdom House of Commons
3.	Food Distribution to the Most Deprived Persons in the Union, COM(2010) 486	The United Kingdom House of Lords French <i>Senat</i> Danish <i>Folketinget</i> Swedish <i>Riksdag</i> Dutch <i>Eerste Kamer</i> and <i>Tweede Kamer</i>
4.	Support for Rural Development by the EAFRD Regulation, COM(2010) 537	Polish <i>Sejm</i> and <i>Senat</i> Lithuanian <i>Seimas</i> The Luxembourg <i>Chambre des Députés</i>
5.	Direct Support Scheme for Farmers, COM(2010) 539	Polish <i>Sejm</i> and <i>Senat</i> Lithuanian <i>Seimas</i> The Luxembourg <i>Chambre des Députés</i>
6.	Investor Compensation Scheme, COM(2010) 371	Swedish <i>Riksdag</i> The United Kingdom House of Commons
7.	European Heritage Label, COM(2010) 76	French <i>Senat</i>
8.	Frontex Regulation, COM(2010) 61	Polish <i>Senat</i>
9.	Translation and Interpretation in Criminal Proceedings, COM(2010) 82	Austrian <i>Bundesrat</i>
10.	Imports of Fishery Products from Greenland to the EU, COM(2010) 176	Italian <i>Senato della Repubblica</i>
11.	Radio Spectrum Policy Programme, COM(2010) 471	French <i>Senat</i>
12.	Single European Railway Area, COM(2010) 475	The Luxembourg <i>Chambre des Députés</i>

FN 49: These include four opinions that arrived after the 8 week deadline or were not adopted by the respective chambers according to their internal rules.

Subsidiarity cases at the Court of Justice

The earlier Protocol on subsidiarity had provided for *ex-post* control of subsidiarity by the Court of Justice and a number of subsidiarity complaints have made their way to the Court since Article 3b came into force in 1993, or in one case outlined below, before it did so:

The European Court of Justice and the Court of First Instance are tasked with making a *post hoc* determination of whether the subsidiarity principle has been applied correctly during the legislative process and whether relevant procedures have been followed. There has been very little case-law to date on the subsidiarity principle itself and what case-law there has been can be summed up as follows.

In *Case T-29/92 SPO e.a. v Commission*, the Court of First Instance held that the principle of subsidiarity "...did not, before the entry into force of the Treaty on European Union, constitute a general principle of law by reference to which

the legality of Community acts should be reviewed". The principle of subsidiarity could not therefore be a ground for challenging the validity of a Commission decision in the competition field before the Treaty on European Union came into force.

In *Case C-415/93 Union Royale Belge des Sociétés de Football association e.a v Bosman* the Court balanced the principle of subsidiarity against the need to ensure that the rights conferred on individuals by the Treaty were not eroded. An argument based on subsidiarity cannot trump an argument which, if followed, would erode one of the fundamental freedoms in the Treaty.

In *Case C-233/94 Germany v European Parliament and Council of the European Union* Germany sought to rely on the principle of subsidiarity to challenge the validity of a Directive on credit institutions which had been adopted on the basis of a qualified majority in Council and against which Germany had voted. Germany claimed that the Directive did not explicitly state the reasons on which it was based and, in particular, how the Directive conforms to the principle of subsidiarity. In this regard Germany argued that; "*Community institutions must give detailed reasons why only the Community, to the exclusion of the Member States, is empowered to act in the area in question*". As the Court pointed out, the issue here was not whether the principle of subsidiarity had been infringed or not, but that the Community institutions "*...did not set out the grounds to substantiate the compatibility of its actions with that principle*". The Court examined the recitals to the Directive and took the view that, although not stated in so many terms, the Community institutions had demonstrated that action at Community level could best achieve the intended object of the Directive. The Court therefore held that "*...it is apparent that, on any view, the Parliament and the Council did explain why they considered that their action was in conformity with the principle of subsidiarity and, accordingly, that they complied with the obligation to give reasons as required under Article 190 of the Treaty*". An express reference to that principle cannot be required."

