



TEXTS ADOPTED

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Application of the Treaty provisions related to the principles of subsidiarity and proportionality and the role of national parliaments in the EU legislative process

European Parliament resolution of 27 November 2025 on the application of the Treaty provisions related to the principles of subsidiarity and proportionality and the role of national parliaments in the EU legislative process (2025/2042(INI))

The European Parliament,

- having regard to the Treaty on European Union (TEU), in particular Article 5 on the conferral of competences, subsidiarity and proportionality, Article 10(1) on representative democracy, Article 10(2) on the representation of EU citizens, Article 10(3) on the right of EU citizens to participate in the democratic life of the Union, Article 11 on participatory democracy and Article 12 on the role of national parliaments,
- having regard to Protocol No 1 to the TEU and the Treaty on the Functioning of the European Union (TFEU) on the role of national parliaments in the European Union¹ and to Protocol No 2 to the TEU and the TFEU on the application of the principles of subsidiarity and proportionality²,
- having regard to Articles 2-6, 15 and 122 TFEU,
- having regard to its resolutions of 7 May 2009 on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon³, of 16 April 2014 on relations between the European Parliament and the national parliaments⁴, of 19 April 2018 on the implementation of the Treaty

¹ OJ C 202, 7.6.2016, p. 203, ELI:
http://data.europa.eu/eli/treaty/tfeu_2016/pro_1/oj.

² OJ C 115, 9.5.2008, p. 206.

³ OJ C 212 E, 5.8.2010, p. 94.

⁴ OJ C 443, 22.12.2017, p. 40.

provisions concerning national parliaments⁵ and of 17 January 2024 on the implementation of the Treaty provisions on national parliaments⁶,

- having regard to its resolution of 22 November 2023 on proposals of the European Parliament for the amendment of the Treaties⁷, in particular the proposed amendments related to the subsidiarity principle and Protocol No 2,
 - having regard to the report of 9 September 2024 by Mario Draghi entitled ‘The future of European competitiveness’⁸ (the Draghi report),
 - having regard to the Commission’s annual reports on the application of the principles of subsidiarity and proportionality and relations with national Parliaments,
 - having regard to the final report of the Task Force on Subsidiarity, Proportionality and ‘Doing Less More Efficiently’ of 10 July 2018⁹,
 - having regard to the Commission communication of 23 October 2018 entitled ‘The principles of subsidiarity and proportionality: Strengthening their role in the EU’s policymaking’ (COM(2018)0703),
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs (A10-0224/2025),
- A. whereas the principle of subsidiarity, enshrined in Article 5(3) TEU, ensures that: ‘in areas that do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level’; whereas this principle safeguards the balance of power in the EU; whereas the principle of proportionality, as outlined in Article 5(4) TEU, mandates that the

⁵ OJ C 390, 18.11.2019, p. 121.

⁶ OJ C, C/2024/5714, 17.10.2024, ELI:
<http://data.europa.eu/eli/C/2024/5714/oj>.

⁷ OJ C, C/2024/4216, 24.7.2024, ELI:
<http://data.europa.eu/eli/C/2024/4216/oj>.

⁸ Draghi, M., ‘The future of European Competitiveness’, European Commission, 9 September 2024,
https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en#paragraph_47059.

⁹ https://commission.europa.eu/document/download/8530a17b-e2b8-4cd4-a68d-597767cfbad7_en?filename=report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en.pdf.

content and form of EU action must not exceed what is necessary for achieving the objectives of the Treaties;

