

SENAT OF THE REPUBLIC OF POLAND

Report on the subsidiarity and proportionality check of the proposal for a Directive of the European Parliament and of the Council amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community postal services (COM (2006)594).

At the sittings on November 15 and December 6, 2006 the Senate's European Union Affairs Committee carried out the subsidiarity and proportionality check following the procedure agreed by the COSAC. The check was completed and the conclusions formulated as follows:

1. Which committees were involved in examining the Commission proposal for a Directive of the European Parliament and of the Council amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community postal services and what role did each committee play?

Two committees participated in the check: the European Union Affairs Committee and the National Economy Committee.

2. Was your plenary involved?

No.

3. Were any other administrative services of your parliament involved in the process?

The Information and Documentation Office, within its remit, commissioned an outside expertise provided to the Senate committees involved.

4. Could you describe the procedure used for the examination from start to finish with regard to the committees involved and other actors and the chronology of their involvement?

At a sitting on 15 November, 2006 the European Union Affairs Committee adopted a plan for the subsidiarity and proportionality check. The committee decided to:

- **involve the National Economy Committee**
- **to seek an outside expertise,**
- **to designate a senator-rapporteur who, relying on experts' opinions, would propose a draft opinion for the committees.**

On Dec. 6 a joint committee sitting was held with the representatives of the government and the state's public enterprise "Poczta Polska" (Polish Post), as well as academics and the experts.

The representative of the Ministry of Transport, which is responsible for the postal services' market, presented the government's position on the proposed directive. The two committees acquainted themselves with opinions and comments of the experts, representatives of "Poczta Polska", the senator-rapporteur, and a discussion took place. The committees adopted an opinion on the conformity of the said directive with the subsidiarity and proportionality rules.

5. Did your government provide any information as part of the scrutiny process?

The government submitted its official position on the proposed directive, the government's representative took part in the sitting and provided the senators with additional information.

6. Did your national parliament consult regional parliaments with legislative powers?

Does not concern since there are no regional bodies with legislative powers in Poland's constitutional system.

7. Were any other external actors involved in the examination?

The joint committee sitting was attended by the government's representatives, as well as officials from state-owned enterprise „Poczta Polska” and a specialist from a research. The committees had been presented with two written opinions by external experts.

8. In case of a bicameral system, did you coordinate your examination with the other parliamentary chamber?

No, each chamber, ie. the Sejm and the Senate, conducted its own subsidiarity and proportionality check.

9. Was the procedure used for this project in accordance with the procedure your parliament plans to use following the Constitutional Treaty's entering into force?

So far the European Union Affairs Committee has carried out three subsidiarity and proportionality checks. Each scrutiny exercise followed the same procedure, which is expected to be practised also in the future.

Findings:

10. Did you find any breach on the subsidiarity principle?

Upon the completion of the scrutiny exercise, the European Union Affairs Committee and the National Economy Committee have agreed that the proposed directive on postal services does not breach the subsidiarity principle.

11. Did you find any breach on the proportionality principle?

The European Union Affairs Committee and the National Economy Committee have not find any breach of the proportionality principle.

12. Did you adopt a reasoned opinion for non-compliance? (If yes please enclose a copy with your report to the COSAC secretariat)

The committees did not adopt an opinion for non-compliance with subsidiarity and proportionality principles..

13. Did you find the Commission's justification with regard to the proportionality principle¹ satisfactory?

The Commission's justification has been regarded as satisfactory.

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

One of the main issues addressed during the examination was the fixed date for the full opening up of the postal services' market, ie. 1 January 2009. From the accompanying opinions it becomes evident that the said date may be difficult to meet on the Polish postal services' market.

¹ The protocol on subsidiarity and proportionality does not stipulate an explicit legal obligation for the Commission to include a justification with regard to proportionality in the explanatory memorandum of a legislative proposal. However, according to the interinstitutional agreement on better lawmaking of 2003 the Commission "will also explain in its explanatory memorandum how measures proposed are justified in the light of the principles of subsidiarity and proportionality" (Art. 15)