

January 2007

**Report on**

**the results of the subsidiarity and**

**proportionality check coordinated by**

**COSAC on the Commission proposal for a**

**Directive concerning the full**

**accomplishment of the internal market of**

**Community postal services**

Prepared by the COSAC Secretariat and presented to:

The Chairpersons of the Conference of Community  
and European Affairs Committees  
of Parliaments of the European Union

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**Conference of Community and European Affairs Committees  
of Parliaments of the European Union**

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# 1 Introduction

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This report has been prepared by the COSAC Secretariat in order to present the results of the second subsidiarity and proportionality check under the auspices of COSAC. It sums up the results of the scrutiny procedure in the parliaments that participated in the check and provides factual information on the procedures used and the experience gained. It is designed facilitate the exchange of views and best practices.

## 1.1 BACKGROUND

The XXXIV COSAC in London in October 2005 agreed in paragraph four of the Contribution that:

“Those national parliaments which wish to participate shall conduct a subsidiarity and proportionality check on a forthcoming EU legislative proposal or proposals, developing their existing scrutiny role as recognised in the Protocol on the Role of National Parliaments attached to the Treaty of Amsterdam, allowing them to test their systems for reaching decisions on subsidiarity and proportionality, enabling an assessment of the justifications presented by the Commission and stressing to the Commission national parliaments’ role in relation to subsidiarity.”

COSAC announced in paragraph two of the Conclusions of the same meeting that:

“The XXXIV COSAC, recalling the existing scrutiny role of national parliaments, the provisions on subsidiarity in the Amsterdam Treaty and the fact that the Protocol on the Role of National Parliaments gives COSAC a role specifically in relation to subsidiarity, decided to encourage national parliaments to conduct a subsidiarity and proportionality check on a forthcoming EU legislative proposal or proposals. The check should be carried out with due respect for national parliaments’ internal work programmes, legal frameworks and traditions. COSAC agreed that, for those national parliaments which wish to participate, the check should operate as follows:

- i. “Within two weeks after the examination by national parliaments of the European Commission’s annual work programme, as envisaged in the initiative “Raising European Awareness“, participating national parliaments should inform the COSAC Presidency of the proposals they wish to be subject to the subsidiarity and proportionality check; they may also make additional proposals at any time; the Presidential Troika should designate the most frequently mentioned proposals to be subject to the check; the list will be distributed to the national parliaments and the European Parliament;
- ii. “the IPEX database should, if possible, be used in connection with the subsidiarity and proportionality check;
- iii. “participating national parliaments should seek to complete their scrutiny within a six-week period;
- iv. “the six-week period should begin when the proposal has been published in all languages;
- v. “participating national parliaments or chambers should send any comments on subsidiarity or proportionality directly to the Commission, the European Parliament and the Council within the six-week period, copying those comments to the COSAC Presidency; and

vi. “it would be helpful if national parliaments could indicate clearly whether their comments relate to subsidiarity or proportionality.”

According to paragraph 2(i) of the COSAC Conclusions cited above, national parliaments who wished to participate in the subsidiarity and proportionality were asked to inform the COSAC Presidency of the proposals they wished to be subject to the check by 30 December 2005. The Austrian Presidency received written proposals from 18 national parliaments or parliamentary chambers from 14 Member States.

Based on the proposals from these national parliaments, the COSAC chairpersons, meeting on 20 February 2006 in Vienna, agreed to carry out a subsidiarity and proportionality check on the two most frequently-mentioned legislative proposals, which in this case were:

- Proposal for a Regulation on the applicable law and jurisdiction in divorce matters; and
- Proposal for the full accomplishment of the Internal Market for Postal Services.

This report relates to the subsidiarity and proportionality check of the second proposal with regard to postal services, (COM(2006) 594 final of 18 October 2006. The proposal does not alter the main provisions of the existing legislation on postal services, including the obligation to ensure universal service provision to citizens. The main change is the removal of the concept of ‘reserved areas’ to which Member States can restrict access to certain operators. In effect, this confirms 2009 as the date from which the internal market for postal services is to be completed.

## 1.2 PARTICIPATION

The subsidiarity and proportionality check of 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 (COM (2006)594) was launched on 31 October 2006 with the aim of completing it by 11 December 2006. This schedule, as outlined in an *aide mémoire* of the COSAC Secretariat,<sup>1</sup> reflected the fact that the proposal was on the Council agenda on the 11 December 2006 for a presentation by the Commission and preliminary exchange of view of the ministers. The launch date was based on the early information by the Commission that all languages versions would be available by the end of October. The proposal was adopted by the Commission on the 18 October and should all language versions been available on the 31 October it would have left six weeks for national parliaments to complete their check. However, the translation into the nine new languages was finished only by 6 November, which left five weeks to complete scrutiny for those parliaments.

By the agreed deadline - 11 December 2006 - **10** parliamentary chambers from **9** Member States<sup>2</sup> had concluded the check and sent a report to the secretariat answering questions contained in the COSAC Secretariat’s *aide mémoire*. By end of January 2007, a total of 27 parliaments from 21 Member States had concluded the check.<sup>3</sup> In some parliaments the check is still on-going and some other parliaments decided not to participate. The IPEX database was used by 20 of the participating parliamentary chambers from 16 Member States.

All participating parliaments sent a report to the COSAC secretariat summarising how they conducted the subsidiarity and proportionality check and setting out lessons learned during the

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<sup>1</sup> <http://www.cosac.eu/en/info/earlywarning/postal/documents>

<sup>2</sup> The Czech Senate, the Estonian *Riigikogu*, the Finnish *Eduskunta*, the French *Assemblée nationale* and *Sénat*, the Hungarian National Assembly, the Polish Senate, the Portuguese *Assembleia da Republica*, the UK House of Commons and (jointly) the Houses of Parliament of the Netherlands.

<sup>3</sup> The secretariat received information from the Austrian Federal Council, the Belgian Chamber of Deputies and the Senate, the parliament of Cyprus, the Czech Chamber of Deputies, the Danish *Folketinget*, the German *Bundestag* and *Bundesrat*, the Parliament of Greece, *Saiema* of the Republic of Latvia, *Seimas* of the Republic of Lithuania, the Luxembourg *Chambre des Députés*, the Polish *Sejm* and Senate, the Slovenian National Council and the National Assembly, The Swedish *Riksdagen* and the UK House of Lords.

experiment. As requested, the COSAC secretariat has, on the basis of these replies from the national parliaments, compiled this report in order to facilitate an exchange of views and best practices between national delegations at the COSAC chairpersons' meeting on 12 February 2007 in Berlin.

**The complete replies of the participating parliaments including the reasoned opinions are compiled in the Annex, which is printed as a separate document.**

### **1.3 PROCEDURES APPLIED**

European Affairs Committees were involved in the check in 22 of the 26 participating parliamentary chambers. In 14 cases, sectoral committees participated in the examination of the proposal in addition to EU affairs committees. In Luxembourg, Sweden and in the Belgian Chamber of Deputies, the check was conducted solely by sectoral committees without participation of the EU Affairs Committee.

The plenary was involved only in the Belgian Senate, German *Bundesrat* and in both Houses of Parliament of the Netherlands. The Parliament of Cyprus reported that the plenary was not involved this time, but that it might be in the future. The Portuguese Parliament stated a lack of time as the reason why the plenary was not involved and the Hungarian Parliament explained that the plenary would be involved only if a breach of the principle of subsidiarity was found by the EU Affairs Committee.

Governments were involved in the process in all of the participating parliamentary chambers, either by providing written information in form of explanatory memoranda and/or by giving oral evidence to the committees scrutinising the proposal.

Regional parliaments or assemblies were consulted only in the United Kingdom where the House of Lords notified the Scottish Parliament and the Welsh Assembly on the level of officials. In Member States with regional parliaments with legislative powers the subject was considered not to be within the remit of the regional parliaments. The German *Bundesrat* did not involve regional parliaments as it is of the opinion that this lies within the responsibility of *Länder* governments.

In the case of bicameral parliaments, the two chambers cooperated formally only in Slovenia and the Netherlands. In some other bicameral parliaments cooperation consisted of an informal exchange of information between the officials.