Finally in *Case C-491/01 R v Secretary of State for Health ex parte BAT* the Court of Justice commented on the principle of subsidiarity as set out in Article 5EC and Article 3 of the protocol on the application of the principles of subsidiarity and proportionality. The Court held that the principle of subsidiarity applied where the Community legislature makes use of Article 95 since that provision does not give it exclusive competence to regulate economic activity on the internal market. To answer the question as to whether the principle of subsidiarity had been offended in the adoption of the contested measure, the Court first said it was necessary to consider "*...whether the objective of the proposed action could be better achieved at Community level*." The Court stated that the objective in question (eliminating the barriers to trade created by the existence of differing legal regimes relating to the production, sale and presentation of tobacco products) could best be achieved at Community level and supported this argument pointing to the "*...multifarious development of national laws in this case*." The Court held that there is a second element to the principle of subsidiarity and that is the need to examine "*...the intensity of the action...*" as to whether it was necessary to achieve the action pursued.²⁵

²⁵ "Subsidiarity and the draft treaty - discussion paper", Professor Noreen BURROWS, University of Glasgow, Dr Cairiona Carter, University of Edinburgh, Professor Andrew Scott, University of Edinburgh, prepared for sub rosa Discussion Brussels, 27 April 2004

In 2008 Professor Dashwood²⁶ told the European Scrutiny Committee that the subsidiarity principle was most useful at the stage of law-making rather than at adjudication, at which point it was “largely inoperable”.²⁷ In 2009 there was only one subsidiarity case at the Court, [Case C-58/08 Vodafone Ltd, Telefónica O2 Europe plc, T-Mobile International AG, Orange Personal Communications Services Ltd v. Secretary of State for Business, Enterprise and Regulatory Reform](#), about [EC Regulation No 717/2007](#). The Commission’s 18th “Better Lawmaking” report also noted that “A fair political judgement at the **pre-legislative phase is important** to ensure that proposals get the subsidiarity issues right from the beginning. At the post-legislative stage, the Court of Justice could be called on to check the legality of adopted legislation”.

Under Article 263 of the *Treaty on the Functioning of the European Union* (TFEU – former Article 230 of the *Treaty Establishing the European Community* or TEC) the EU Court of Justice can review the legality of legislative acts for compliance with the principle of subsidiarity.

In the 18th Report on Better Lawmaking, the Commission noted that “The Court has yet to annul a measure for breach of subsidiarity”.

3.2 UK parliamentary procedures

Submitting a reasoned opinion under Protocol Article 6

Two Commons select committees, the [Modernisation Committee](#) in 2004 and the [European Scrutiny Committee \(ESC\)](#) in October 2008, examined the procedures by which motions for reasoned opinions on subsidiarity should be decided on by the House. The ESC’s proposals were set out in its report *Subsidiarity, National parliaments and the Lisbon Treaty*, in which it concluded:

46. The entry into force of the Lisbon Treaty brings with it new provisions for national parliaments. There is, in our view, less to the provisions on subsidiarity than meets the eye. In our experience it has been rare for the entirety of a proposal for legislation to be inconsistent with the principle of subsidiarity. We do not therefore expect frequent use to be made of the yellow and orange cards. Indeed it would be surprising if the mere existence of such provisions gave rise to a growth in the number of well-founded subsidiarity cases; it might even give the impression of a lack of focus on subsidiarity concerns in the past.

47. The changes to definitions contained in the Lisbon Treaty necessitate the redrafting of the Committee's Standing Order and the House's scrutiny reserve resolution. We will pursue with the Government the need for the redraft to make the texts clearer, simpler and tougher. In particular, we are looking to see draft European Council and Council conclusions, European Council and Council decisions under the Common Foreign and Security Policy, and both legislative and non-legislative acts included in the categories of document deposited for scrutiny.

Paragraph 64: We welcome the Minister's readiness to reflect on ways of enhancing the scrutiny process. Since the opt-in arrangements already apply to the significant areas of asylum and immigration and judicial cooperation in civil matters, we see no convincing reason why the commitments offered by the

²⁶ Professor of European Law, Sidney Sussex College, Cambridge

²⁷ [Minutes of Evidence, 14 May 2008](#)

Government in its Statement should not be applied now to those areas, irrespective of what may happen in the future in relation to the Lisbon Treaty.²⁸

Parliament did not debate or decide on either of these reports, and motions for reasoned opinions under the Lisbon Treaty remained subject to the same Standing Orders (SO) as motions relating to EU documents generally.

In January 2010 the Government proposed that when the ESC submitted a reasoned opinion for a yellow or orange card to be raised, it would table a motion, which would be amendable, to endorse the Committee's recommendation.²⁹ The ESC was not happy with this. The then ESC Chairman, Michael Connarty, replied on 27 January 2010 that "The Committee's view is that the House's endorsement of its reasoned opinion should not itself require endorsement by the Government", continuing:

It prefers therefore that the chairman or another member acting on behalf of the Committee should table the motion. At present only Ministers can put motions down on the effective order paper (with the exception of Opposition Days and the two Public Accounts Committee days). The Wright Committee's report talks of restoring private members' motions in some form, so the issue of who can table motions is up for discussion. This change can be made without any amendment to the House's standing orders.

