



*Evaluation*

**of the subsidiarity check  
under the provisions  
of the Treaty of Lisbon  
on the Commission proposal  
for a Council Framework Decision  
on the right to interpretation and  
to translation in criminal proceedings**

**Contact:**

Senate of The Kingdom of the Netherlands

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## THE SENATE OF THE KINGDOM OF THE NETHERLANDS

### Procedures:

**1. Which parliamentary committees were involved in the subsidiarity check and how?**

Answer:

- The Temporary Committee on Subsidiarity of both Houses of the States General of the Kingdom of The Netherlands (TGCS) launched the subsidiarity check.
- The proposal was scrutinized by the Committee for JHA-Council of the Senate

**2. Was the plenary involved?**

Answer:

- Yes

**3. At which level the final decision was taken and who signed it?**

Answer:

- The final decision concerning the content of the written opinion was taken by the plenary of the Senate and the letter was signed by the President of the Senate of the States General

**4. Which administrative services of your parliament were involved and how? Please specify.**

Answer:

- The staff of the Committees mentioned in the reply to question 1.

**5. In case of a bicameral parliament, did you coordinate the subsidiarity check with the other chamber?**

Answer:

- Yes, although the outcome of the subsidiarity check slightly differs between the two Houses. The TGCS (a mixed committee of the two Houses of Parliament) launched the check. Prior to the discussions in the Committee of JHA-Council of the Senate of The Netherlands the staff of this Committee exchanged information and analyses with the staff of the Committee for Justice of the Lower House (Tweede Kamer). As soon as the Committee of the Senate and the plenary of The Senate reached the final conclusion these were communicated to the Committee for Justice of the Lower House in order to examine as whether a joint letter of both Houses to the European Commission would be possible. It was decided in the Tweede Kamer that a separate letter with a slightly different opinion should be sent.

**6. Did your government provide any information on the compliance of the Proposal with the principle of subsidiarity?**

Answer:

- Yes, but not prior to the moment the plenary of the Senate reached to its final conclusions

**7. Did you consult your regional parliaments with legislative powers?**

Answer:

- Not applicable

**8. Did you consult any non-governmental organisations, interest groups, external experts or other stakeholders?**

Answer:

- No

**9. What was the chronology of events? Please specify the dates.**

Answer:

18<sup>th</sup> of August 2009: request by the TGCS to the responsible Committees of both Houses of the States General to start the subsidiarity check;

27<sup>th</sup> August 2009: exchange of information and analysis between the Committee Staff of both Houses of Parliament;

1<sup>st</sup> of September 2009: Analysis of the Staff of the Committee for JHA-Council; of the Senate sent to Senators. E-mail consultation of members of the Senate;

8<sup>th</sup> of September 2009: Start of Committee and Plenary Meetings in the Senate (Recess finished);

8<sup>th</sup> of September 2009: Committee for JHA-Council decides on her advice to the plenary of the Senate;

8<sup>th</sup> of September 2009: Plenary of the Senate accepts the opinion proposed by the Committee for JHA-Council;

8<sup>th</sup> of September 2009: Opinion of the Senate communicated to the Committee for Justice of the Lower House (Tweede Kamer);

10<sup>th</sup> of September 2009: Letters (and e-mails) of the Senate sent to the vice-President of the European Commission (and also to European Parliament, Council, COSAC-secretariat and Dutch Government);

15<sup>th</sup> of September 2009: Courtesy translation (in English) of letter to European Commission sent to EC, EP, Council and COSAC-secretariat

**10. Did you cooperate with other national parliaments in the process?  
If so, by what means?**

Answer:

- No

**11. Did you publicise your findings? If so, by what means?**

Answer:

- Yes: as Parliamentary Documents, on the website [www.europapoort.nl](http://www.europapoort.nl) and on IPEX

**Findings:**

**12. Did you find any breach of the principle of subsidiarity?**

Answer:

- No, but additional information is requested from the European Commission

**13. Did you adopt a reasoned opinion on the Proposal? If so, please enclose a copy.**

Answer:

- Yes, please find attached

**14. Did you find the Commission's justification with regard to the principle of subsidiarity satisfactory?**

Answer:

- No, the Senate kindly requests additional information on specific topics mentioned in the letter

**15. Did you encounter any specific difficulties during this subsidiarity check?**

Answer:

- Yes, due to the start of the Committee and Plenary Meetings of the Senate there was little time for carrying out the subsidiarity check.

**16. Any other comments?**

Answer:

- No

## APPENDIX

### WRITTEN OPINION OF THE SENATE OF THE KINGDOM OF THE NETHERLANDS

The Vice-President of the European Commission  
Mrs M. Wallström  
B – 1049 BRUSSELS  
Belgium

*date* 10 September 2009  
*reference* 144755.u/YTB/FB/eos  
*subject* *Subsidiarity check on the Proposal for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings, COM (2009)338*

Dear Mrs Wallström,

The Senate of the States General of the Kingdom of the Netherlands has checked the Proposal for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings, COM(2009)338, for compliance with the principles of subsidiarity and proportionality. In doing so, it has applied Article 5 of the EC Treaty and Protocol 30 to the Treaty of Amsterdam on the application of the principles of subsidiarity and proportionality.

The Senate of the States General has concluded that Article 31 (1)(c) of the EU Treaty provides a sufficient legal basis for the Proposal for a Framework Decision. Nonetheless, the Senate requests the European Commission to provide a convincing and more detailed justification of why this article is indeed the correct legal basis.

As regards the principles of subsidiarity and proportionality the Senate is able to agree, subject to some reservation. It would accordingly like to receive further information about what would be the added value of the Framework Decision in relation to the provisions of the European Convention on Human Rights and the case law based on it. The European Commission is kindly requested to provide more detailed reasoning of its thinking on this issue. The Senate of the States General also considers that more explanation is needed of the European Commission's assertion that the application of the provisions of the European Convention on Human Rights (ECHR) in the Member States is inconsistent and that this problem could be addressed by the Framework Decision.

The Senate of the States General trusts that it has provided you with sufficient information and awaits the reply of the European Commission with particular interest.

Yours sincerely,

Yvonne E.M.A. Timmerman-Buck  
President of the Senate of the States General

*An identical letter has been sent to the presidents of the Council of the European Union and the European Parliament and to the Dutch government and the secretariat of COSAC.*