

**Speech by Gerhard Stahl**

**"The growing role and responsibility of national and regional  
parliaments in the European integration process"**

International Workshop

Subnational Parliaments in an EU Multi-level Parliamentary System:

Taking Stock of the Post-Lisbon Era

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**Ladies and gentlemen,**

Let me start by thanking the organisers of this interesting conference for their invitation.

*I. General political context and the role of the Committee of the  
Regions in general*

Before moving to the central issue of my speech, the role of national and regional parliaments in the European integration process, allow me to say a few words, first about the general context of European integration, national sovereignty and democracy, and second about the role of the **Committee of the Regions**.

In recent decades, the international economy and international financial markets have developed, exerting strong competitive pressure on national economies. European integration helps its Member States with the creation of a common market and common policies to stay competitive in this globalised world.

However, there is a risk of globalisation undermining national sovereignty and consequently national democracy. The EU is trying

to find an answer to this dilemma of globalisation and to combine European democracy and national democracy. This is very much the context in which the discussion on the role of national and regional parliaments has to be placed.

The challenge of international competition, economic governance and democratic control of decisions needs a coherent answer. In the EU, the Council and especially the European Parliament, based on its direct elections, have to ensure that EU legislation has democratic legitimacy. The Committee of the Regions also contributes to the political legitimacy of EU decisions.

The Committee is the EU's political assembly representing local and regional authorities, it has 344 members, elected local and regional representatives from the 27 EU Member States. It is an advisory body which is involved in the EU legislative process as it must be consulted by the European Commission, the Council and the Parliament in 10 important policy areas like employment, transport, environment, climate change and energy, and social and territorial cohesion. In addition, it can present own-initiative opinions on all issues of political importance.

The Committee of the Regions brings Brussels closer to the regions and municipalities and the latter closer to Brussels. This is essential because 70 % of EU legislation has a direct local and regional impact, and at the same time, many European objectives, whether in the field of economy, environment or immigration, need local and regional actions. The Committee of the Regions is active at all stages in shaping and making European decisions: before the legislative proposal, by advising the European Commission in key policy areas, during the legislative process by cooperating closely with the European Parliament, and by being present at informal meetings of the Council.

## *II. National parliaments – Subsidiarity Early Warning Mechanism*

**Democracy** relies on efficient parliamentary control within the EU, and the main sources of democratic legitimacy are **local, regional and national parliaments** and the European Parliament.

The **Laeken Declaration of December 2001** stressed the role of national parliaments as one of the key issues to be considered in the reform of the EU Treaties. This objective was obviously intended to

address the criticism of "*deparliamentarisation*" and that EU legislation was lacking democratic legitimacy.

In fact, during the "*pre-Lisbon era*", the role of national parliaments was limited to exclusively national rights of control and participation, aimed primarily at scrutinising the activities of national ministers in the Council and thus securing the latter's accountability. Furthermore, this indirect parliamentary control effectively lost significance due to the extension of majority voting (instead of unanimity) in the Council of Ministers. Another obstacle to efficient parliamentary scrutiny resulted from the fact that national parliaments depended entirely on their governments for information on EU affairs, because the relevant Protocol attached to the **Treaty of Amsterdam** did not establish the right of national parliaments to receive EU draft legislative acts directly from the European Commission.

It is **the Treaty of Lisbon** that has eventually tried to solve these major problems by recognising that national parliaments have their own role to play at EU level and are actively involved in the EU decision making process. The key provision in this regard, **Article 12 of the Treaty on European Union**, contains an almost exhaustive list of the forms of involvement of national parliaments and

summarises their importance by highlighting that they "*contribute actively to the good functioning of the Union*". In order to be able to fulfil this task, the Treaty on European Union and Protocol No 1 attached to the Treaties state that non-legislative documents as well as draft legislative acts shall be forwarded directly by the Commission or another legislative initiator to national Parliaments.