- B. whereas the application of the principles of subsidiarity and proportionality is essential for ensuring the democratic legitimacy and regulatory impact and efficiency of the EU; whereas it is essential that the EU respects the diversity of its Member States and avoids unnecessary regulatory burdens on Member States and their legal subjects;
- C. whereas Articles 2-6 TFEU clearly delineate the exclusive, shared and supporting competences of the EU;
- D. whereas the principles of subsidiarity and proportionality were mentioned explicitly for the first time in the Maastricht Treaty to balance the growing powers of the European Union with the sovereignty of the Member States; whereas the role of the national parliaments was strengthened by Protocol No 2 to the Treaties, added by the Treaty of Lisbon, with the introduction of an early warning system (EWS);
- E. whereas 577 subsidiarity checks and reasoned opinions by national parliaments, 3 803 contributions from national parliaments, three 'yellow cards' and no 'orange cards' have been submitted since the entry into force of the Treaty of Lisbon in 2009;
- F. whereas, in line with the principles enshrined in the Treaty of Lisbon, particularly Protocol No 2 on the application of the principles of subsidiarity and proportionality, the entire EU institutional framework must make consistent and sustained efforts to ensure the active involvement of national parliaments in the European decision-making process; whereas the yellow and orange card mechanisms, as provided for in the Treaty of Lisbon, should be strengthened, and consideration should be given to further enhancing their effectiveness;
- G. whereas only the first of the three yellow card procedures led to the withdrawal of a proposal for a regulation¹⁰, the second led to enhanced cooperation between 20 Member States instead of unanimous implementation¹¹, and the third had no effect, while 14

¹⁰ Proposal for a Council Regulation of 21 March 2012 on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (COM(2012)0130).

¹¹ The creation of the European Public Prosecutor's Office: the yellow card was triggered in 2013, and enhanced cooperation was adopted under Article 86 TFEU in 2017.

reasoned opinions have been submitted by parliaments in 11 Member States¹²;

- H. whereas the EWS has only led to two procedures before the Court of Justice of the European Union (CJEU) to assess the correct application of the principles of subsidiarity and proportionality; whereas the CJEU ruled in both cases that there had been no violation of the principles of subsidiarity and proportionality;
- I. whereas strict adherence to the principles of subsidiarity and proportionality by the Commission and the co-legislators can assist in alleviating regulatory burdens and contribute to a more efficient law-making process;
- J. whereas there is an established practice of each rotational presidency of the Council of the European Union having a parliamentary dimension, with national parliaments participating jointly with the European Parliament in numerous interparliamentary conferences on a variety of topics;
- K. whereas national parliaments are included in the EU legislative process both under the specific provisions of Protocol No 2 to the TFEU, as well as through their exercise of democratic control over their respective national governments, which represent the interests of the Member States in the Council;
- L. whereas Article 122 TFEU is designed to be used only in exceptional and crisis situations and should not be misused as a way of circumventing other procedures laid down by the Treaties, especially as this would exclude Parliament's participation and might therefore weaken public trust;
- M. whereas scrutiny over the Commission, as the executive body of the EU, should be exercised both by the European Parliament and the national parliaments;
- 1. Reaffirms the fundamental importance of the principles of subsidiarity and proportionality for the EU's legal and institutional framework; recalls that the principles of subsidiarity and proportionality should be essential elements of the Commission's approach to better regulation, which is built on the three fundamental processes of evaluation, impact assessment and stakeholder consultation; reiterates that these principles are

¹² Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 173, 9.7.2018, p. 16, ELI: <http://data.europa.eu/eli/dir/2018/957/oj>).

essential in safeguarding the division of powers and ensuring that EU actions are necessary and appropriate;

2. Stresses that the underlying rationale behind the principle of subsidiarity is to ensure that decisions should be made as closely as possible to the citizens, safeguarding the ability of the Member States to take decisions and action and authorise intervention by the EU when the objectives of an action cannot be sufficiently achieved by the Member States, but can be better achieved at EU level, by reason of the scale and effects of the proposed action, with the primary goal of maximising effectiveness and ensuring closer proximity to citizens;
3. Recalls that the principles of subsidiarity and of proportionality require that measures adopted by the EU institutions do not exceed the limits of what is appropriate and necessary in order to attain the objectives legitimately pursued by EU legislation;
4. Underlines that the concept of 'active subsidiarity' as developed by the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently' (the Task Force) is based on constructive cooperation between all levels of governance during all stages of the life-cycle of EU legislation for the benefit of EU citizens;