The Government is proposing that the ESC's report and "reasoned opinion" on subsidiarity be debated either in the European Committee or on the Floor. The Modernisation Committee said (and the ESC agrees) that there was a balance to be struck between maximising opportunity for debate in the House and ensuring that the necessary processes can be completed before the end of the (now) eight-week deadline specified in the Treaty. The ESC's proposal remains therefore for the motion to approve the Committee's reasoned opinion to be taken without debate but with the chairman of the Committee (or another Committee member) being permitted a short speech to outline the reason for the opinion and with the Minister having the right of a short reply on behalf of the Government.

The Procedure Committee reported on the reasoned opinion procedure in July 2011, describing among other things the shortcomings of the current procedure:³⁰

11. Since the provisions of the Lisbon Treaty have come into effect, the ESC has had a further role to play in identifying those draft legislative proposals in respect of which the House may wish to send a reasoned opinion to the European institutions. The process is similar to that used by the Committee when recommending documents for debate in European Committee or on the floor of the House. When the ESC considers that a draft legislative proposal does not comply with the principle of subsidiarity, the Committee sets out the reasons for its conclusion in a report to the House, with a draft reasoned opinion annexed to the report. The Committee also recommends that the House agree a resolution in the following terms:

That this House considers that [title of relevant draft legislative proposal] does not comply with the principle of subsidiarity, for the reasons set out in [title of relevant European Scrutiny Committee Report] and in accordance with Article 6

²⁸ First Special Report of Session 2008-09, "[Subsidiarity, National Parliaments and the Lisbon Treaty](#)", 33rd Report 2007-08

²⁹ [Ministerial Correspondence](#), House of Commons European Scrutiny Committee 2009-10, 11 January 2010

³⁰ Procedure Committee 4th Report, "[Reasoned Opinions on subsidiarity under the Lisbon Treaty](#)", 20 July 2011

of Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality, instructs the Clerk of the House to forward this reasoned opinion to the presidents of the European institutions.

In such cases, the Committee will express a view on whether the motion for a reasoned opinion should be debated on the Floor of the House or in a European Committee.

12. Under Standing Order No. 119, any document recommended for debate by the European Scrutiny Committee stands automatically referred to a European Committee, unless the House orders otherwise.^[11] The European Committee considers any such document on a motion moved by a Minister, to which amendments may be tabled and moved. Before debate on the motion, the Chair calls a member of the European Scrutiny Committee to make a statement of no more than five minutes, followed by a Minister to make a brief statement on behalf of the Government and to respond to questions from Members. A Member of the House who has not been nominated to the Committee may attend and take part in proceedings, but may not vote, make motions, or be counted towards the quorum.

13. At present, a motion for a reasoned opinion is proceeded with in the same way as other motions relating to European Union Documents. This means that a Minister must move the motion, either in a European Committee or on the Floor of the House, whether or not the Government agrees with the European Scrutiny Committee's view that the legislative proposal does not comply with the principle of subsidiarity. This can lead to a situation in which a Minister must move a motion but then speak against it.

14. The recent experience of the House in considering two motions for a reasoned opinion illustrates this point. The first motion, relating to Investor-Compensation Schemes, was debated in European Committee on 21 October 2010 and agreed to by the House on 25 October 2010.^[12] During the debate in Committee, the Minister spoke against the motion; the Opposition spokesman, Chris Leslie, drew attention to the confusion created by this situation:

As a novice in European scrutiny, the first thing that strikes me is that the motion in the name of the Minister appears in a form that suggests that he felt that the directive did not comply with the principle of subsidiarity. The Minister's speech, however, has essentially rebutted the subsidiarity argument.^[13]

He suggested that "it would have been more useful to have had a motion in the name of the Member who is heading up the Committee concerned"—that is, the Chair of the European Scrutiny Committee.^[14]

15. The second reasoned opinion agreed by the House concerned a draft Directive to introduce a Common Consolidated Corporate Tax Base. In this case, the motion for a reasoned opinion was debated on the Floor of the House, in accordance with the recommendation of the European Scrutiny Committee.^[15] On this occasion, the Minister spoke in support of the motion, and so the problem described above did not arise.