In Denmark, Hungary, Luxembourg, the Netherlands and the Belgian Senate, the procedure applied for the subsidiarity and proportionality check was consistent with measures envisaged to implement the subsidiarity early warning mechanism under the Constitutional Treaty. In other parliaments the check was conducted either following the normal scrutiny mechanism or the applicable procedure has not formally been decided. In several parliaments the COSAC subsidiarity and proportionality checks are used to test existing internal procedures or procedures that could be used in the future.

## **2 Results of the Check**

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### **2.1 THE SUBSIDIARITY PRINCIPLE**

The Chamber of Deputies of Luxembourg was the only parliament to find the commission proposal in breach of the subsidiarity principle. According to the Committee of Public Service, Administrative Reform, Media and Communications which was responsible for the check, the objectives of the directive can be attained more efficiently by national means. The Committee points out that the study conducted by PriceWaterHouseCoopers, "*The Impact on the Universal Service of the Full Market Accomplishment of the Postal Market in 2009*", on which the Commission proposal is based, underlined the specificity of the postal market in Luxembourg and

predicted great difficulties following complete liberalisation of the market. The Committee regrets that the Commission had not considered these remarks. Furthermore, the Committee expresses doubts concerning the financing of the universal service and consequently whether its existence can be secured in the future. Finally, it calls the removal of "reserved areas" under of the current framework into question, even in the case of complete liberalisation.

The German *Bundesrat* questions the existence of a legal base for Art. 22 para. 1 of the proposal. This provision would oblige Member States to ensure consultation and cooperation between national regulatory authorities for the postal sector and national authorities entrusted with the implementation of competition law and consumer law. Without explicit reference to either the subsidiarity of the proportionality principle, the *Bundesrat* observes that these provisions of the proposed directive lack cross-border relevance and expresses doubts regarding their necessity. Similar reservations apply to Art. 22 para. 3; according to this provision, in case of an appeal, a decision of the national regulatory authority shall stand until the appeal body has taken its decision. The Portuguese Parliament considered that the explanatory memorandum should have stated more details concerning the legal base for the adoption of the proposed directive.

A number of parliamentary chambers illustrate their reasoning for clearing the Commission proposal with regard to subsidiarity. The Hungarian National Assembly detects a meaningful connection between the proposed actions and Community objectives. The proposal is seen to recognise the Community/cross-border scope of the problem and underlines the added value of legislation on a European level or the inadequacy of purely national legislation. The Portuguese parliament recognises that the goal of the proposal, the accomplishment of the internal market for Postal Services, can be attained better on the Community level. Similarly, both Houses of the UK Parliament do not see real subsidiarity implications, in particular since the proposal did not break new ground as compared with the existing Directives on Postal Services 97/67/EC and 2002/39/EC. In addition, it is underlined that the Commission has in a number of areas proposed a less prescriptive approach than before.

### **2.1.1 Justification with regard to the subsidiarity principle**

Five parliamentary chambers found the Commission justifications inadequate. The Luxembourg Chamber of Deputies and the French Senate point that the Commission makes little effort to justify its proposal with regard to subsidiarity principle. The Hungarian National Assembly criticises that the relevant part of the Explanatory Memorandum is limited to the statement that the proposal is not in breach of the subsidiarity principle. The Portuguese parliament would have found useful if the explanatory note could go into the existing legal bases for the adoption of the directive in greater detail. The Lithuanian *Seimas* argues that the explanatory note provided by the Commission does not clearly state how the liberalisation of the postal services, i.e. the abolition of the reserved area will add up to the smooth functioning of the internal market

## **2.2 THE PROPORTIONALITY PRINCIPLE**

Seven parliamentary chambers found a breach of the principle of proportionality or expressed reservations in this regard. The Belgian Senate suggests a breach of the proportionality principle unless certain conditions are met. According to the Senate, the European Commission must show that the removal of the reserved area for mail weighing less than 50 grams would not weaken postal operators providing universal service and demonstrate that the methods of financing mentioned in the proposal would indeed allow the quality of the service to be maintained.

In the Belgian Chamber of Deputies, the Committee of Infrastructure, Communications and the Public Enterprises expresses reservations with regard to the proportionality principle. The Committee has asked the European Commission to show that the abolition of the reserved areas can be implemented without causing damage in those Member States that currently maintain

reserved areas and to analyse the effects of this measure upon the universal service operators and the universal service itself.

Expressing a similar reserve, the French National Assembly calls on the European Commission to demonstrate that the abolition of the reserved area would not weaken postal operators providing universal service and establish that the alternative methods of financing mentioned in the proposal would allow a quality and proximity service to be upheld. Furthermore, it requests the Commission to provide convincing examples of a successful liberalisation of the postal sector stating that geographic and demographic conditions as well as the definition of universal service may vary in each country which in turn may influence the cost of this service. The French Senate argues that the proportionality principle can only be considered respected if the Commission can prove that the financing of the universal service can be assured by other means than maintaining a reserved sector.

The Greek parliament doubts that the maintenance of the universal service and its quality – which is one of the objectives of the proposal – can be ensured by the proposed financing means that would replace the current reserved area for mail under 50 grams.

The parliament of Luxembourg considers the freedom left to Member States with regard to financing the universal service as insufficient. By removing the possibility to finance the universal service through a reserved area, the proposed directive would exceed the necessary means to attain the objective. The credibility, efficiency and transparency of the different types of financing the universal service are called into question. It is felt that the procedures necessary for the implementation of this new type of financing would create more bureaucracy than the existing reserved areas. According to the competent committee, there is no formula that would be more suitable, credible, reliable and cost-effective than the current reserved area; the proposed alternatives are not sufficient. It is regarded as inconsistent to suggest the preservation of a universal service by Member States and at the same time prohibit the maintenance of the reserved area. According to Luxembourg, the directive would respect the proportionality principle only if an effective way to guarantee the financing of the universal service is allowed.

The Irish parliament notes that at this stage the proposals' conformity with the principle of proportionality remains to be proved. In particular, a definitive conclusion in this regard would require the conclusions of national consultation process.

In contrast to this, the Hungarian National Assembly considers the legal measures to be taken by the community level not as intrusive, because the proposal mainly concentrates on principles and provides the Member States with a wide range of policy options. The individual elements of the proposal such as the abolition of the reserved area are not seen to be disproportionate. The Portuguese parliament notes that the proposal respects the principle of proportionality arguing that both its content and the legislative measure proposed leave the decision on the form and means to achieve the intended objectives to the national level.

### **2.2.1 Justification with regard to the proportionality principle**

Six parliamentary chambers pointed out at least some doubts concerning arguments justifying the proposal in terms of proportionality. The Belgian Chamber of deputies, the Belgian Senate, The French National Assembly and the French Senate were not convinced by the argumentation of the Commission, even if the French Senate notes that Commission made a real effort to justify the proportionality dimension of its proposal, but its argumentation was not completely convincing. Hungary notes that the relevant part of the explanatory memorandum (2.1.2.) is not extensive, but touches upon the most important questions in this field. The Luxembourg Chamber of Deputies sees little effort to justify the proposal from the point of view of the proportionality principle by the Commission.

Both Chambers of the Parliament of the Netherlands note that the European Commission is seeking to strike a balance between two aims of the proposed Directive, namely completion of the internal market in postal services on one hand and guaranteeing a universal postal service on the other. It is

demanded that this balance be maintained during the negotiations on the proposed Directive. The two Chambers announce that they will closely monitor the negotiations at European level and, if desired, consult with the Dutch Government on the chosen approach and the course of the negotiating process. It is intended to take the present proposal into consideration when drafting national legislation for the full liberalisation of the postal market and the guarantee of the universal postal service.

## **2.3 DIFFICULTIES ENCOUNTERED WHILE CONDUCTING THE CHECK**

### **2.3.1 Six-week time limit**

Six parliamentary chambers noted that the time frame available for national parliaments was too short to conduct a subsidiarity and proportionality check following the normal parliamentary procedure. Some parliaments stated the delay of six days before receiving a version in their own national language as the main problem in respecting the time limit. Quite a few noted also problems within their respective parliament and the way it can react in timely manner. Some parliaments have used the current checks to test their respective scrutiny systems in order to identify the possible areas of improvement.

### **2.3.2 Lack of interparliamentary cooperation**

Some national parliaments reported that it was difficult to find about the position adopted by other national parliaments at the time their committees were considering the proposal. Information from other national parliaments was often not available.