Role of the Commission

5. Calls on the Commission to exercise due diligence and discretion when proposing legislation that falls under shared competences; calls on the Commission to clearly and thoroughly define the legal basis for EU action, ensuring full respect for Member State competences and the appropriate use of legal foundations; underlines that the entire EU institutional framework must make consistent and sustained efforts to ensure the active involvement of national parliaments in the European decision-making process;
6. Notes with concern the Commission's choice of Article 122 TFEU as a legal basis for the deployment of EUR 800 billion for the ReArm Europe Plan/Readiness 2030 instrument; calls on the Commission to revise the legal basis of this initiative; urges the Commission to read Article 122 TFEU in the light of its initial design as an extraordinary and crisis management solution, and in the spirit of the principle of subsidiarity in any future proposals;
7. Stresses that any legislative initiative by the Commission falling under shared competences must be strictly framed by a thorough ex ante impact assessment, demonstrating in a quantified and reasoned manner the need for effective action and the choice of instruments; demands that the Commission expressly justify, through a comparative analysis between Member States, that legislative harmonisation at EU level brings substantial added value and does not constitute a disguised extension of competence; recalls the

Commission's intention, expressed in its 2018 communication, to integrate an assessment grid into its better regulation guidance and to use it as part of the impact assessments, evaluations and explanatory memoranda that accompany its legislative proposals; regrets that so far this has not been fulfilled in practice; welcomes, in this regard, the subsidiarity grid developed by the European Committee of the Regions and encourages the Commission to use it as the basis for its subsidiarity assessments; insists on the need for more rigorous control of the use of Articles 122 and 352 TFEU as a legal basis and calls for a strengthened prior consultation of the national and regional parliaments with legislative powers before proposing legislation at EU level;

8. Notes the concerns expressed unanimously by the French Senate's European Affairs Committee¹³ regarding the weak legal foundation for certain EU legislative initiatives, the increasing tendency to favour regulations over directives, and the excessive use of implementing or delegated acts;
9. Recalls that Article 5 of Protocol No 2 to the Treaties requires the Commission to provide a detailed appraisal of whether it has complied with the principles of subsidiarity and proportionality; urges the Commission, jointly with the European Parliament, to conduct a more systematic analysis of subsidiarity and proportionality when drafting legislative proposals; recalls that subsidiarity checks are essential for good governance and should not be reduced to a mere box-ticking exercise; calls for greater transparency in applying these principles, with each legislative proposal providing detailed justifications for EU intervention, the added value of the action and the proportionality of measures in relation to the objectives;
10. Notes that the Commission's responses to reasoned opinions should be carefully considered even when they are not supported by a large number of national parliaments; stresses the importance of the specific situation in individual Member States, taking into account the diversity of legal traditions and regional differences across the EU; expresses concern about the fact that there is little evidence that the Commission significantly alters its proposals as a result of reasoned opinions submitted by national parliaments;
11. Points out that implementing new EU legislation can entail very high costs for municipalities, particularly in remote or scarcely populated areas; considers that municipalities must be equipped with sufficient financial resources to implement EU law, so as to enable them to comply with the new EU legislative norms; points out that these

¹³ Le Sénat, Commission des affaires européennes, 'Dérive normative de l'Union européenne - Rapport d'information n° 190 (2024-2025), 4 December 2024.

financial resources should correspond to the implementation costs that the municipalities incur;

12. Points out that national parliaments have rarely used the yellow card or orange card procedures; underscores that this is not because of disinterest on the part of national parliaments; notes that there are a number of possible explanations for the limited use of the yellow card procedure, including the lack of transparency in EU law-making, the lack of knowledge about the EU legislative process, and time constraints; considers that parliaments that refrain from using the instrument make it more difficult to reach the required threshold; recognises that the current procedure is too cumbersome and leaves room for improvement; recalls, in this context, its earlier proposals to extend the deadline for yellow card procedures to 12 weeks and to have a wider reflection on the possibility to upgrade the EWS to a tool to enable national parliaments to shape EU policies; recalls, in this sense, its latest resolution on the implementation of the Treaty provisions on national parliaments, where it called on the Member States to ensure that national parliaments have enough resources to fulfil their constitutional role of oversight and recommended that national parliaments use the platform for EU Interparliamentary Exchange (IPEX) more effectively and involve their regional parliaments in bringing the EWS into operation;
13. Welcomes the creation of informal procedures to enhance coordination between the Commission, the European Parliament and national parliaments, such as the political dialogue, the rapporteurs' dialogue and the website entitled 'National Parliament opinions and Commission replies'¹⁴; urges the Commission to explore avenues to further improve consultation with national parliaments on subsidiarity concerns, for example by establishing a 'single subsidiarity hub' (SSH) based on the IPEX platform, where reasoned opinions, as well as, for example, contributions, opinions of the European Committee of the Regions, answers from the Commission and Parliament resolutions, would be collected and freely accessible; considers that an SSH would be a suitable place for the Member States to request that the Commission propose supporting or coordinating legislation in an area of the Member States' exclusive competence;
14. Welcomes the Commission's recent efforts to expand and improve the subsidiarity grid as part of its ex ante impact assessment of EU legislation using the better regulation toolbox; calls on the Commission to further mainstream the subsidiarity review in its policy cycle by, inter alia, extending the evaluation of subsidiarity