16. Hugh Bayley, the Chair of the European Committee which debated the first motion for a reasoned opinion, raised this matter with the Chairman of Ways and Means. He described the situation in which a Minister was obliged to move a motion with which he did not agree as "unsatisfactory and, to the lay observer, confusing".^[16] The Chairman of Ways and Means, on behalf of the

Panel of Chairs, invited us to consider changes to the Standing Orders which would address the difficulty.[\[17\]](#)

17. We consulted the Chair of the European Scrutiny Committee, who informed us that his Committee considers that the present situation, in which a Minister must move a motion whether or not the Government agrees with it, is not desirable.[\[18\]](#)

10 European Scrutiny Committee, Thirty-third Report of Session 2007-09, *Subsidiarity, National Parliaments and the Lisbon Treaty*, HC 563, para 27 [Back](#)

11 In practice, the tabling of a motion for debate on the floor is considered to be a de facto de-referral. [Back](#)

12 Votes and Proceedings (2010-12), 21 October 2010; Votes and Proceedings (2010-12), 25 October 2010 [Back](#)

13 PBC Deb (2010-12) Euro Co B, 21 October 2010, c 10 [Back](#)

14 PBC Deb (2010-12) Euro Co B, 21 October 2010, c 10 [Back](#)

15 European Scrutiny Committee, Twenty-seventh Report of Session 2010-11, HC 428-xxv [Back](#)

16 Ev p 14 [Back](#)

17 Ev p 14 [Back](#)

18 Ev p 15 [Back](#)

The Report identified the difficulties caused by the current SO provisions on subsidiarity motions and made recommendations to the House to address them. Not surprisingly, the ESC saw itself as the main player and gatekeeper in any amended procedure.³¹

The Procedure Committee set out the following proposals for the future:

Identifying non-compliant proposals and drafting reasoned opinions

20. The first step in this process is for legislative proposals that may not comply with the principle of subsidiarity to be identified. The European Scrutiny Committee already systematically examines EU documents and is therefore the obvious body to take on this responsibility; indeed, it has already done so twice.[\[20\]](#) We therefore agree with the recommendations of both the Modernisation Committee and the European Scrutiny Committee that the latter should continue to have responsibility for identifying potentially non-compliant proposals.

21. The next step is for the reasoned opinion to be drafted. Again, both Committees recommended that the European Scrutiny Committee should take on this role; as the ESC Report pointed out, "it is not clear who else could do so".[\[21\]](#) We see no reason for any change to the present situation, in which a draft reasoned opinion is drawn up by the European Scrutiny Committee and set out in a report.

Moving the motion for a reasoned opinion

22. The main procedural problem identified by Members has been the fact that, at present, it is necessary under the Standing Orders for a Minister to move the motion for a reasoned opinion to be sent to the relevant European institutions, even if the Government does not agree that the draft legislative proposal in question does not comply with the principle of subsidiarity. The Modernisation Committee recommended that such motions should be in the name of the Chair of the European Scrutiny Committee or in the name of another member of the Committee acting on behalf of the Committee; the European Scrutiny Committee endorsed this approach.[\[22\]](#)

³¹ See [Written evidence submitted by Bill Cash](#), Chair of the European Scrutiny Committee, March 2011

23. It is evident that the present situation, in which a Minister must move a motion for a reasoned opinion whether or not the Government supports that motion, is confusing and misleading for Members and for the public. Since it is the European Scrutiny Committee which recommends that the House should consider a motion for a reasoned opinion, it would be logical for that motion to appear in the name of the Chair of the European Scrutiny Committee or in the name of another member of the Committee acting on its behalf. The difficulty at present is that Standing Order No. 119 refers, in paragraph 9, to a motion "of which a Minister shall have given notice".

24. We recommend that paragraph 9 of Standing Order No. 119 be amended by inserting, after 'Minister', "or, in the case of a motion for a reasoned opinion under Protocol (No. 2) to the Lisbon Treaty, a member of the European Scrutiny Committee".