The most important innovation introduced by the Treaty of Lisbon is the **Subsidiarity Early Warning Mechanism**, the "*yellow*" and "*orange card*" procedures which require different majority votes by national parliaments: according to Protocol No 2 attached to the Treaties (**Protocol on the application of the principles of subsidiarity and proportionality**), national parliaments have the power to issue a reasoned opinion when they believe that an EU draft legislative act infringes the principle of subsidiarity, concretely that a proposed EU action is not necessary and has no added value in comparison with action at Member State level. In fact, in May 2012, 12 national parliaments did show such a "*yellow card*" to the Commission concerning the so-called "*Monti II*" dossier, the proposal for a Council regulation aimed at developing a legislative framework for transnational industrial action, concerning amongst other things

the right to strike. Finally, the Commission decided to withdraw its legislative proposal even if it is not obliged to do so under the "*yellow card*" procedure - it has only to review its proposal and may then decide to maintain, amend or withdraw the draft legislative act.

In a letter to national parliaments the Commission stated that it still considers the legislative proposal to comply with the principle of subsidiarity, and that the reason for the withdrawal is the possible lack of the necessary political support in the European Parliament and the Council in the future.

All this is a highly interesting process which shows that national parliaments have a growing role to play in the EU integration process.

Before "*Monti II*", many people doubted if the necessary threshold for triggering the "*yellow card*" procedure could ever be reached. Several sceptics asked questions such as "*Would the national parliaments be able to issue such opinions within the tight timeframe of eight weeks? Would they be in a position to carry out inter-parliamentary cooperation on such a complex issue as subsidiarity?*" These doubts have now been dispelled in practice. Even if the Commission still considers that its proposal complies with the principle of subsidiarity, even if some critical voices believe that the 12 national parliaments

grounded their reasoned opinions not on subsidiarity issues, but rather on the adequacy of the legal basis and proportionality aspects, it is the result of this "*yellow card*" procedure which counts! This result is very different from the outcome of the **political dialogue** between the national parliaments and the Commission which has been in place since September 2006 and in which the Commission only replies to the various opinions of national parliaments. This result shows that a political process between national parliaments and the Commission has started.

Yes, the Treaty of Lisbon provides the structures and institutional mechanisms which give national parliaments the possibility to be actively and autonomously involved in the EU decision making process, and these mechanisms do work in practice.

Finally, I would like to point out that the rather political Subsidiarity Early Warning Mechanism is supplemented by a judicial instrument, an *ex post* control of subsidiarity which also highlights the growing role of national parliaments within the EU: Protocol No 2 to the Treaties states that, on behalf of their national parliament, Member States can – like the Committee of the Regions - introduce an **action**

**for annulment of a legislative act on subsidiarity grounds at the European Court of Justice.**

However, in order to know if and how the words of the Treaties are translated into reality national parliaments' practical experiences with their new competences have to be explored and data in these field collected and analysed in a systematic way.

Therefore, it is interesting to note that an **"Observatory of Parliaments after Lisbon"** (OPAL) has been set up. This three-year project involves academics from several European universities, and will examine how national Parliaments are using their powers to influence EU policy making. Three case studies from different policy areas and with different types of EU decision making have been selected for this purpose: the legislative proposal on seasonal workers which was submitted to the Subsidiarity Early Warning Mechanism, a dossier under the Common Security and Defence Policy ("operation Atalanta" against pirate activity) and finally the sovereign-debt crisis, an area where increased EU activities affect national parliaments' budget rights. I will come back to this last aspect later in my speech in the context of EU economic governance.

### *III. Regional parliaments*

Let me now turn to **regional parliaments** whose important role for **democracy, subsidiarity and multi-level-governance** within the EU is also explicitly acknowledged in the Treaties. Indeed, Protocol No 2 foresees the possibility for regional parliaments to be involved in the EU legislative process through the Early Warning Mechanism: In this framework, regional parliaments with legislative powers may be consulted by their national parliaments - 74 regional parliaments in eight EU Member States are concerned by this.

This is a far reaching, positive development compared to the past. Yet, the Treaties do not give the right to sub-national legislative bodies to have a direct say in EU law making. They may be **indirectly involved** by their national parliament, and the degree of involvement thus depends on the respective national constitutional or legislative framework. The way in which regional parliaments are consulted by their national parliaments varies from one Member State to another. Some involve regional parliaments quite extensively, others only in a limited way. Furthermore, it depends also on national legislation whether the regional parliaments' position on subsidiarity is binding for the national parliament or not.

The **eight-week deadline** of the Early Warning Mechanism poses a **major challenge** as regional parliaments have even less time: they must formulate their positions on subsidiarity quickly enough for the national parliament to take them into account for its reasoned opinion. This results in the need to carry out an appropriate filtering of EU draft legislative acts and to focus on a limited range of issues for reasoned opinions.

