

# THE EUROPEAN PARLIAMENT, MEANS OF PROMOTION AND PROTECTION OF HUMAN RIGHTS

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## **Abstract:**

*The European Parliament was established by the founding Treaties of the Communities, when, was felt the need for an Assembly that would supervise the activity of the High Authority, that was, at first called the Common Assembly; Council and the Government representatives of France used the name of the European Parliamentary Assembly which at March 30<sup>th</sup> 1962 received the name "of the European Parliament" □, designation formalized by the Single European Act of 1986.*

*In Romania, the political changes that occurred in December 1989 created the premise of a democratic regime based on free elections and political pluralism, respect for the principle of separation of powers in the state and the promotion and protection of human rights and joining the European Union has given rise to institutional changes in the EU, resulting in the election or appointment of Romanian citizens in EU institutions and bodies of The European Parliament, the Council, the European Commission, etc..*

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**JEL Classification:** K0, K3

The European Coal and Steel Community, founded in the fall of 1952, provided for the establishment of a Joint Assembly, composed of 78 members representing the national parliaments of the six founding Member States, Italy, Germany, France, Belgium, Luxembourg and Netherlands. The Common Assembly at the time had more than an advisory role.

In 1957, by the Treaty of Rome founded the European Economic Community was (EEC) and the European Atomic Energy Community (EURATOM), an occasion with which was made a General Assembly composed of 142 deputies, which was responsible for all three communities. Keeping the same authority, the Assembly changed its name to the European Parliamentary Assembly. In 1962 the institution was renamed The European Parliament, this name only gaining formal recognition in 1986 by the Single European Act; in 1979 the first elections were held in the European Parliament by direct universal suffrage.

Over time, the powers of these institutions have increased significantly, so the Maastricht Treaty of 1992, this institution involved in the co-decision procedure and the Treaty of Amsterdam in 1997, expands the scope of this procedure, the European Parliament acquiring true legislative and budgetary authority, similar to those of the national parliaments.

The first direct elections to the European Parliament were held in 1979, only 34 years after the end of the Second World War, as a symbol of conciliation, direct universal suffrage, giving democratic legitimacy (Scăunaș, 2008) .

The European Parliament is currently the only EU institution in which the debates are public, and opinions resulting from these discussions are published in the Official Journal of the European Union.

In Romania, the political changes that occurred in December 1989 created the premise of a democratic regime based on free elections and political pluralism, respect for the principle of separation of powers and the promotion and protection of human rights and our country's accession to the European Union has given rise to institutional changes in the EU, resulting in the election or appointment of Romanian citizens in EU institutions and bodies European Parliament, the Council, the European Commission etc.

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Regarding the European Parliament elections, the Rules of Procedure provides in Article 1, para. (1) as "The European Parliament is the assembly elected in accordance with the Treaties, the Act of 20<sup>th</sup> of September 1976 for electing members of the European Parliament by direct universal suffrage and national adopted legislation in the application of the Treaties.

However, as we have shown, the first election held under this Act, have taken place only in 1979 and the only rules which were respected in a unitary way were those concerning the election date, the contents of the parliamentary mandate, the incompatibility causes and the way the mandates were checked. Besides, even Article 10 of the Act requires each Member State to choose the date and time set for the European Parliament elections, which has to be within the same period, starting Thursday morning and ending the following Sunday.

Regarding the age at which a person can vote for the representatives in the European Parliament, it is stipulated in the Act of 20<sup>th</sup> of September 1976, being considered the acceptable age of national legislation for the right to vote, in general, 16-18. In our country, the procedure for European elections is regulated by Law no. 33/2007, which requires that all Romanian citizens, who have 18 years until election day and all EU citizens resident or domiciled in Romania, which is in possession of the right to vote may vote in the European elections. Article 5 para. (6) of the Act also provides prohibitions: "have no voting rights the feebleminded and mentally alienated that are placed under interdiction and people who, on the reference day, are convicted by final judgment to electoral rights loss □.

The elections to fill the seats in the European Parliament are held every five years, simultaneously in all EU countries and in Romania, the first election for a full mandate in this European institution took place on the 7<sup>th</sup> of June 2009 when, our country held a number of 33 representatives.

