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P8\_TA(2018)0186

## Implementation of the Treaty provisions concerning national Parliaments

### European Parliament resolution of 19 April 2018 on the implementation of the Treaty provisions concerning national parliaments (2016/2149(INI))

(2019/C 390/18)

The European Parliament,

- having regard to the Treaty on European Union (TEU), in particular Article 5 on the conferral of competences and subsidiarity, 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, Article 12 on the role of national parliaments, Article 48(3) on the ordinary revision procedure, and Article 48(7) (passerelle clause) thereof,
- having regard to Protocol No 1 on the role of national parliaments in the European Union and to Protocol No 2 on the application of the principles of subsidiary and proportionality,
- having regard to Article 15 of the Treaty on the Functioning of the European Union (TFEU) and Articles 41 and 42 of the Charter of Fundamental Rights of the European Union,
- having regard to its resolutions of 12 June 1997 on relations between the European Parliament and national parliaments <sup>(1)</sup>, of 7 February 2002 on relations between the European Parliament and the national parliaments in European integration <sup>(2)</sup>, of 7 May 2009 on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon <sup>(3)</sup> and of 16 April 2014 on relations between the European Parliament and the national parliaments <sup>(4)</sup>,
- having regard to its resolutions of 16 February 2017 on Improving the functioning of the European Union building on the potential of the Lisbon Treaty <sup>(5)</sup>, on Budgetary capacity for the euro area <sup>(6)</sup> and on Possible evolutions of and adjustments to the current institutional set-up of the European Union <sup>(7)</sup>,
- having regard to the Commission's annual reports on relations between the European Commission and national parliaments, in particular the report for 2014 of 2 July 2015 (COM(2015)0316), and for 2015 of 15 July 2016 (COM(2016)0471), and to the Commission's annual reports on subsidiarity and proportionality, in particular the reports for 2015 of 15 July 2016 (COM(2016)0469), and for 2016 of 30 June 2017 (COM(2017)0600),
- having regard to the annual reports of the European Parliament's Directorate for Relations with National Parliaments, in particular the 2016 Mid-term Report on Relations between the European Parliament and national parliaments,
- having regard to its resolution of 26 October 2017 on monitoring the application of EU law 2015 <sup>(8)</sup>,
- having regard to the Commission White Paper on the Future of Europe of 1 March 2017, and to the State of the Union address by the President of the Commission Jean-Claude Juncker of 13 September 2017, in which a roadmap was presented,
- having regard to the Declaration entitled 'Greater European Integration: The Way Forward' by the Presidents of the *Camera dei Deputati* of Italy, the *Assemblée nationale* of France, the *Bundestag* of Germany and the *Chambre des Députés* of Luxembourg, signed on 14 September 2015 and currently endorsed by 15 national parliamentary chambers in the EU,
- having regard to the conclusions adopted by the Conference of Speakers of EU Parliaments (the EU Speakers' Conference) at its meetings since the entry into force of the Treaty of Lisbon, in particular those held in Luxembourg in 2016 and Bratislava in 2017,

<sup>(1)</sup> OJ C 200, 30.6.1997, p. 153.

<sup>(2)</sup> OJ C 284 E, 21.11.2002, p. 322.

<sup>(3)</sup> OJ C 212 E, 5.8.2010, p. 94.

<sup>(4)</sup> OJ C 443, 22.12.2017, p. 40.

<sup>(5)</sup> Texts adopted, P8\_TA(2017)0049.

<sup>(6)</sup> Texts adopted, P8\_TA(2017)0050.

<sup>(7)</sup> Texts adopted, P8\_TA(2017)0048.

<sup>(8)</sup> Texts adopted, P8\_TA(2017)0421.