All these aspects have been confirmed by a study on the involvement of regional parliaments in the Early Warning Mechanism commissioned by the Committee of the Regions and carried out by EIPA in 2010/2011.

As a result of these constraints, **coordination among regions with legislative powers** is of paramount importance, not only within individual Member States, but also across borders. We have heard about the important role CALRE can play in this context.

Nevertheless, there is still potential for more involvement of regions with legislative powers in EU law making.

In its recent **resolution on the Report from the Commission on Subsidiarity and Proportionality (18<sup>th</sup> report on Better Law**

**Making)**<sup>1</sup> the **European Parliament** stressed this potential by calling on the national parliaments "*to consult the regional parliaments with legislative power*" as well as by calling on the Commission "*in the scrutiny of subsidiarity and particularly in its annual reports on subsidiarity and proportionality, to pay attention to the role of the regional parliaments with legislative powers.*"

#### IV.

#### *The Committee of the Regions as a promoter of cooperation for regional parliaments*

The **Committee of the Regions** is offering another way for regions in general, and regional parliaments in particular, to voice subsidiarity concerns and to be involved in shaping European decisions.

The Committee is aware of the challenges resulting from the Early Warning Mechanism and can offer a whole range of tools which may be used by regional parliaments in this context:

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<sup>1</sup> Resolution on the 18th report on Better legislation - Application of the principles of subsidiarity and proportionality (2010) (2011/2276(INI))(A7-0251/2012 - Rapporteur: Sajjad Karim), adopted on 13 September 2012.

In 2007, the Committee set up a network of regional and local authorities particularly interested and active in the field of subsidiarity monitoring: the **Subsidiarity Monitoring Network**. To date, it includes 139 partners, including **39 regional parliaments** and 28 regional executives. Moreover, **four national parliaments** are partners of this network: the Austrian Federal Council, the French and Italian Senates, and the Hellenic Parliament.

These contacts provide expertise which can be used by Committee rapporteurs (who are preparing CoR opinions) on the compliance of EU initiatives with the principle of subsidiarity. In practice, the network operates through its website, where partners may also freely submit their subsidiarity assessments.

In February of this year, the Committee launched a special section of this website, **REGPEX**, dedicated to regions with legislative powers. Regional parliaments may find information there on EU legislative proposals being scrutinised during the Early Warning phase. They can also publish their own positions and share them with other regional parliaments throughout the EU.

Through REGPEX, **regional parliaments** not only gain **publicity or information**. Their position also has the opportunity to be **reflected**

**in opinions of the Committee of the Regions.** A good example is the "test-file" on public procurement that was organised on REGPEX around the draft directives submitted by the Commission on public procurement and concessions at the end of last year. Input has been collected from several regional parliaments, as well as regional governments and associations of local governments. These positions have been analysed in a report, which was forwarded to the Committee's rapporteurs for concessions and for public procurement respectively. The draft opinion on public procurement was then submitted to the Committee's Plenary Session in October 2012 with an amendment to delete the "*single national oversight body*" which raised many subsidiarity objections from regional and national parliaments. This amendment has been accepted by the majority of Committee members.

The Committee of the Regions is also promoting input from local and regional authorities at the **pre-legislative stage**, thus before the Commission issues legislative proposals, through **consultations for impact assessment**. It works closely with the European Commission to develop special consultations for this purpose. The strategy is

being refined now; however, there is a clear willingness to act as early as possible in the policy-making cycle.

Furthermore, the Committee's **Subsidiarity Expert Group** is one of the new features of the CoR strategy for subsidiarity monitoring. 15 selected experts from local and regional authorities all over Europe, from the Subsidiarity Monitoring Network, met on 25 October in order to scan through the Commission Work Programme for 2013 and propose a list of priority files for subsidiarity screening in 2013.

The Committee will adopt its **Subsidiarity Work Programme for 2013** on this basis. This will allow for better input to the Committee's opinions with regard to compliance of EU initiatives with the principle of subsidiarity.

The Committee's Work Programme is of course also supposed to **help regional parliaments to filter EU draft legislative acts** in view of their own subsidiarity monitoring activities.

One can thus conclude that the Committee of the Regions is coordinating and amplifying the regional parliaments' voice in the EU decision making process.