¹⁴ <https://national-parliaments-opinions.ec.europa.eu/home>.

following interinstitutional negotiations if required by the resulting amendments;

15. Notes the concerns that the Commission's engagement with national parliaments is limited and takes place too late in the legislative process, which in turn limits the ability of national parliaments to influence legislative proposals; urges the Commission to invite national parliaments to provide input at an earlier stage, more specifically, when consultations take place;
16. Believes that formal and informal interparliamentary dialogue at an earlier stage in the law-making process is key to the subsidiarity principle being correctly transposed; notes that this could take the form of monthly or quarterly meetings between Members of the European Parliament (MEPs) and members of national parliaments in the spirit of Article 9 of Protocol No 1;
17. Calls on the Commission to always carefully consider whether increased coordination with national authorities would be a better solution in particular areas than the creation of new transnational agencies;
18. Emphasises the key role of parliaments at the heart of democracy and the need to respect the clear division of competences between the different levels of European liberal democracy, namely the local, regional, national and European levels, in line with the principles of subsidiarity as laid down in Article 5 TEU, in order to ensure democratic legitimacy and an efficient decision-making process and to enhance trust and cooperation between parliaments on different levels;
19. Calls on the Commission to take greater account of the opinions expressed by the European Committee of the Regions through the Subsidiarity Monitoring Network created to facilitate the exchange of information between regional and local authorities and the EU on the various legislative proposals which, following their adoption, will have a direct impact on these bodies and on the policies for which they are responsible;

Role of national parliaments

20. Emphasises that national parliaments have a pivotal role in the EU's conformity with the subsidiarity principle and that the legislative process will enhance the validity and democratic legitimacy of the EU and its legislative initiatives; stresses the need for continued scrutiny of EU legislation and more active participation of national parliaments through the mechanisms provided for in the Treaties, including the yellow card and orange card procedures; encourages national parliaments to enhance their capacity to scrutinise and challenge EU action effectively under the subsidiarity and proportionality principles, exercising stronger and more timely

oversight over legislative proposals and ensuring that EU legislative initiatives respect the balance and sharing of competences between the EU and its Member States;

21. Recalls that national parliaments exercise democratic control over their respective national governments, which represent the interests of Member States in the Council; highlights that some Member States provide for more active participation of their national and/or regional parliaments in the European legislative process by, for example, exercising parliamentary reserve; encourages all Member States to implement measures ensuring more active participation of national parliaments in the forming of their national positions in order to strengthen the democratic legitimacy of the Council's deliberations;
22. Welcomes the contributions of the LXXII Plenary Meeting of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC)¹⁵, which recommended strengthening the subsidiarity review by the national parliaments by extending the eight-week deadline for submitting opinions to 10 weeks and through lowering the threshold for triggering the yellow card to one quarter of the votes cast;
23. Calls for a strengthening of the role of national parliaments in the EU by enhancing transparency, dialogue, and cooperation mechanisms between national parliaments and the Commission; stresses that while national parliaments do not hold formal direct powers over the Commission akin to those of the European Parliament, their political influence should be reinforced to ensure more transparency and legitimacy of the Commission's actions;
24. Believes that national parliaments should be given a more positive and proactive role by, for instance, creating a 'green card' that would operate with lower thresholds; calls, furthermore, for the extension, in the context of the next revision of the Treaties, of the current eight-week deadline to 12 weeks for national parliaments to submit reasoned opinions under Article 4 of Protocol No 1; recalls that the Commission has already provided for certain flexibility in the deadlines, by additionally excluding the period between 20 December and 10 January;
25. Reiterates the need to strengthen the structural cooperation of the EU co-legislators with national, regional and local law-makers; underlines that, in this regard, the European Parliamentary Week and Interparliamentary Committee Meetings have been instrumental; believes that the further development of an expanded annual European Parliamentary Week would allow MEPs,