The Houses of Parliament of the Netherlands reported that during the scrutiny procedure, only couple of parliaments provided information on the progress of the check on the IPEX-website. It is emphasised that the use of IPEX is of utmost importance. The French National Assembly underlined that the short deadline necessitates that all parliaments post their findings immediately on the IPEX website. Symbols or icons are not deemed sufficient to indicate the substance of the scrutiny. The Swedish parliament reports some language related problems when using IPEX, which was solved through personal contacts with officials in the relevant parliaments.

The Estonian *Riigikogu* notes that the subsidiarity and proportionality checks coordinated by COSAC work well, although the possibility to submit common positions should be more readily employed. In addition, there should be a regular exchange of information regarding those additional subsidiarity checks conducted by national parliaments that are not coordinated by COSAC. The exchange of information should preferably take place through the IPEX website. The *Riigikogu* reports that some information exchange took place between the civil servants of the respective chambers by e-mail. In order to facilitate access to information, national parliaments should strive to provide English translations of their opinions on the IPEX website in those cases where they have found a breach of the subsidiarity principle. It is suggested that the COSAC secretariat should compile annual summaries on the subsidiarity checks conducted by national parliaments. During the subsidiarity and proportionality checks in the *Riigikogu*, the standing committees have only been involved in the process by giving their opinion to the European Union Affairs Committee. In order to make the subsidiarity and proportionality checks more efficient, the standing committees could be encouraged to exchange information with their colleagues from respective committees in other parliaments.

## **3 Summary and Conclusions**

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The second subsidiarity and proportionality check coordinated by COSAC concerned a proposal for a directive aimed at the full liberalisation of the postal market within the EU. To this end, the proposed directive foresees the abolition of the remaining "reserved area" for postal services,

namely letters weighing less than 50 grams, while at the same time allowing Member States to choose from a number of options for financing and thus guaranteeing an affordable and reliable universal service.

National parliaments were called upon to scrutinize the proposal with regard to the principles of subsidiarity and proportionality and send their remarks to the European Commission, the Council of Ministers and the European Parliament within a time frame of six weeks.

Participation in this joint exercise was considerable: 26 parliamentary chambers from 20 Member States took part and informed the EU Institutions as well as the COSAC secretariat about the results of their scrutiny procedure. However, only 10 parliamentary chambers from 9 Member States were able to send their results within six weeks.

The overwhelming majority of parliaments found no violation of either the principle of subsidiarity or the principle of proportionality in the proposed directive. The Luxembourg Chamber of Deputies was the only parliament to find the proposal in breach of the subsidiarity principle. It stated that the European Commission had not sufficiently taken into account the specificities of the postal market in Luxembourg. The German Bundesrat does not find subsidiarity breach as such, but expressed concern regarding one particular provision of the directive. Some parliamentary chambers criticised the rather short reasoning provided by the European Commission with regard to the legal base of the directive and subsidiarity.

However, seven parliamentary chambers found a breach of the proportionality principle or expressed reservations in this regard; six criticised the justification of the proposal concerning proportionality. These parliaments were not convinced that the reserved area could be abolished without calling the funding and quality of the universal service currently provided by postal operators into question. They also expressed doubts with regard to the feasibility and practicability of the financing modes suggested to Member States.

The outcome of this second check coordinated by COSAC suggests that still only a limited number of national parliaments is currently in a position to conduct a scrutiny procedure with regard to subsidiarity and proportionality within the six weeks that must elapse between a legislative proposal being made available in all languages and the date when it is placed on a Council agenda for decision.

The results also indicate that national parliaments seem to understand the possible scope for reservations with regard to proportionality as wider than that of the subsidiarity principle. Many of the doubts expressed by national parliaments centered around the political core of the proposed directive, calling one of its very goals - the full liberalisation of the market for postal services - into question. This would appear to stand in some contrast with the rather narrow definition and guidelines stipulated in the "Protocol on the application of the principles of subsidiarity and proportionality" attached to the Amsterdam Treaty. Many of the comments made by national parliaments illustrate that the questions raised are arguably better suited for a comprehensive scrutiny procedure on the national level which provides the appropriate framework for debate and action. It should also be noted that the Constitutional Treaty does not offer remedies against breaches of proportionality as it does for breaches of subsidiarity.

A twofold conclusion can be drawn: **In order to make full use of the parliamentary scrutiny with regard to the principles of subsidiarity and proportionality, parliaments should on the one hand develop a common understanding of the said principles. On the other hand, national parliaments should seek not to limit themselves to the subsidiarity issue where they feel that a contribution to the substance of the proposal is warranted.**

**Table 1: Participation in the subsidiarity and proportionality check**

Chambers	Parliamentary Committees involved?	Plenary involved?	Other administrative services involved?	Procedure of examination?
<b>Austria</b>	The EAC of the Federal Council	No	The EU- and International Service provided for expertise on the proposal.	On 3.11.2006 the EU- and International Service of the Parliamentary Administration sent out a written expertise on the proposal to the Presidents of the National Council and the Federal Council; On 1.12. the subsidiarity and proportionality check was put on the agenda of the EAC of the Federal Council for its session of 12.12.; On 12.12. a session of the EAC was held where the EAC adopted a statement on the conformity of the proposal with the principles of subsidiarity and proportionality.
<b>Belgium</b> - Chamber of Deputies	The committee of infrastructure, communications and public enterprises	No, since the Conference of Presidents decided during the experimental phase the opinion on subsidiarity is formulated by the committees	The secretariat of European questions were associated with the secretariat of the competent committee	Internal procedure: a) the commission proposal was referred to the competent committee by the Conference of Presidents. b) Examination of the proposal by the committee by hearing of the experts and formulation of the opinion. c) The opinion was sent to the European Commission by the EU Affairs secretariat. External procedure: Communication with other legislative assemblies in Belgium (see the Annex 1)
<b>Belgium</b> - Senate	The Committee on Finances and Economic Affairs and the EAC	Yes	Legal service concerning the competences of the Senate, service of the committees, the plenary service and the translation service	See the table illustrating the used procedure and the involved services in the Annex
<b>Cyprus</b>	The EAC	Not this time, but might in the future and/or when the subsidiarity control actually enters into force	The EU Affairs Service	On 9.11.2006 the proposal, accompanied by material concerning the principle of subsidiarity and proportionality and the explanatory note of the COSAC Secretariat were distributed to the EAC. Procedure was delayed because the proposal was sent to the House in our language on 31.10. At meeting 12.12. the EAC examined the proposal. Representatives from the Ministry of Communications and Works, the Legal Service of Cyprus and the Office of the Commissioner of Telecommunications and Postal Regulations were invited to take part in the meeting.
<b>Czech Republic</b> - Chamber of Deputies	The EAC	No	The Parliamentary Institute of the Office of Chamber of Deputies provided expert assistance to the EAC and to the rapporteur.	The procedure used for examination was the same as for other important EU documents. The Government submitted the proposal to the Chamber via the EAC on 26.10.2006. The Government sent its preliminary position to the EAC by means of the Information System for the Approximation of Law on 22.11. The proposal was deliberated at the EAC meeting on 14.12. After hearing the Government's preliminary position was submitted by the Ministry of the Informatics. Besides the Deputy Minister there were representatives of the providers of postal services in the meeting. The result of the deliberation was a Committee resolution (see the annex). According to Article 109 (4) of the Rules of Procedure, a resolution of the EAC is deemed to be the position of the Chamber of Deputies.
<b>Czech Republic</b> - Senate	The EAC. Committee on economy, agriculture and transport has been asked by the EAC to give its opinion to be used in further scrutiny.	No, as the first opinion issued by the EAC does not include a position towards the government.	The dossier was prepared for the Committee hearing by the relevant expert staff of the Senate (the EU Unit).	The EAC selected the proposal for scrutiny on 1.11. 2006. The Czech version was available on 7.11.; Government position was available on 10.11.; the EAC held first hearing on 6.12. where the EAC assessed the proposal against the principles of subsidiarity and proportionality and against the position of the Government. Deliberations resulted in finding conformity to the mentioned principles, however further scrutiny will be needed and a sectoral committee needs to be involved - the Committee on economy, agriculture and transport was asked for opinion. The EAC also asked the Government to submit a more thorough position. The sectoral Committee will scrutinise the proposal earliest in January 2007.