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- having regard to the contributions to and conclusions of the meetings of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) since the entry into force of the Lisbon Treaty, in particular the meetings held in Valletta and Tallinn in 2017, and to COSAC's biannual reports,
  - having regard to Article 13 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG), which enshrined the organisation of inter-parliamentary conferences for the purposes of discussing budgetary policies and other issues covered by the treaty;
  - having regard to the resolution of the *Senát* of the Czech Republic of 30 November 2016 (26th resolution of the 11th term), to the resolution of the *Senato della Repubblica* of Italy of 19 October 2016 (Doc. XVIII n. 164) and to the contributions of its European Union Policies Committee of 2 May 2017 (Prot. 573), and to the contributions of the EU Affairs Committee of the *Assemblée nationale* of France of 31 May 2017 (reference 2017/058) and the Standing Committee on European Affairs of the *Tweede Kamer der Staten-Generaal* (House of Representatives) of the Netherlands of 22 December 2017 (letter A(2018)1067);
  - having regard to Rule 52 of its Rules of Procedure, as well as Article 1(1)(e) of, and Annex 3 to, the decision of the Conference of Presidents of 12 December 2002 on the procedure for granting authorisation to draw up own-initiative reports,
  - having regard to the report of the Committee on Constitutional Affairs (A8-0127/2018),
- A. whereas national parliaments contribute actively to the good constitutional functioning of the European Union (Article 12 TEU), thereby playing an important role in its democratic legitimacy and realising it to the fullest extent;
  - B. whereas the parliamentary accountability of national governments within the framework of European affairs, which depends on individual national practices, is the cornerstone of the role of national parliaments in the current European Treaty;
  - C. whereas, in order to improve ownership, national parliaments should scrutinise national governments, in the same way as the European Parliament scrutinises the European executive; whereas, however, the level of influence of national parliaments over national governments varies significantly at Member State level;
  - D. whereas national parliaments often lament their limited involvement in Union affairs and wish to be more associated with the development of the European integration process;
  - E. whereas a lack of transparency in the EU legislative and decision-making processes risks undermining both the prerogatives of national parliaments under the Treaties and relevant Protocols, and, in particular, their role as the watchdogs of their governments;
  - F. whereas the pluralism of national parliaments is remarkably beneficial to the Union, as the alignment of different political stances across the Member States can strengthen and broaden cross-sectional debates at European level;
  - G. whereas the underrepresentation of parliamentary minorities in European affairs should be counterbalanced while fully respecting the majorities in each national parliament, and in accordance with the principle of proportional representation;
  - H. whereas national parliaments play a role in any revision of the European Treaties and have recently been called upon to engage in a series of EU democratic forums;
  - I. whereas a European public sphere could be fostered by a series of forums on the future of Europe, to be organised by national parliaments and the European Parliament as natural representatives of the European demos; whereas such forums could be endorsed through a common European Week, in which members of national parliamentary chambers would simultaneously discuss European affairs with Commissioners and Members of the European Parliament;
  - J. whereas as shown by recent electoral trends, the economic, financial and social crisis has increased EU citizens' distrust of and disillusionment with the current democratic model of representation, both at European and national levels;

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- K. whereas the implementation of the right for national parliaments to scrutinise compliance with the principle of subsidiarity, on the basis of the so-called early warning system (EWS), has partially improved relations between the EU institutions and national parliaments;
- L. whereas national parliaments are sometimes critical of the EWS, claiming that its provisions are not easy to put into practice and lack a broad scope of application;
- M. whereas progress in the implementation of the EWS has been achieved, as demonstrated by the latest figures on the total number of opinions submitted by national parliaments within the framework of the political dialogue; whereas the limited usage of the yellow card procedure and the ineffectiveness of the orange card procedure show that there is still room for improvement and that better coordination between national parliaments is possible in this respect;
- N. whereas the eight-week period laid down in Article 4 of Protocol No 1 has proven to be inadequate for timely monitoring of compliance with the principle of subsidiarity;
- O. whereas the EWS can be complemented by the system that currently allows national parliaments to submit constructive proposals for the Commission's consideration and with due regard for its right of initiative;
- P. whereas several national parliaments have expressed their interest in an instrument to improve political dialogue, which would afford them the opportunity to suggest constructive proposals for the Commission's consideration and with due regard for the Commission's right of initiative;
- Q. whereas national parliaments can, at any time, issue opinions within the framework of the political dialogue, mandate their governments to demand the formulation of legislative proposals via the Council, or, in accordance with Article 225 TFEU, simply call on Parliament to present proposals to the Commission;
- R. whereas the implementation of a red card procedure is not conceivable at this stage of the European integration process;
- S. whereas the comprehensive range of information rights provided for in the Treaty of Lisbon could be enhanced if national parliaments were given more resources and time to cope with the documents forwarded to them by the European Institutions;
- T. whereas the IPEX, a platform for continuous exchange of information among national parliaments and between national parliaments and the European institutions, should be further developed in accordance with its Digital Strategy, in which the European Parliament plays a major supporting role;
- U. whereas interinstitutional cooperation has improved after the entry into force of the Treaty of Lisbon, and the so-called Barroso initiative – the political dialogue launched by the Commission in September 2006 giving national parliaments opportunities to comment, provide positive feedback or criticise the Commission's proposals;
- V. whereas national parliaments occasionally raise grievances about their relations with the European Union, claiming that they are too complex;
- W. whereas national parliaments have relevant competencies in the areas of freedom, security and justice pursuant to Articles 70, 85 and 88 TFEU and should therefore play an important role in the future of the Union's security and defence policy;
- X. whereas there should be greater national and European parliamentary control of fiscal and economic policies, decisions taken, and governance matters at EU level;