¹⁵ <https://secure.ipex.eu/IPEXL-WEB/download/file/8a8629a8930500d90193061cc8e70006/LXXII%20COSAC%20Contribution%20EN.pdf>.

Commissioners and ministers of sitting Council presidencies to stand before all national and, where appropriate, regional parliaments in order to discuss and explain the European agenda alongside national parliamentarians;

26. Suggests opening a discussion on drawing up a common political declaration or framework agreement between the national parliaments and the European Parliament concerning the organisation of the proposed European Parliamentary Week in order to provide a more coherent framework of cooperation at political, institutional and administrative level; considers that the proposed European Parliamentary Week should draw lessons from current and previous forums, such as the parliamentary week held by the European Semester Conference and the Inter-Parliamentary Conference on Stability, Economic Coordination and Governance in the European Union, as well as the Conference on the Future of Europe; believes, further, that political family meetings and caucuses between and within national and European political groups in the framework of EU interparliamentary cooperation could bring added value in the form of authentic European political debate;
27. Considers that the limited use of the yellow card procedure and the ineffectiveness of the 'orange card' procedure show that there is still room for improvement and that they have limitations due to their having no binding effect on the Commission's legislative proposals; considers that better coordination between national parliaments is possible in this respect; underlines that better cooperation between national parliaments and the European Parliament would lead to more active engagement with EU legislative proposals, and that cooperation via national governments as intermediaries would lead to a strengthened role for national parliaments in shaping EU legislation;
28. Emphasises the important role of regional and local communities and urges the Commission to explore ways in which their input can be better incorporated in legislative proposals, as well as in the evaluation of current EU legislation; considers, in this regard, that the Commission should facilitate the organisation of public consultations at local and regional level to increase the agency and the participation of citizens in EU policymaking;
29. Encourages the EU institutions and regional parliaments with legislative powers to engage more actively and interact directly with each other, while fully respecting the role and competences of national parliaments; calls for national parliaments to include the reasoned opinions of regional parliaments with legislative powers into their final reasoned opinions that are sent to the Presidents of Parliament, the Council and the Commission when exclusive regional competences are affected; reaffirms that Article 12 TEU and Protocol No 1 give national parliaments the right to receive information

directly from the EU institutions; suggests that the right to be informed be extended also to regional parliaments with legislative powers;

30. Calls on the Commission, in line with the recommendations of the Draghi report, to launch an EU-wide investigation to identify and analyse the reasons behind the limited exercise of national parliaments' scrutiny capacity in relation to subsidiarity; encourages the Commission to draw on the expertise and experience of national and regional authorities regarding the transposition and implementation of EU legislation;

Role of the CJEU

31. Stresses that the CJEU plays a crucial role in applying and interpreting the principles of subsidiarity and proportionality in the EU legal framework; stresses that, since its introduction as a general principle, the principle of subsidiarity has not been subject to intense judicial review by the CJEU; notes that the Advocates General show little engagement with subsidiarity arguments in their opinions;
32. Warns that the CJEU's apparent reluctance to enforce subsidiarity might cause reluctance on the part of the Member States to approach the CJEU in the first place;
33. Recommends that the Commission, in its consultations with the Member States, makes sure that governments provide evidence of taking into account the positions of national and regional parliaments with legislative powers;
34. Acknowledges the perceived reluctance of the CJEU to robustly enforce subsidiarity as a meaningful constraint on EU legislative action;
35. Notes that the CJEU is also bound by the principles of subsidiarity when interpreting matters of shared competences, since the act of judicial interpretation of legislation amounts to law-making;
36. Takes note of the CJEU's interpretation that not taking into account the particular situation of one or more of the Member States in the assessment of a legislative initiative does not constitute a violation of the principle of proportionality¹⁶; insists that the individual particularities of the Member States are relevant for the purpose of drafting legislation for the EU as a whole;
37. Expresses concern about the CJEU's judgment stating that the failure to carry out an impact assessment cannot be regarded as a