Chambers	Parliamentary Committees involved?	Plenary involved?	Other administrative services involved?	Procedure of examination?
<b>Denmark</b>	The EAC and the Transport Committee	No	The secretariat of the Transport Committee	On 13.11. 2006 the EAC asked the Transport Committee to examine the proposal and to assess whether it adhered to the principle of subsidiarity. The Minister (Transport and Energy) was invited to give evidence at a joint expert hearing on 9.1. 2007 organised by the EAC and the Transport Committee. The majority of the EAC endorsed an opinion concerning the proposal's compliance with the subsidiarity principle. Two political parties disagreed with the majority and expressed minority opinions
<b>Estonia</b>	The EAC and the Economic Affairs Committee.	No	The translation bureau of the documentation department	The EAC discussed the procedure at its sitting on 10.11.2006 and decided to forward the materials to the Economic Affairs Committee and the Ministry of Economic Affairs and Communications for an opinion. The Economic Affairs Committee discussed the proposal 7.12. and submitted its opinion to the EAC. The Ministry submitted its opinion on 5.12. which was presented to the EAC 8.12. The EAC discussed the proposal as well as the opinions on 8.12. and formed an opinion. The opinions of the EAC, the Economic Affairs Committee and the Ministry of Economic Affairs and Communications were translated into English by the translation bureau. The EAC forwarded the translated opinions to the Commission, European Parliament, Council and COSAC Presidency on 11.12. Finally, the information and opinions in Estonian and English were uploaded on the IPEX website on 11.12.
<b>Finland</b>	The Transport and Communications Committee (TCC) and the Grand Committee (=EAC)	No	No	Received by the EAC and sent to Transport and Communications Committee for examination on 25.10.2006. Report of TCC delivered to the EAC on 21.11. Decision of the EAC (approval of the TCC's Conclusions) 29.11.
<b>France</b> - <i>Assemblée nationale</i>	The EAC and the competent committee	No	Services of the delegation of EU affairs and the services of the committee of the economic affairs, environment and the territory.	Within the EAC two rapporteurs (one from the majority, one from the opposition) were designated to be in charge of scrutiny of possible difficulties concerning the subsidiarity and proportionality principles. Proposal was examined by the EAC on 22.11.2006 The draft opinion of the EAC was transferred to the committee of the Economic Affairs, Environment and the Territory by the President of the Assembly. That committee designated a rapporteur who drafted a report which was presented on the 6.12. and the opinion of the EAC was adopted without modifications.
<b>France</b> - <i>Sénat</i>	The EAC	No	No	The subsidiarity and proportionality check was carried out by the EAC.
<b>Germany</b> - <i>Bundestag</i>	Committee for Economics and Technology, Committee for Food, Agriculture and Consumer Protection, Internal Affairs Committee and the EAC	No	No	The German Government formally transmitted the draft directive to the Bundestag. The proposal was referred to the Committee for Economics and Technology as the committee responsible, and the Committee for Food, Agriculture and Consumer Protection, the Internal Affairs Committee and the EAC in an advisory capacity. The Committee for Economics and Technology closed the deliberations on 17.1.2007, raising no objections with regard to the principles of subsidiarity and proportionality. The EAC adopted an advisory opinion, but equally raised no objections with regard to the said principles. Consequently, according to the Bundestag's Rules of Procedure for EU documents, the parliamentary scrutiny procedure was closed without seizing the plenary.
<b>Germany</b> - <i>Bundesrat</i>	The EAC with the help of Committee on Legal Affairs and the Committee on Economic Affairs.	Yes. The plenary adopted an in its meeting on 15 December 2006	No	After the Bundesrat had received the proposal from the Government on 2.11.2006 it was distributed to the committee secretariats. In addition to the EAC the Secretary General of the Bundesrat declared on behalf of the President two sectoral committees responsible for the deliberation. The Committee on Economic Affairs deliberated the proposal in its session on 27.11.; in the Committee on Legal Affairs the proposal was deliberated on 29.11. The EAC adopted a recommendation to the plenary in its meeting on 1.12. Finally, the plenary voted an opinion on the proposal in its session on 15.12. which will be submitted to the Government.

Chambers	Parliamentary Committees involved?	Plenary involved?	Other administrative services involved?	Procedure of examination?
<b>Greece</b>	The EAC and the Standing Committee for Social Affairs	No	No	The EAC and the competent Standing Committee were convened in a joint meeting on 12.1.2007. The debate was introduced by rapporteurs who were designated by each of the political groups. The meeting was also attended by many MEPs, as well as by external actors (representatives of the Ministry for Transports and Communications and representatives of the state owned "Hellenic Post" company). The Ministry had also provided an explanatory memoranda, that were submitted to the rapporteurs, along with the translated proposal, the summary of impact assessment and the implementation report of the postal directive 97/67.
<b>Hungary</b>	The EAC	No, since the EAC did not find a breach of the principle of subsidiarity	No	Upon the publication of the proposal, the Secretariat of the EAC prepared an analysis of the legislative document. This material facilitated the political debate in the Committee, and was necessary given the fact that the Hungarian version of the text was not available until the day of the Committee meeting. At its meeting on 15.11. the EAC undertook an examination of the proposal. After the discussion, the EAC decided to launch a scrutiny procedure.
<b>Ireland</b>	The EAC and the Joint Committee on Communications, Marine and Natural Resources	No	Yes. Legal advice was available on the principles concerned	The Joint Committee on European Affairs, EU Scrutiny Committee; referred for further scrutiny to the joint sectoral committee (Joint Committee on Communications, Marine and Natural Resources). For further details see the Annex.
<b>Italy</b> - Camera dei Deputati	NO ANSWER			
<b>Italy</b> - Senate	NO ANSWER			
<b>Latvia</b>	The EAC (due to the time limit no chance to involve other committees)	No	No	The Latvian translation of the proposal was received on 6.11.2006. On 10.11. the EAC transmitted the text to the Latvian Ministry of Transport with a request to assess the compatibility of the directive with the principles of subsidiarity and proportionality. On 8.12. the EAC received the opinion of the Ministry and on 20.12. the proposal was examined by the EAC.
<b>Lithuania</b>	The EAC, the Committee on Economics and the Committee of the Development of Information Society	No	The Law Department of the Office of the Seimas submitted an opinion on the subsidiarity	15.11. The EAC decided to ask the conclusions of the two specialized committees. 29.11. the Law Department issued its opinion: No breach of subsidiarity was found. 29.11. The Ministry of Justice submitted its opinion to the EAC: No breach. 12.12. The two specialized Committees held a meeting, heard the opinion of the Lithuanian Post and issued conclusions. 6.12. The EAC debated the issue at its meeting. Representatives of the Ministry of Transport and Communications submitted its opinion.
<b>Luxembourg</b>	The committee of Public service, administrative reform, Media and Communications	No	The secretariat of committee, the general secretariat and the service of international relations	At first the committee of the Economy, Energy, Post and Sports was convoked by the Conference of presidents of the Luxembourg Chamber of Deputies. After the committee declared itself not to be the competent body in this particular matter, the scrutiny was conducted by the Committee of Public Service, Administrative Reform, Media and Communications
<b>Malta</b>	NO ANSWER			
<b>Netherlands</b> - Senate and House of Representatives	Temporary committee on subsidiarity (TCS), The Standing committee on Economic Affairs (Senate) The standing committee on Economic Affairs (House of Representatives) was informed.	Both the plenary of the Senate and the plenary of the House of Representatives were involved	Staff of the supporting committees	See the annex for details (a table describing the procedure)

