

Danish Parliament



6 October 2007

Report from the Folketinget

On the experience of the subsidiarity and proportionality check on the proposal for a regulation on the applicable law and jurisdiction in divorce matters

- 1. Which committees were involved in examining the Commission proposal for a Regulation on the applicable law and jurisdiction in divorce matters and what role did each committee play?**

The European Affairs Committee and the Committee on Legal Affairs

- 2. Was your plenary involved?**

No

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

The secretariat of the Committee on Legal Affairs

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

On 31 August 2006 the European Affairs Committee invited the Committee on Legal Affairs to examine the proposal on "*jurisdiction and introducing rules concerning applicable law in matrimonial matters*" and to assess whether it adhered to the principle of subsidiarity. The Committee on Legal Affairs tabled 8 written questions regarding the proposal which were responded to by the competent Minister (Family and Consumer Affairs) on 7 September.

The Minister was invited to give evidence at a joint expert hearing organised by the European Affairs Committee and the Committee on Legal Affairs.

The majority of the European Affairs endorsed an opinion concerning the proposal's compliance with the subsidiarity principle at its meeting on 6 October, where it declared that the proposal was fully in compliance with the principle of subsidiarity.

Two political parties disagreed with the majority and expressed minority opinions.

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

Yes the Minister of Family and Consumer Affairs gave evidence at a joint hearing organised by the European Affairs Committee and the Committee on Legal Affairs on 29 September 2006. In addition the Minister replied to 8 written questions concerning the proposal tabled by the Committee on Legal Affairs.

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

No. There are no regional parliaments with legislative powers in Denmark.

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

No.

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

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

Yes

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

No. The following opinion was adopted by a majority of the European Affairs Committee:

Opinion adopted by the European Affairs Committee of the Danish Parliament

6 October 2006

On the Commission's proposal for a Council regulation on jurisdiction and introducing rules concerning applicable law in matrimonial matters.

At the request of COSAC the European Affairs Committee and the Committee on Legal Affairs of the Danish Parliament have conducted an assessment of whether the "*proposal for a Council regulation on jurisdiction and introducing rules concerning applicable law in matrimonial matters*" adheres to the principle of subsidiarity.

In order to improve the scrutiny of the proposal, the European Affairs Committee and the Committee on Legal Affairs organised an expert hearing on 29 September 2006, where the Minister of Family and Consumer Affairs and his experts at a joint session gave evidence to the committees.

The Committee on Legal Affairs tabled 8 written questions which were replied to by the Minister on 27 September 2006.

The proposal for a Council regulation, which was put forward on 17 July 2006, aims at providing a clear and comprehensive legal framework in matrimonial matters in the European Union and ensure adequate solutions to the citizens in terms of legal certainty, predictability, flexibility and access to court.

A majority of the European Affairs Committee composed of The Liberal Party, The Social Democrats, The Conservatives, The Socialist People's Party and The Social-Liberal Party, notes that the proposal does not affect national substantive rules, but is focusing on determining which country's law will apply and which court should have jurisdiction in matrimonial proceedings in international marriages. In addition the proposal provides the possibility for spouses to choose the applicable law and the competent court in such proceedings.

It is the assessment of the majority in the European Affairs Committee that the proposal aims at resolving a cross-border problem, which by reason of scale cannot sufficiently be achieved by the Member States through national rules.

The majority therefore finds that the Commission proposal is fully in compliance with the principle of subsidiarity in TEC article 5.

Minority opinions:

Two political parties have wished to express a minority opinion.

The Danish Peoples' Party declares that it cannot endorse the opinion of the majority of the Committee, because it finds that the proposal breaches the principle of subsidiarity.

The Red-Green Alliance has stated that it agrees with both Houses of the States General of the Kingdom of the Netherlands, which have concluded that the proposal in question does not comply with the principle of subsidiarity. The Red-Green Alliance therefore cannot support the opinion.

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

No

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

No

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

Yes

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

Yes

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

No

16. Any other comments?

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