¹⁶ Judgment of the Court of Justice of 18 June 2015, *Republic of Estonia v European Parliament and Council of the European Union*, C-508/13, ECLI:EU:C:2015:403.

breach of the principle of proportionality¹⁷; calls on the Commission to carry out impact assessments without exception and ensure that when the scope of the legislative proposal changes, the Commission comes forward with a new impact assessment;

38. Underlines that respect for the principles of subsidiarity and proportionality is crucial for citizens' trust in the EU and its legislation, and should be more clearly communicated to the public during communication on single legislative initiatives;
39. Reiterates that impact assessments should be based on accurate, objective and complete information; considers it essential, consequently, for the EU co-legislators to collect input from the local and regional authorities, which are able to provide the most precise information on various issues;
40. Calls for a survey of national parliaments in order to assess what factors influence their use of the yellow card procedure and how they perceive respect for the subsidiarity principle in EU decision-making;
41. Considers it pertinent to conduct a survey among national legislative bodies in order to collect their feedback on the application of the principles of subsidiarity and proportionality; suggests, therefore, that the Commission conduct such a survey in order to identify in which areas and to what extent national legislative bodies need to be protagonists of change;

Final observations

42. Calls for a clearer and more consistent definition and application of the principles of subsidiarity and proportionality, taking into account the active subsidiarity approach developed by the Task Force and ensuring that all EU institutions apply a shared understanding of these fundamental principles in the legislative process; proposes opening a discussion on the creation of a 'subsidiarity court' in view of future Treaty revision;
43. Demands that any loopholes be closed for greater transparency in the preparation of legislative proposals by the Commission, including earlier engagement with national parliaments to ensure that subsidiarity concerns are adequately addressed;
44. Endorses the Draghi report's conclusion that EU policy and legislative action should focus on domains where the EU truly has greater added value compared to national or sub-national policy action; urges the EU institutions, further, to adopt a principle of self-

¹⁷ Judgment of the Court of Justice of 3 December 2019, *Czech Republic v European Parliament and Council of the European Union*, C-482/17, ECLI:EU:C:2019:1035.

restraint in policymaking by more carefully selecting future initiatives and streamlining current legislation;

45. Considers that current EU legislation should be regularly assessed in terms of its proportionality and adequacy in respect of modern realities; underlines that artificial intelligence can be instrumental in finding legal inconsistencies or disproportionate effects, and thus facilitate compliance and address, where applicable, any lack of proportionality;
46. Suggests that all the interparliamentary activities developed in the framework of Protocol No 1 to the Treaty of Lisbon (including COSAC, IPEX, ECPRD, etc.) by national parliaments and the European Parliament should be better used and synergistically integrated in order to better apply the subsidiarity and proportionality principles;
47. Points out that MEPs, as they are directly elected by the European citizens, have major powers for setting the EU legislative agenda; commits to using the right of initiative under Article 225 TFEU to propose repealing legislation to reduce the regulatory burden, in full respect of the principles of subsidiarity and proportionality;
48. Reiterates that respect for the principles of subsidiarity and proportionality will facilitate better law-making and will reduce regulatory burdens and red tape; insists that before making a legislative proposal, the Commission should assess whether the desired positive effect can be achieved at the local, regional or national level, and that, in cases of uncertainty about the most appropriate level for action, there should be a rebuttable presumption in favour of lower levels of government;
49. Underlines the Task Force's conclusions that the Commission and the co-legislators should balance their work towards delivering more effective implementation rather than initiating new legislation or constantly amending current legislation in areas where the current body of legislation is outdated and/or has recently been substantially revised;
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50. Instructs its President to forward this resolution to the Council, the Commission and national parliaments.