Chambers	Parliamentary Committees involved?	Plenary involved?	Other administrative services involved?	Procedure of examination?
<b>Poland</b> - <i>Sejm</i>	The EAC	No, the EAC is the competent body	Representatives of the Legal Team of the Sejm Research Bureau	Two co-reporters were assigned to prepare their opinion, primarily via the procedure provided for in Article 6 para. 3 of the Act on Cooperation (scrutiny), but also from the point of view of subsidiarity. Also the Research Bureau experts were assigned to prepare an opinion on conformity of the principle of subsidiarity. At the EAC meeting on 5.12., an opinion was given by a representative of the Sejm Research Bureau, by a representative of the Ministry of Transport and by the co-reporters. The debate was about both the principle of subsidiarity as well as to Article 6 para. 3 of the Act of 11.3. 2004. Next, the draft opinion presented by the EAC Chairman was put to a vote. Ultimately, the EAC passed the opinion No. 42 which is enclosed in the Annex.
<b>Poland</b> - Senate	The EAC and the National Economy Committee	No	The Information and Documentation Office commissioned an outside expertise provided to the Senate committees involved	At a sitting on 15.11. the EAC adopted a plan for the check. The EAC decided to involve the National Economy Committee, seek an outside expertise and designate a senator-rapporteur. On 6.12. a joint committee sitting was held with the representatives of the government and the Polish Post as well as academics and experts. The representative of the Ministry of Transport presented the government's position. The two committees acquainted themselves with opinions and comments and a discussion took place. The committees then adopted an opinion on the conformity with the subsidiarity and proportionality principles.
<b>Portugal</b>	The EAC coordinated the process. The Commission of Public Works, Transport and Communications (COPTC), participated in the preparation of the opinion.	In the case of a urgency the founded opinion of the EAC is sufficient	No	On 2.11. the EAC analysed the issues related with the check and decided on the methodology and appointed the rapporteur. The EAC sent a letter to COPTC, for due articulation with regard to the preparation of the Opinion; 7.11.COPTC analysed the question and appointed two rapporteurs; 21.11. the Rapporteur made informal contact with the Chairman of the Board of Directors of the CTT (Portuguese Postal Services). The requested information was received on 22.11. On 24.11. Work meeting with the Rapporteur of the EAC. 28.11. the Rapporteur made informal contact with the Secretary of State of Public Works and Communications to obtain additional information on the matter. On 28 and 29.11. the Rapporteurs of both Committees met. 5.12. the Report/Opinion was subject to the assessment of the Parliamentary Groups.
<b>Slovakia</b>	NO ANSWER			
<b>Slovenia</b> - the National Council and the National Assembly	In the National Council the Commission for International Relations and EU Affairs and in the National Assembly: working body responsible was the Committee on Economics which sent its opinion to the EAC.	No. In this case, according to the Act on the Cooperation between the National Assembly and the Government in EU Affairs, the decision of the EAC was equal to a decision of the National Assembly.	All technical departments that are normally in charge of the preparation and conduct of meetings of working bodies were involved in the process.	The proposal was received in the National Assembly on 18.10. 2006. The EACs decided to examine the proposal in terms of its compliance with the principles of subsidiarity and proportionality and the Government was requested to send an assessment which was received on 21.11. First, the assessment and the proposal were discussed by the National Council's Commission for International Relations and EU Affairs which sent its opinion to the competent Committee on EU Affairs in the National Assembly. The working body responsible - the Committee on Economics - discussed the proposal on 6.12. The meeting was also attended by the expert services of the EAC. The EAC discussed the proposal on 12.12. The EAC took note and account of the opinion of the National Council and of the opinion of the Committee on Economics.
<b>Spain</b>	NO ANSWER			
<b>Sweden</b>	The Committee on Transport and Communications	No	The Secretariat of the Chamber/EU-coordination and the IPEX-correspondent were also involved	1. The proposal in Swedish was received 31.10.2006 and distributed to the committee responsible for postal services. 2. <i>The Committee on Transport and Communications</i> scrutinised the proposal. Info about the scrutiny was submitted to IPEX. The secretariat also used IPEX to obtain information on the scrutiny in other parliaments. 3. For more information the committee invited representatives from the Ministry of Industry, Employment and Communications as well as the Swedish Post and Telecom Agency to a closed meeting. 4. The Committee found that the proposal did comply with the subsidiarity principle. 5. The scrutiny was finished 7.12. The findings were noted in the records from the Committee meeting, submitted to the Secretariat of the Chamber and published on IPEX.

Chambers	Parliamentary Committees involved?	Plenary involved?	Other administrative services involved?	Procedure of examination?
UK - House of Commons	The EAC	No	No	In line with the standard procedures of the House of Commons for scrutinising EU legislation: The proposals 14368/06 and 14357/06 were deposited in the UK Parliament by the Government on 31.10.2006. 14371/06 was deposited on 10.11. The UK Government submitted Explanatory Memoranda (EM) to Parliament on the proposals on 8.11. and 20.11. The proposals and the EMs were considered by the EAC on 22.11. and a report paragraph on the proposals was agreed by the Committee.
UK - House of Lords	EU Select Committee and the Internal Market Sub-Committee (Sub-Committee B).	No	The Legal Adviser to the Select Committee was consulted, and the Lords Representative in Brussels prepared a note for the Sub-Committee.	The proposals 14368/06 and 14357/06 were deposited in both Houses of Parliament by the UK Government on 31.10.2006. 14371/06 was deposited on 10.11. The UK Government submitted Explanatory Memoranda (EM) to Parliament on the proposals on 8.11. and 20.11. Lord Grenfell sifted the proposals and EMs to Sub-Committee B on 22.11. Sub-Committee B considered these documents at its meeting on 6.12. and cleared them from scrutiny.

**Table 2: Further information on the procedures used**

Chambers	Government participated/ provided information?	Regional parliaments consulted?	Other external actors involved?	Cooperation between two chambers in the bicameral systems?	Procedure in accordance with Constitutional Treaty's plans?
<b>Austria</b>	Yes. The Government provided an information dossier and a representative of the responsible Ministry took part in the session and provided additional information	As the political decisions with regard to the details of the new scrutiny system have not been taken yet, such consultations have not taken place.	The session of the EAC was attended by a government official, as well as by an official from "Österreichische Post AG".	This time the check was carried out only by the EU-committee of the Federal Council, so the question of coordination did not arise	The political decisions have not been taken yet. It is probable that the EACs of both chambers of the parliament will deal with and decide on directly transmitted documents and prepare an eventual statement to be communicated to the Commission <sup>4</sup> .
<b>Belgium</b> - Chamber of Deputies	Yes - the Secretary of state for the public enterprises was heard	Regional parliaments don't have competence in this matter	A representative of the Commission (DG Internal market), a representative of the PriceWaterHouseCoopers, the CEO of the Post, Representatives of the labour unions of the Post, Representative of the express delivery and Representatives of the civil society	There has been cooperation in exchange of information. During the negotiations on the cooperation procedure concerning the subsidiarity control the assemblies expressed their wish to develop their own procedure to formulate their opinion autonomously.	In general lines yes. Lot of initiatives have so far being left to the Committees. When the procedure is consolidated an impact analysis will be prepared by an analytical unit (including remarks on subsidiarity) in order to harmonise the procedure in different committees
<b>Belgium</b> - Senate	Yes - the Secretary of State for the public enterprises was heard in the Committee	Regional parliaments don't have competence in this matter	The competent committee heard the CEO of the Belgian Post	No	Yes

<sup>4</sup> "From a technical point of view, a new category of documents has been established in the EU-database of the Austrian Parliament, which has been used for the first time for the checking procedure."

Chambers	Government participated/ provided information?	Regional parliaments consulted?	Other external actors involved?	Cooperation between two chambers in the bicameral systems?	Procedure in accordance with Constitutional Treaty's plans?
<b>Cyprus</b>	Yes. Representatives of the Ministry of Communications and Works and of the Legal Service took part in the meeting of the EAC.	N/A	Representatives from the Office of the Commissioner of Telecommunications and Postal Regulations	N/A	The House of Representatives may follow largely the same procedure following the Constitutional Treaty's entry into force. <sup>5</sup>
<b>Czech Republic</b> - Chamber of Deputies	Yes. The obligation of the Government to provide the Chamber of Deputies is set in the Article 10b of the Constitution and specified by the Rules of Procedure of the Chamber of Deputies.	No	Yes. The entities affected by the proposal. The representatives of these entities also attended the meeting.	No	The procedure used for this proposal was in accordance with the Rules of procedure in force.
<b>Czech Republic</b> - Senate	The Government provided a Framework Position on the proposal	N/A	Not at this stage. However, the Czech Telecommunications Office and the Czech Post may be consulted in the future	No. The EAC of the Chamber of Deputies will discuss the proposal on 14.12. The two committees have independent powers in EU scrutiny.	In principle yes, however, the first hearing at the EAC was planned at an exceptionally early stage due to the COSAC deadline. At so early point of negotiations, the government position is rather elementary. The Senate will continue scrutinising the proposal and the position of the government.
<b>Denmark</b>	Yes, the relevant Minister gave evidence at a joint Committee hearing.	N/A	No	N/A	Yes
<b>Estonia</b>	Yes, however because the position of the Government was given later than initially planned, the normal scrutiny procedure will be accomplished on December 15 as a separate issue.	No	No	N/A	The Riigikogu has not yet decided what procedure to use after the entering into force of the Constitutional Treaty.
<b>Finland</b>	The TCC heard the evidence of the responsible ministry	No	No	N/A	Broadly, yes. However, according to the planned procedure, a scrutiny examination would take place only if someone proposes it. As this proposal manifestly does not raise issues of subsidiarity, that would have been unlikely. Also, since the Constitutional Treaty does not allow a check of proportionality that would have to be done within the existing national scrutiny procedure

<sup>5</sup> "In future cases, it is possible that the Parliamentary Committee on European Affairs will, firstly, notify the competent sectoral parliamentary committees and request their views on the matter under examination and, secondly, invite interested parties, other than representatives from the competent Ministries, to express their views on the matter at hand. Finally, where it is deemed necessary to adopt a reasoned opinion concerning a breach of the subsidiarity principle, the President and the Plenary of the House of Representatives will also be notified. The findings of the Committee may also be transmitted to the government. The abovementioned procedure is currently under consideration by the House of Representatives."