*V. Europe 2020 – case study on the need for the involvement of all stakeholders*

To illustrate the relevance of national and regional parliaments in the context of EU economic governance, let me focus briefly on the **Europe 2020 Strategy for smart, sustainable and inclusive growth and the so-called European semester process**. In a couple of weeks the European Commission will publish the 2013 Annual Growth Survey which will commence the third European semester. What have we learned from the two previous cycles since the Europe 2020 Strategy was adopted in 2010?

**Firstly**, we know already that Europe 2020 will not deliver without cities and regions. This is not only a question of ownership – which unfortunately is still lacking - but also the high level of local and regional expenditure and public investments that is needed if policies are to reach the Europe 2020 targets. Through its **Europe 2020 Monitoring Platform**, the Committee of the Regions monitors what happens on the ground and then uses monitoring outcomes to

participate in the Strategy's policy cycle. What is now needed, is governance in partnership to make the EU successful.

This is a political message from the Committee of the Regions and we have already gained the support of the European Commission and the European Parliament. Herman Van Rompuy, President of the European Council, also joined our call to involve local and regional partners in implementing Europe 2020. Unfortunately, until now the subnational level has been only sporadically involved in the preparation of the Europe 2020 National Reform Programmes.

**Secondly**, there is already a critical assessment, in particular from the European Parliament - about the **"dramatic de-parliamentarisation" of economic and budgetary policies.**

Indeed, the intergovernmental response to the sovereign-debt crisis and the Troika mechanism including the IMF is undermining proper involvement of the European Parliament and relevant national and regional parliaments.

Parliaments, be it on the regional, national or European level, have to bring **democratic legitimacy** to the coordination of economic policies starting with the Annual Growth Survey, and then moving ahead with the National Reform Programmes and the country-specific

recommendations. In particular, this element of the European Semester - recommendations to Member States that aim at changing domestic policies - is very often taken on board at national level without any open political debate. The European Commission is aware of this shortcoming and has already invited the national parliaments to be more involved in the European semester process. Against this background, the Committee of the Regions' mission is crucial: it has to make EU decision-makers aware of the reality in municipalities and regions and of their specific needs.

At the June European Council, *President Van Rompuy* received a mandate to work on a roadmap to bring the Economic and Monetary Union to completion. In the run-up to the October European Council summit, all Member States as well as the European Parliament and its President have been consulted. The interim report "**Towards a genuine economic and monetary union**" from mid October indicates that: "*As a general principle, democratic control and accountability should occur at the level at which the decisions are taken. This implies relying on the European Parliament as regards accountability for decisions at European level but also maintaining and securing the pivotal role of national parliaments, as appropriate.*"

The very same Report also acknowledges that "(...)in this spirit, ways to ensure a debate in the European Parliament and in national parliaments on the recommendations adopted in the context of the European Semester should be explored."

Looking to the **regional level**, there is still more work to be done to assess in detail to what extent and how **regional parliaments** are involved in this process. **What we know by analysing the text of 27 National Reform Programmes is that none of them report the involvement of regional parliaments in preparing these documents.**

In the course of the next 18 months, the Committee of the Regions will focus on the Europe 2020 Strategy in view of its mid-term review envisaged for 2014. We will try to draw further lessons from the biannual European Semesters.

## *VI. Prospects*

The European Union needs to further develop a European system of governance in partnership, reaching out to all parliaments in areas

where they are responsible, i.e. where **subsidiarity and multi-level governance** are essential elements. This is even more crucial in the current context of economic crisis management, where citizens are confronted with intergovernmental policy-making and decisions reducing parliamentary involvement in some of the Member States, which are subject to increased economic surveillance.

The **Treaty of Lisbon** has made an important step forward by taking better account of the increasing importance of national and regional parliaments in the EU integration process and by providing new instruments to ensure that the subsidiarity principle is respected.

The challenge now is to make the **best use of these instruments** and new competencies in order to translate the words of the Treaty into reality.

I am convinced that the challenges resulting from the issues of economic governance, democratic legitimacy, subsidiarity and multi-level governance can only be tackled by developing a **common understanding among all actors involved**.

The Committee of the Regions will continue to work in this direction and we are looking forward to involving new partners in the Committee's subsidiarity monitoring and Europe 2020 activities.

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