Debating motions for reasoned opinions

25. Under the provisions of the Lisbon Treaty, the House has a period of eight weeks from the transmission of a proposal for legislation in which it may send a reasoned opinion. Any opinion sent after this deadline does not engage the provisions of the Treaty. Both the Modernisation Committee and the European Scrutiny Committee identified this time limit as an important factor in determining the procedures they were to recommend. The European Scrutiny Committee explained the difficulties presented by the time limit as follows:

The [European Scrutiny] Committee would not wish to consider a proposal before it had received the Government's Explanatory Memorandum (EM) on it. There would then be very little time to obtain further information from Ministers, take account of the views of the devolved assemblies, draft the reasoned opinion and obtain the approval of the House to give a reasoned opinion.^[23]

26. Both the Modernisation Committee and the then ESC recommended that the motions should be decided on by the House without debate, though the ESC recommended that, if there was to be no debate, "the Chairman or designated member of the European Scrutiny Committee should outline the reason for the Opinion in a short speech to which a Minister may reply on behalf of the Government."^[24]

27. Since, however, neither report has been approved by the House, the motions may be debated in a European Committee or on the Floor of the House. Of the two examples of reasoned opinions so far, the motion relating to Investor-Compensation Schemes was debated in a European Committee, with a subsequent decision on the Floor of the House; the debate in Committee lasted for almost an hour. The motion relating to Common Consolidated Corporate Tax Base was debated on the Floor of the House and took nearly the full hour and a half.

28. The current Chair of the European Scrutiny Committee has noted that "it was highly unusual for the Committee of Selection to nominate a European Committee on Wednesday for a debate the following day" as was the case with the European Committee that considered the first motion for a reasoned opinion, ^[25] and that "recommendations for reasoned opinions are likely to be rare".^[26] The European Scrutiny Committee therefore considers that debates on motions for reasoned opinions should always take place on the Floor of the House and should be subject to the provisions of Standing Order No. 16, which allows for a debate of up to 90 minutes.^[27]

29. We agree that a 90 minute debate is appropriate for a motion for a reasoned opinion. On the question of where the debate should be held, we accept that there will be cases in which the deadline of eight weeks will not allow enough time for a European Committee to consider a motion for a reasoned opinion to be nominated. Experience has shown, however, that there are also cases in which it is possible for a committee to be nominated and report its resolution to the House in enough time for the House to take a decision within the deadline. There are many demands on time for debate on the Floor of the House and it is an established principle that delegated legislation and motions relating to EU documents are debated in committee, unless a special case is made for an exception to this rule. We therefore consider that there is no need to change the current arrangements for debate on a motion for a reasoned opinion.

30. In cases where it is not possible for a debate in Committee and a decision on the Floor of the House to take place within the eight weeks allowed by the Lisbon Treaty, we expect the Government to provide time for debate on the Floor of the House on a motion in the name of the Chair of the European Scrutiny Committee, or a member of the ESC acting on the Committee's behalf. Standing Order No. 16 allows such a debate to take place after the moment of interruption; a debate on a reasoned opinion need not, therefore, reduce the time available for other business. If this happened, any division would be deferred until the following Wednesday, unless the House ordered otherwise.[\[28\]](#)

31. One of the objections raised by the Modernisation Committee was that any need for the Government to provide time for debate would lead to the opinion being seen to be that of the Government, not the House. We do not accept this argument: any decision taken by the House, whether in government time or not, is a decision of the House and not the Government. Moreover, the fact that the motion was moved by the Chair or a member of the European Scrutiny Committee would remove any room for doubt. We would join with the European Scrutiny Committee in resisting any call for the Backbench Business Committee, not the Government, to be responsible for scheduling time for debate; as the Chair of the European Scrutiny Committee points out, "only the Government can guarantee time within the deadline".[\[29\]](#) We therefore consider that any debate on the Floor of the House should take place in Government time. At present, Standing Order No. 14(3) excludes EU documents from the remit of the Backbench Business Committee, and we see no reason for this to change.

19 Select Committee on Modernisation of the House of Commons, Second Report of Session 2004-05, *Scrutiny of European Business*, HC 465-I and -II; European Scrutiny Committee, Thirty-third Report of Session 2007-09, *Subsidiarity, National Parliaments and the Lisbon Treaty*, HC 563 [Back](#)

20 European Scrutiny Committee, Third Report of Session 2010-11, HC 428-iii; European Scrutiny Committee, Twenty-seventh Report of Session 2010-11, HC 428-xxv [Back](#)

21 European Scrutiny Committee, Thirty-third Report of Session 2007-09, *Subsidiarity, National Parliaments and the Lisbon Treaty*, HC 563, para 40 [Back](#)

22 Select Committee on Modernisation of the House of Commons, Second Report of Session 2004-05, *Scrutiny of European Business*, HC 465-I and -II, para 119; European Scrutiny Committee, Thirty-third Report of Session 2007-09, *Subsidiarity, National Parliaments and the Lisbon Treaty*, HC 563, para 45 [Back](#)