Chambers	Government participated/ provided information?	Regional parliaments consulted?	Other external actors involved?	Cooperation between two chambers in the bicameral systems?	Procedure in accordance with Constitutional Treaty's plans?
<b>France</b> - <i>Assemblée nationale</i>	Contacts with the EU Affairs secretariat of the Ministry of Industry, who also produced a letter addressed to the competent EU Commissionaire	No	The two rapporteurs organised four hearings. Also the superior commission of the postal and electronic communications public service, representatives of the direction of the Post and two syndicates were heard.	There were some phone calls between officials. Due to different time schedules it was impossible to coordinate the work of the two chambers.	Yes. However the experience gained from the scrutiny of the postal services directive could incite evolution of the procedure. It seems like it is impossible to separate the examination of the subsidiarity and proportionality from the overall analyse of the proposal.
<b>France</b> - <i>Sénat</i>	Yes - provided for an impact study on the consequences of the proposition to the national legislation	N/A	No	No coordination but mutual information exchange	The procedure to be followed after entering in to force of the Constitutional Treaty has not been defined.
<b>Germany</b> - <i>Bundestag</i>	Yes - the government submitted a report ( <i>Ressortbericht</i> )	No	No	No	No, the current procedure for the scrutiny of EU documents was used.
<b>Germany</b> - <i>Bundesrat</i>	The Federal Government explained its position in the deliberations of the committees	Not directly. It lies in the responsibility of the government of each Land to consult its regional parliament.	No	No	No. In case of the entering into force of the Constitutional Treaty the Bundesrat will, if there are problems with the six week deadline, convoke a chamber for urgent EU matters whose decisions have the same effect as plenary decisions. This Chamber consists of 16 members, one from each Land.
<b>Greece</b>	Yes - provided for an explanatory memorandum.	N/A	Representatives of the responsible Ministry and representatives of the state owned "Hellenic Post" company	N/A	The procedure will most probably continue to be applied, when the Constitutional Treaty enters into force.
<b>Hungary</b>	Yes. The government provided background information and written opinion. The Deputy Minister held a briefing in a Committee meeting, but has not expressed any opinion regarding subsidiarity	N/A	No	N/A	Yes, the procedure used was in accordance with the Act LIII of 2004 on the cooperation of the Parliament and the Government in EU affairs and the Standing Orders of the National Assembly, both of which contain the rules for the procedure of subsidiarity check
<b>Ireland</b>	Yes. The government provided its view on subsidiarity and proportionality and provided information on proposed consultations with interested parties.	N/A	Notification of the consideration of the matter was also posted on the Houses of the Oireachtas web-site.	The parliamentary committees concerned are joint committees that bring together members from both Houses of the Oireachtas.	The procedure used was that established under the current legal framework.
<b>Latvia</b>	Yes	No	No	N/A	The parliament has not approved the procedure to be used once the Constitutional Treaty enters into force. This check was used testing the procedure which <i>could</i> be used in the future.

Chambers	Government participated/ provided information?	Regional parliaments consulted?	Other external actors involved?	Cooperation between two chambers in the bicameral systems?	Procedure in accordance with Constitutional Treaty's plans?
<b>Lithuania</b>	The Ministry of Transport and Communications drafted the Governments' opinion. The EAC also received the opinion of the European Law Department under the Ministry of Justice.	No	The Committee on Economics heard the opinion of the AB "Lietuvos paštas" (Lithuanian Post). The EAC heard Lithuanian lawyers, experts on European Law	N/A	On 13 November 2004 the Seimas passed amendments to its Rules of Procedure setting a procedure for the examination of the proposals to adopt EU legal acts with regard to their compliance with the principle of subsidiarity. The amendments are compatible with the procedure foreseen in the Constitutional Treaty.
<b>Luxembourg</b>	The committee had an exchange of view with the Delegated Minister of Communications	N/A	No	N/A	According to the competent committee the procedure could be similar after entering in to force of the Constitutional Treaty
<b>Netherlands</b> - Senate and House of Representatives	Yes, on 15.11.2006 the Dutch government sent a scrutiny document of the proposal - a so called BNC-fiche.	N/A	No, but a notification of the procedure was published on the website to generate responses of civil society	Yes, the TCS is especially installed to coordinate the subsidiarity checks in both chambers. It's goal is that both chambers express the same views as regards to the principles of subsidiarity and proportionality	Yes
<b>Poland</b> - Sejm	Yes. A Secretary of State from the Ministry of Transport came to the Committee meeting and presented the government's position.	N/A	Sejm Research Bureau, representatives of the government and of the European Commission Representation in Poland	No	"The Constitutional Treaty is a dead letter"
<b>Poland</b> - Senate	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	N/A	The committee sitting was attended by the government's representatives, officials from Polish Post and specialists. The committees received also two written opinions by external experts.	No	So far the EAC 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
<b>Portugal</b>	The Government provided information relating to the future timetable. ANACOM (the regulatory body) was preparing a technical analysis of the issue.	In this case it was not necessary to consult the Autonomous Regions.	Yes, the CTT (Portuguese Postal Service).	N/A	"At this stage is not appropriate to frame the question in this way, in as much as the procedure to adopt within the framework of a future Constitutional Treaty still requires confirmation."
<b>Slovenia</b> - the National Council and the National Assembly	Yes. See the reply under Question 4	N/A	No	Yes. See the reply under Question 4	Not really - also following this procedure, amendments to the Rules of Procedure of the National Assembly and maybe also to the Act on Cooperation between the Government and the National Assembly in EU Affairs would be necessary.
<b>Sweden</b>	Yes. Submitted an explanatory memorandum and orally	N/A	Information was obtained also from the Swedish Post and Telecom Agency.	N/A	No. New rules have been proposed for subsidiarity control but they will not come into force unless the new Treaty does.

Chambers	Government participated/ provided information?	Regional parliaments consulted?	Other external actors involved?	Cooperation between two chambers in the bicameral systems?	Procedure in accordance with Constitutional Treaty's plans?
<b>United Kingdom</b> - House of Commons	Yes. They submitted two Explanatory Memoranda.	No	No	No formal coordination, but the officials of the EACs of the two Houses exchanged information.	The procedure for this check was part of the standard procedures of the European Scrutiny Committee for scrutinising EU legislation.
<b>United Kingdom</b> - House of Lords	Yes: two Explanatory Memoranda were provided	Yes, (at an official level): the Scottish Parliament and the Welsh Assembly.	No	Informal coordination between the relevant officials	The procedure followed was the standard procedure for EU scrutiny in the House of Lords

**Table 3: The results of the check summarised**

Member State	Breach of the subsidiarity principle?	reach of the proportionality principle?	Reasoned opinion of non-compliance?	Were the Commission's justifications for subsidiarity satisfactory?	Were the Commission's justifications for proportionality satisfactory?	Difficulties during the examination?	Other comments?
<b>Austria</b>	No	No	No	No special observations	No special observations	No	-
<b>Belgium</b> - Chamber of Deputies	No, as far as each member state has a right to organise its own postal services	The committee expressed reservations <sup>6</sup>	See the annex 2	See the answer to question 10	See the reservations expressed in relation to question 10	Respecting the 6 weeks time limit stays problematic since the standing committees have full agendas. It seems necessary to provide the committees with expertise in EU questions.	The assessments of subsidiarity and impact that would allow the adequate measure or policy to be taken exigent more advanced methodology. This can be observed in the answers of the other parliaments as well
<b>Belgium</b> - Senate	No	Yes <sup>7</sup>	Yes (See the annex)	Yes, but the justifications apply to Europe - remains to be evaluated if they are equally valid for Belgium.	Yes, but the justifications apply to Europe - remains to be evaluated if they are equally valid for Belgium.	No	The Belgian Senate is open to new checks organised by COSAC.
<b>Cyprus</b>	No	No	No	Yes	Yes	The time available would not be sufficient a proper scrutiny procedure. Difficulties were encountered due to the delay of the transmission in all official languages.	The proposal under examination was transmitted in Greek on 31.10. 2006 - two weeks after the official publication of the proposal by the European Commission.