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- Y. whereas the Court of Justice's decision of 16 May 2017 on the mixed nature of the trade agreement between the EU and Singapore has changed the way in which national parliaments will be involved in trade agreements in the future;
- Z. whereas better interaction and an improved exchange of information between MEPs and MPs and also between national parliaments' civil servants could help to improve scrutiny of the European debate at national level and thus foster a genuinely European parliamentary and political culture;

### ***Scrutinising governmental activity in European affairs***

1. Considers that the implementation of the rights and obligations of national parliaments deriving from the Treaty of Lisbon has enhanced their role within the European constitutional framework, thus providing for more pluralism, democratic legitimacy and the better functioning of the Union;
2. Recognises that national governments are democratically accountable to national parliaments as acknowledged by Article 10(2) TEU, in accordance with their respective national constitutional orders; takes the view that such accountability is the keystone of the role of national parliamentary chambers in the European Union; encourages national parliaments to fully exercise their European functions in order to directly influence and scrutinise the content of European policies, in particular via the monitoring of their national governments acting as members of the European Council and the Council;
3. Calls on the Member States to ensure that national parliaments are granted enough time, the capacity, and the necessary access to information in order to fulfil their constitutional role of scrutinising and thus legitimating the activity of national governments when these governments act at European level, whether in the Council or in the European Council; recognises that this European function should take place in full compliance with the Member States' respective constitutional traditions; believes that, in order to preserve and reinforce this role, the existing exchange of best practices and interaction between national parliaments should be strengthened and promoted;
4. Considers that transparency of the working methods and decision-making processes of the EU institutions represents a precondition to enable national parliaments to effectively fulfil their institutional role deriving from the Treaties; calls, furthermore, for national parliaments to make full use of their respective competences with the aim of exercising scrutiny over governments' actions at European level, inter alia by adapting their internal organisation, timetables and rules of procedures to enable them to do so; further suggests an exchange of best practices between national chambers, regular debates between the respective ministers and specialised committees in national parliaments before and after Council and European Council meetings and regular meetings between members of national parliaments, Commissioners and MEPs;
5. Takes the view that care needs to be taken to avoid any kind of gold-plating of EU legislation by Member States and that national parliaments have a key role to play in this regard; recalls, at the same time, that this is without prejudice to the right of Member States to apply non-regression clauses and to lay down, for example, higher social and environmental standards at national level;
6. Recalls, while encouraging strengthened and political dialogue with national parliaments and recognising the clear need to reinforce parliamentary participation, that decisions must be taken in accordance with constitutional competences and by taking into account the clear delineation between the respective decision-making competences of the national and European bodies;
7. States that the European Parliament and national parliaments should be better involved in the European Semester and recommends that budgetary calendars at national and European level are better coordinated throughout the process in order to encourage more effective use of this instrument; recalls, moreover, that the alignment of the European Semester with the agendas of national parliaments could further contribute to the coordination of economic policies, while underlining that such alignment should not disregard the powers of self-governance and the specific rules of procedure of each parliamentary chamber;
8. Suggests the implementation of a national period for budgetary dialogue, during which national parliaments would be able to deliberate upon and contribute to the European Semester by providing their governments with a mandate in their relations with the Commission and the Council;