23 European Scrutiny Committee, Thirty-third Report of Session 2007-09, *Subsidiarity, National Parliaments and the Lisbon Treaty*, HC 563, para 43 [Back](#)

24 European Scrutiny Committee, Thirty-third Report of Session 2007-09, *Subsidiarity, National Parliaments and the Lisbon Treaty*, HC 563, para 45 [Back](#)

25 Ev p 15 [Back](#)

26 Ev p 15 [Back](#)

- 27 Ev p 15 [Back](#)
28 Standing Order No. 41A [Back](#)
29 Ev p 15 [Back](#)

The UK's reasoned opinions to date

According to the ESC website, the House of Commons has issued reasoned opinions on the following EU proposals:

[Investor-Compensation Schemes, 25 October 2010](#)

[CCCTB, 11 May 2011](#)

[Prudential Requirements for Credit Institutions, 9 November 2011](#)

[Common European Sales Law, 23 November 2011](#)

[Public Procurement and Procurement by Public Entities, 6 March 2012](#)

The ESC has received a response from the Commission on two of these:

[Investor-Compensation Schemes](#)

[Commission response on CCCTB](#) 

Where the reasoned opinion deadline has passed, but the House has concerns about issues of subsidiarity, it may choose to write to the heads of the European Institutions. The ESC has written to the Institutions with concerns on the following proposals.

[Seasonal Workers, 13 October 2010](#) 

[Financial Workers, 13 October 2010](#)

4 Further reading

House of Commons Procedure Committee “[Reasoned opinions on subsidiarity under the Lisbon Treaty](#)”, 4th Report of 2010–12, 13 July 2011

Government [Explanatory Memorandum](#) on the European Union Bill 2009 has a paragraph on the new powers for national parliaments.

European Law Journal, Vol. 16, No. 2, March 2010, pp. 158–185, “The Function of the Proportionality Principle in EU Law”, Tor-Inge Harbo.

European Law Review Issue 1 2011, “[The Early-Warning System for the Principle of Subsidiarity: The National Parliament as a Conseil d’Etat for Europe](#)”, Philipp Kiiver, Maastricht University

European Centre for Parliamentary Research and Documentation (ECPRD), [Table internal procedure for subsidiarity check 08 06 2011.PDF](#)

House of Lords, “[Subsidiarity: assessing and EU proposal](#)”, Mike Thomas, Legal Adviser, November 2009

National Assembly for Wales, European and External Affairs Committee, EUR(3)-03-10: Paper 2 : 12 January 2010, "[Discussion paper: Implications for the National Assembly for Wales of the Protocol on Subsidiarity and Proportionality \(Protocol no.2\) contained in the Lisbon Treaty](#)"

Danish Folketinget 2009 – 10, Report No. 02, Report issued by the European Affairs Committee on 9 April 2010, "[Report On Consideration of EU matters by the Folketing in relation to subsidiarity checks](#)"

Committee of the Regions Subsidiarity Monitoring Network

- [leaflet](#)
- [subsidiarity grid](#).
- Study on "[The Role of Regional Parliaments in the process of subsidiarity analysis within the Early Warning System of the Lisbon Treaty](#)"

Centre for European Political Studies (CEPS) "[Paper tigers or sleeping beauties? National Parliaments in the post-Lisbon European Political System](#) CEPS Special Report/February 2011, Piotr Maciej Kaczyński

Theo Jans and Sonia Piedrafita called "[The Role of National Parliaments in European Decision-Making](#)", 2009.

Finnish Institute of International Affairs, "[Guardians of Subsidiarity: national parliaments strive to control EU decision-making](#)" FIIA Briefing Paper 84, May 2011.

Notre Europe, "[Does Subsidiarity ask the Right Question?](#)" Jörgen Hettne and Fredrik Langdal, 2011

Professor Alan Dashwood, "[The Lisbon Treaty: a sheep in sheep's clothing](#)"

French National Assembly, "[Strengthening of the role of national parliaments in the European Union](#)"

German Law Journal, Vol. 07 No. 09, "[How to Sharpen a Dull Sword – The Principle of Subsidiarity and its Control](#)" Christoph Ritzer, Marc Ruttloff and Karin Linhart

"[Late wake-up call or early warning?: Parliamentary participation and cooperation in light of the Lisbon Treaty](#)" Paper prepared for the UACES Conference: The Lisbon Treaty Evaluated: Impact and Consequences, 31 January - 1 February 2011 (Draft)