<sup>6</sup> "The Committee of Infrastructure, Communications and the public Enterprises expresses some doubts on the proportionality of the proposal, since there is a lack of sufficient elements that would allow the pertinence of the proposal and all the proposed elements that would assure on the one hand that these measures are not only useful but indeed necessary to attain the objectives of the proposal. The European Commission has to be able to show that this suppression can be done without harm in those Member States that have a reserved sector."

<sup>7</sup> "Concerning the proportionality the European commission should analyse that the suppression of the reserved area concerning mail weighing less than 50 grams would not weaken postal operators providing universal service and analyse if other methods of financing mentioned in the proposal would allow a quality of the service to be kept. "

Member State	Breach of the subsidiarity principle?	Breach of the proportionality principle?	Reasoned opinion of non-compliance?	Were the Commission's justifications for subsidiarity satisfactory?	Were the Commission's justifications for proportionality satisfactory?	Difficulties during the examination?	Other comments?
<b>Czech Republic</b> - Chamber of Deputies	No	No	No	Yes	Yes	No	No
<b>Czech Republic</b> - Senate	No	No	No	Yes	Yes	The Czech version was available on 7.11.2006; therefore the six-week period to complete scrutiny would normally elapse on 19.12.2006.	The Czech Senate exceptionally speeded up the procedure and planned a very early first round of scrutiny in order to meet the COSAC deadline
<b>Denmark</b>	No <sup>8</sup>	No	No	Yes	Yes	No	No
<b>Estonia</b>	No	No	No	Yes	Yes	No	See the footnote for comments on the use of IPEX <sup>9</sup>
<b>Finland</b>	No	No	No	Yes	Yes	No	No
<b>France</b> -Assemblée nationale	The opinion of the committee does not formulate observations on this point	There are reservations on this point <sup>10</sup>	Yes	No comments on this point	Insufficient justifications by the Commission (See the previous footnote)	The short deadline underlines the necessity of all to post their findings immediately on the IPEX. However mere symbols are not enough to indicate the substance of scrutiny.	
<b>France</b> - Sénat	No	In the adopted position there is a doubt on this point <sup>11</sup> .	Yes	No	The Commission made a real effort to justify, but its argumentation was not completely convincing	No	No

<sup>8</sup> Opinion adopted by the European Affairs Committee of the Danish Parliament 11 January 2007 including the minority opinion is in the annex.

<sup>9</sup> "The procedure used at the moment by COSAC works well, although the possibility to submit common positions should be more readily employed. In addition, there should be in place an information exchange system on a regular basis regarding the additional subsidiarity checks conducted by national parliaments that are not coordinated by COSAC. The exchange of information should preferably take place through the IPEX website. Some information exchange took place between the civil servants of the respective chambers by e-mail describing the procedures used by the chambers. In order to facilitate access to the information, national parliaments should strive to provide on the IPEX website translations to English of the opinions where they have found a breach on the subsidiarity principle. The COSAC secretariat should compile annual summaries on the subsidiarity checks conducted by national parliaments. During the subsidiarity and proportionality checks in the Riigikogu the standing committees have been involved in the process only by giving their opinion to the European Union Affairs Committee. In order to make the subsidiarity and proportionality checks even more efficient, the standing committees could be encouraged to exchange information with their colleagues from respective committees in other parliaments."

<sup>10</sup> "The French Assemblée Nationale calls on the European Commission to provide answers to the reservations it expresses as regards proportionality. In particular, it is asked to "Demonstrate that the suppression of the reserved area concerning mail weighing under 50 grams would not weaken postal operators providing universal service; Establish that the other methods of financing mentioned in the proposal would allow a quality and proximity service to be kept and justify that the examples of early liberalisation of the postal sector are convincing, whereas the geographic and demographic conditions specific to each country, as well as the various interpretations given to the definition of universal service, make the cost of this service vary considerably from one State to another."

<sup>11</sup> "If the Commission can prove that the financing of the universal service can be assured by other means that the existence of reserved sector, then the proportionality principle can be considered respected."

Member State	Breach of the subsidiarity principle?	Breach of the proportionality principle?	Reasoned opinion of non-compliance?	Were the Commission's justifications for subsidiarity satisfactory?	Were the Commission's justifications for proportionality satisfactory?	Difficulties during the examination?	Other comments?
Germany - Bundestag	No	No	No	No special observations	No special observations	The six weeks time frame could not be respected on the basis of the current procedure in the Bundestag	No
Germany - Bundesrat	No, except for Art. 22 I, III of the proposal. <sup>12</sup>	No	-	Yes. The objectives cannot be accomplished by the Member States alone	Yes	No	-
Greece	No	There is a doubt on this point. <sup>13</sup>	No <sup>14</sup>	Yes	-	-	-
Hungary	No <sup>15</sup>	No <sup>16</sup>	No	The relevant part of the Explanatory Memorandum (2.1.1.) was found to be inadequate <sup>17</sup>	The relevant part of the Explanatory Memorandum (2.1.2.) is not extensive, but includes the most important questions. A short discussion on the legal instrument would have been welcome.	Hungarian language version of the proposal would have been useful, had it been available at the time of the Committee meeting.	In light of the importance of the draft, the EAC decided to launch a scrutiny procedure in relation to the draft. The questions are political, rather than legal in nature and the scrutiny process is consequently a more suitable framework for debate and action.

<sup>12</sup> "The Bundesrat doubts the existence of a legal base as well as necessity with regard to the obligation of Member States to ensure consultation and cooperation between regulatory authorities for the postal sector and national authorities entrusted with the implementation of competition law and consumer law, as stipulated in Art. 22 I of the proposal. Same applies to Art. 22 III of the proposal according to which in the case of an appeal against the decision of the national regulatory authority the decision shall stand until the appeal body has taken its decision."

<sup>13</sup>"The rapporteurs voiced doubts concerning the compliance of the proposal with the principle of proportionality. Specifically, the majority of the MPs from all parties argued that the maintenance of the universal service and its quality –which is one of the objectives of the proposal- are not ensured, by the proposed financing means that would replace the actual reserved area for mail under 50 grams. "

<sup>14</sup> "A reasoned opinion has not been drafted for the purpose of this check, as the time frame of six weeks was over by the time of the debate. The members of the two Committees plan, however, to endorse an opinion addressed to the Government, as they consider the issue very significant"

<sup>15</sup>" The Committee considered the existence of the following elements in relation to the proposal:

- a meaningful connection between the proposed actions and Community objectives;
- the Community/cross-border scope of the problem;
- the "added value" of legislation on a European level/the inadequacy of purely national legislation.

The Committee has found all of these elements to be present. In addition, the Committee took into account the fact that the proposal serves as an amendment of existing EU legislation"

<sup>16</sup>" Since the proposal mainly concentrates on principles and provides the member states with a wide range of policy options, the legal means to be applied on the community level cannot be considered as intrusive. The individual elements of the proposal (such as the abolition of the reserved area) have not been found to be disproportionate in a legal sense either. As to their practicability, the Committee will form its opinion in the course of a scrutiny procedure."

<sup>17</sup>"In effect, the justification practically consisted of a statement that the proposal is not in breach of the subsidiarity principle. A substantive statement of reasons is required in this respect, containing at least a short discussion of the elements listed above, under pt. 10. It has to be added, that the background policy papers attached to the draft (COM (2006) 595 and 596) have been helpful in an examination of the draft from the point of view of subsidiarity."