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9. Underlines that during the last plenary meeting of the Conference of Parliamentary Committees for Union Affairs (COSAC), in Tallinn, it was recognised that the majority of national parliaments actively attend plenary sessions to debate EU matters, whether at regular intervals or on an ad hoc basis, and that more plenary debates on EU matters increase the visibility of the Union and give citizens the opportunity to learn more about the EU's agenda and the positions of political parties on these issues;

### ***Creating a European public sphere***

10. Notes that the alignment of different political stances across the Member States could strengthen and expand cross-sectional debates at European level; recommends, therefore, that national parliamentary delegations acting before the European Institutions should reflect political diversity; stresses the relevance of the principle of proportional representation of members from different political parties in this regard;

11. Notes the fact that the binding will of parliamentary majorities could be expressed in the opinions issued by national parliaments, within or outside the framework of the EWS; endorses the idea, however, of national parliamentary political minorities being given the possibility to express dissenting points of view, which could then be incorporated into the annexes to such opinions; believes that these opinions should be issued in full compliance with the principle of proportionality and in accordance with the rules of procedure of each national parliamentary chamber;

12. Takes good note of the recent call for a series of democratic conventions across Europe; believes, in this regard, that the establishment of an annual European week would allow MEPs and Commissioners, notably Vice-Presidents in charge of Clusters, to stand before all national parliamentary assemblies in order to discuss and explain the European agenda alongside with MPs and representatives of civil society; suggests reviewing its own rules of procedure in order to endorse the initiative, and encourages national parliaments to do the same; further believes that meetings between national and European political groups in the framework of EU interparliamentary cooperation could bring added value in the form of an authentic European political debate;

### ***Backing reform of the EWS***

13. Underlines the fact that the EWS has seldom been used since the entry into force of the Treaty of Lisbon, and believes that it could be reformed within the current constitutional framework;

14. Notes that examples such as the triggering of the 'yellow card' procedure against the Commission proposal on the revision of the 'Posting of Workers Directive' in 2016 show that the EWS is operational; underlines that the limited use of the 'yellow card' procedure could indicate that the principle of subsidiarity is, on balance, respected within the EU; believes, therefore, that the procedural shortcomings of the EWS should not be regarded as conclusive proof of failure to respect subsidiarity; recalls, moreover, that national parliaments may intervene and examine the question of compliance with the principle of subsidiarity prior to the presentation of a legislative proposal by the Commission in the form of Green and White Papers or the annual presentation of the Commission's Work Programme;

15. Recalls that, in relation to any new legislative initiative, the Commission is obliged to examine whether the EU has the right to take action and whether such action is justified; underlines, moreover, that prior experience has proven that drawing a line between the political dimension of the principle of subsidiarity and the legal dimension of the principle of proportionality is, on occasion, difficult and troublesome; calls on the Commission, therefore, in its responses to reasoned opinions issued within or outside the framework of the EWS, also to address proportionality, and, where appropriate, any concerns about proposed policy options, in addition to its interpretation of the principle of subsidiarity;

16. Acknowledges the request by national parliaments to extend the eight-week period during which they can issue reasoned opinions under Article 3 of Protocol No 1; underlines, however, that the current Treaty framework does not provide for such an extension; considers, therefore, that the Commission should implement a technical notification period within the EWS in order to grant additional time between the date on which draft legislative acts are technically received by national parliamentary chambers and the date on which the eight-week period begins; recalls, in this regard, that other practical arrangements for the operation of the subsidiary control mechanism were put into practice by the Commission in 2009;

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17. Takes note of the request from certain national parliaments to extend the eight-week period during which they can issue a reasoned opinion, under Article 6 of Protocol No 2;

18. Suggests, in line with the political dialogue launched by the Commission in 2016, the full use of the system whereby national parliaments can submit constructive proposals to the Commission with the aim of positively influencing the European debate and the Commission's power of initiative; suggests, in this regard, that the Commission could enjoy the discretion either to take on board such proposals or to issue a formal response underlining its reasons for not doing so; points out that such a procedure cannot consist of a right of initiative, or the right to withdraw or amend legislation, as it would otherwise subvert 'the Union method' and the distribution of competences between national and European level, thus violating the Treaties; recommends, meanwhile, that in the event of a future revision of the Treaties, the right of legislative initiative should be accorded to the European Parliament, as the direct representative of EU citizens;

### ***Implementing the right to information***

19. Reaffirms that Article 12 TEU and Protocol No 1 give national parliaments the right to receive information directly from the European institutions;

20. Stresses that national parliaments could better cope with the information sent to them either by virtue of the EWS, or under their right to information, if the IPEX platform was given the relevance of an Agora, or forum, for an informal permanent dialogue among national parliaments and between these and the European institutions; resolves, therefore, to promote the use of the platform for the enhancement of political dialogue; recommends that national parliaments use the IPEX platform in a timely fashion to ensure an early start to the national scrutiny mechanism; recommends using IPEX as a channel for the systematic sharing of information and the early flagging of subsidiarity concerns; sees the potential for developing IPEX as the main channel for communication and the transmission of relevant documents from the EU institutions to national parliaments and vice versa, and, in this context, undertakes to offer assistance to national parliamentary chambers' administrations on how to work with the platform; encourages, in addition, the establishment of more exchanges between the officials of institutions and political groups within the administrations of the European Parliament and national parliaments;

### ***Envisaging better interinstitutional cooperation***

21. Takes good note of the existing cooperation between the European Parliament and national parliaments in COSAC, in the Interparliamentary Conference on Common Foreign and Security Policy (CFSP-IPC), and within the framework of Article 13 TSCG; stresses that such cooperation should be developed on the basis of the principles of consensus, information-sharing and consultation, in order for national parliaments to exercise scrutiny over their respective governments and administrations;

22. Reiterates that the current framework of relations between the Union and national parliaments could be simplified and harmonised in order to make it more efficient and effective; calls, in this context, for a review of the engagement between the Union and its national parliaments across existing platforms and forums, with the aim of strengthening these relations and adapting them to current needs; insists, however, upon a clear delineation of decision-making competences between national parliaments and the European Parliament, in which the former should exercise their European function on the basis of their national constitutions, in particular by exercising scrutiny over the members of their national governments as members of the European Council and the Council, which is the level at which they are best placed to monitor the European legislative process; rejects, therefore, the creation of joint parliamentary decision-making bodies for reasons of transparency, accountability and the capacity to act;

23. Points out that strengthening political and technical dialogue between parliamentary committees, both at national and at European level, would be a greatly productive step towards full interparliamentary cooperation; is considering the possibility of allocating additional resources to achieve this aim and the use of videoconferences where possible;

24. Acknowledges the relevance of the Interparliamentary Committee Meetings (ICM) established in Articles 9 and 10 of Protocol No 1; believes that better interinstitutional cooperation could be attained if the ICM were accorded more relevance by the Members of the European Parliament and the national parliaments, and if they were prepared for in closer cooperation;

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25. Recommends that national parliaments be fully involved in the continuing development of the Common Security and Defence Policy; believes that such involvement should be promoted in close cooperation with the European Parliament and with full respect for the provisions of national constitutions regarding security and defence policies, including through joint inter-parliamentary meetings between representatives from national parliaments and Members of the European Parliament and via political dialogue between a fully fledged Committee on Security and Defence in the European Parliament and the corresponding national parliamentary committees; notes the potential this has for neutral EU Member States to exercise constructive scrutiny in this area;

26. Considers that an enhanced political and legislative dialogue between and with national parliaments would favour compliance with the objectives set out in the inter-institutional agreement on better law-making;

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27. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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