Member State	Breach of the subsidiarity principle?	reach of the proportionality principle?	Reasoned opinion of non-compliance?	Were the Commission's justifications for subsidiarity satisfactory?	Were the Commission's justifications for proportionality satisfactory?	Difficulties during the examination?	Other comments?
Ireland	No. See the Annex for rationale	No definitive decision was possible <sup>18</sup>	No	Yes (See the Annex for rationale)	A definitive conclusion would require the conclusions of the Department's consultation with interested parties	No	-
Latvia	No	In general no, but article 11a raised questions <sup>19</sup>	N/A	Yes	Yes	The EAC was busy with elections & could not consult other committees and administrative services neither respect the deadline.	No
Lithuania	No	No	No	Not fully. "The explanatory note does not clearly state how the liberalisation of the postal services, i.e. the abolition of the reserved area, will add up to the smooth functioning of the internal market."	Yes		The launch of the IPEX website is helpful tool providing a platform for the electronic exchange of information between EU National Parliaments
Luxembourg	Yes <sup>20</sup> .	There are reservations on this point <sup>21</sup>	Yes	The commission doesn't really make an effort to justify its	See the previous answer: No real effort to justify the proposal.	-	-

<sup>18</sup>"While it would appear at this stage that the proposal is proportionate, it was, in addition, agreed that further detailed consideration at the national level will be required before it would be possible to fully determine whether the proposal is proportionate."

<sup>19</sup>"Article 11a determine, that "Whenever necessary to protect the interest of users and/or to promote effective competition, and in the light of national conditions, Member States shall ensure that transparent and non-discriminatory access conditions are available to the following elements of postal infrastructure or services: postcode system, address database, post office boxes, collection and delivery boxes, information on change of address, re-direction service, return to sender service". Members of the Saeima European Affairs Committee noted that issue of access to address databases should be viewed in the context of personal data protection and confidentiality of information. Moreover, the project does not clearly define the term "address databases", as well as the principles of database creation and operation. Therefore, the conditions of access to mail services should be defined precisely during the discussion of the directive"

<sup>20</sup> "The maintenance of the universal service can be done more effectively on the national level. The committee notes that referring to this the Study conducted by the PriceWaterHouseCoopers, "The Impact on the Universal Service of the Full Market Accomplishment of the Postal Market in 2009", which has been the basis of the Commission proposal, underlines the specificity of the Luxembourgish postal market and predicts great difficulties following complete liberalisation of the market. The committee notes with regret that the Commission haven't considered these remarks. Finally the committee expresses doubts concerning the financing of the universal service and its safeguards and requests why the reserved services of the current framework should be cancelled, even in the case of complete liberalisation. "

<sup>21</sup> "At the first glance the directive seems to be in accordance with the proportionality principle: it doesn't limit the choice of Member States measures, since it leaves a wide choice of how to finance the universal service. However the competent committee, reminding that the proportionality principle supposes that the proposed measures are adapted to the intended objectives, estimates that the freedom left to Members States is not sufficient. By suppressing the possibility to finance the universal service by reserved sector the proposed directive exceeds the necessary means to attain the objective. The problem lies within the credibility, efficiency and transparency of the different types of financing of the universal service that are authorised by the text. The concrete fear of the parliament is that the procedures which are necessary in order

				proposal in any parts, only general points are stated.			
Member State	Breach of the subsidiarity principle?	reach of the proportionality principle?	Reasoned opinion of non-compliance?	Were the Commission's justifications for subsidiarity satisfactory?	Were the Commission's justifications for proportionality satisfactory?	Difficulties during the examination?	Other comments?
Netherlands	No	No	Yes - in the Annex	Yes	Yes <sup>22</sup>	The proposal was published during the elections recess of the House of Representatives. Hence there was not a separate advice of the standing committee on Economic Affairs who were however consulted and the final advice was put the vote in both chambers.	During the scrutiny the IPEX-website was checked several times. Only few Parliaments provided information on the progress. Information exchange via IPEX-website is of utmost importance.
Poland - Sejm	No	No position	N/A	Yes	Yes	No	No
Poland - Senate	No	No	No	Yes	Yes	The fixed date for the full opening up of the postal services' market 1.1.2009 may be difficult to meet in Poland.	-

to implement this new type of financing will create more bureaucracy than the existing reserved sector. According to the opinion expressed by the competent committee a formula that would be more suitable, credible and cost-effective than the current reserved sector doesn't exist and the proposed alternatives are not sufficient. It serves no purpose to allow the Member States to maintain the universal service if at the same time they are forbidden to maintain the reserved sector, which is the most reliable way to finance the service. Only by allowing an effective way to guarantee the financing of the universal service the directive proposal respects the proportionality principle."

<sup>22</sup> "As regards the principle of proportionality, both Chambers note that by taking the proposed measures the European Commission is seeking to strike a balance in order to achieve both aims of the proposed Directive simultaneously, namely completion of the internal market in postal services and guaranteeing a universal postal service. In the negotiations on the measures in the proposed Directive, the balance between the two objectives and the resulting measures should be maintained. To this end the two Chambers will closely monitor the negotiations on this proposed Directive at European level and, if desired, consult with the Dutch Government on the chosen approach and the course of the negotiating process. They also intend to involve the present proposal for a Directive closely in the parliamentary consideration of the bill for the full liberalisation of the postal market and the guarantee of the universal postal service (Postal Act 20..., Parliamentary Papers 30536)."

<b>Portugal</b>	No <sup>23</sup>	No <sup>24</sup>	N/A	Yes, although it would be useful if the explanatory note could go into the existing legal bases for the adoption of the Directive in greater detail.	Yes	No	See footnote <sup>25</sup>
<b>Member State</b>	Breach of the subsidiarity principle?	reach of the proportionality principle?	Reasoned opinion of non-compliance?	Were the Commission's justifications for subsidiarity satisfactory?	Were the Commission's justifications for proportionality satisfactory?	Difficulties during the examination?	Other comments?
<b>Slovenia</b>	No	No	No	Yes	Yes	No	No
<b>Sweden</b>	No	Not examined	No <sup>26</sup>	Yes	Not examined	No (apart from language problems when looking for info in IPEX, but that was solved through personal contacts with officials in the relevant parliament)	Very useful with references on IPEX to officials involved in the scrutiny of a particular dossier in different parliaments
<b>UK</b> - House of Commons	No major subsidiarity implications <sup>27</sup>	-	-	-	-	-	-
<b>UK</b> - House of Lords	No	No	No	Yes, and the UK Government also agreed	Yes, and the UK Government also agreed	No	The proposal did not break new ground when compared to the earlier Directives in 1997 and 2002 <sup>28</sup> .

<sup>23</sup> "The intended goal of the proposal will be better pursued by the community instances, in as much as this aims to fulfil the objectives of completing the accomplishment of the internal market for Postal Services through the creation of an appropriate regulatory structure on a Community level, pursuant to Directives 97/67/CE and 2002/39/CE. This being the case it does not appear that there has been any violation of the principle of subsidiarity."

<sup>24</sup> "The proposal analysed also respects the principle of proportionality, as both its content and the legislative instrument to be used (Directive), are limited to the proposed objective, leaving the competence as to the form and means to achieved the intended objectives to the national instances. This being the case it does not appear that there has been any violation of the principle of proportionality."

<sup>25</sup> "It should be noted that the Postal Directive establishes a Committee to assist the Commission in the exercise of its competences of execution, in relation to the procedure of 'Comitology'. Taking into account the attention which has been given to the involvement of the National Parliaments in the monitoring of this matter, specifically in COSAC's 6th Biannual Report and in view of the recent Decision 2006/512/CE, it is considered that also in this case the subsequent monitoring to be performed by the National Parliaments in this area should be analysed."

<sup>26</sup> However, a text on the scrutiny was approved (in the annex).

<sup>27</sup> "In particular the proposal did not break new ground as compared with Directives 97/67/EC and Directive 2002/39/EC and indeed the Commission had in a number of areas proposed a less prescriptive approach than hitherto."

<sup>28</sup> "UK has already fully liberalised its postal services and thus the proposals did not have significant implications for the UK market. In 2000, Sub-Committee B conducted an inquiry into the 2002 proposal 'The Further Liberalisation Of Community Postal Services' published in December 2000 and available at <http://www.parliament.the-stationery-office.co.uk/pa/ld200001/ldselect/lddeucom/6/601.htm> when the further liberalisation of postal services in the EU was strongly supported. This view remains."