Regarding the minimum age to be eligible, it varies from state to state, ranging from 18 to 25 years. For example, in Austria is 19 years, while in Belgium and Denmark is 21 years, in Italy is 25 years old and in Romania and France is 23 years old.

Membership in the European Parliament is not compatible with membership of national governments, member of the Commission or the quality of a judge or attorney general of the Court of Justice, Member of the Court of Auditors, the Economic and Social Council member. The Act concerning the introduction of direct elections to the European Parliament lists other incompatibilities (Rusu Gornig, 2009).

Starting with the June 2009 elections, in the European Parliament are 736 seats, each member state being assigned seats according to the demographic and democratic criteria, this European institution, remaining however, the only international parliamentary assembly, in which members are elected. After the sixth expansion, the number of Members was increased to 782 members.

Following the model of national parliaments, the European Parliament also constitutes, in parliamentary committees with permanent or temporary basis but also in commissions of inquiry. There are 20 committees. A committee consists of 24 to 76 deputies and has a president, a desk and a secretariat. The political composition of the committees reflects that of the plenary meeting (<http://www.europarl.europa.eu>).

Standing Committees are established at the proposal of the Conference of Presidents, and have as main task to research aspects of referral to Parliament. These committees are specialized on fields, such as Economic and Monetary Affairs, budget control, labor and social affairs, transport and tourism, petitions, women's rights, education and culture, etc..

Temporary Committees are constituted by the Parliament whenever necessary, at the proposal of the Conference of Presidents for a period that can not exceed 12 months.

Commissions of inquiry are constituted by Parliament at the request of a quarter of the deputies in order to conduct surveys about the charges against European organs or

institutions, mandated persons, public administration of a Member State or acts of maladministration in the implementation of European law.

The Committee of Inquiry submits a report of its findings, within a period not exceeding 12 months, which may be extended by the Parliament twice, with three months. At the request of the Commission, the Parliament will hold a debate on the presented report. The Commission may also submit for approval to the Parliament a project for recommendation addressed to the European institutions or bodies or Member States (Scăunaș, 2008). Being built for that activity, the committee is ceasing its activity, with the submission of its report.

Over time commissions of inquiry have investigated a number of issues and, through these committees those problems became known to the general public; Currently, commissions of inquiry are constituted also to fight against corruption in Europe.

The Foreign Affairs Committee and Subcommittee on Human Rights protects human rights even outside the European Union and promotes abolition of the death penalty worldwide. Weekly after each session in Strasbourg, the Parliament examines cases of flagrant violation of international human rights. This approach aims to determine national governments to review their legislation or actions and sometimes can even determine termination of works in national parliaments.

But low presence at the election for the European parliament, felt by all Member States, indicate a limited trust of citizens in the European Parliament, in democratic legitimacy of this institution, because of incomplete knowledge of how they act in the service of citizens.

The European Parliament meets in Strasbourg, France, monthly on plenary sessions, an opportunity with which all Members meet, and in Brussels, take place the parliamentary committee meetings as well as its additional plenary sessions.

About 5 000 officials drawn from all EU countries by foreign competition, open, organized by the European Personnel Selection Office (EPSO), operates in the General Secretariat. Most are permanent officials of the Parliament, with the European official status identical to that of officials in other organs or European institutions. It is important to note that any post can not be reserved for people of a particular Member State, even though there is the desideratum that the staff must be recruited from a geographic area as wide as possible (Fabian, 2010).

Treaty of Establishment concerning Communities, provided that any citizen of the Union, any natural or legal person residing or established in a Member State has the right to petition the European Parliament, on its own or in association with others, on any matter that affect them directly and which is related to the activities of the Parliament.

To achieve this fundamental objective, was established in 1992 by the Treaty of Maastricht, the institution of the European Mediator (European Ombudsman). He is elected after each election of the European Parliament, and therefore his term of 5 years and can be renewed.

European Ombudsman's main function, is to research European citizens' complaints by which they claim abuse from European institutions or bodies (for the national ones, is an institution with similar functions, e.g. People's Lawyer), which is independent in the exercise of its functions. He does not accept suggestions, recommendations from Member State governments or other entities, but once a year, presents the European Parliament a report on the entire activity, which does not mean that it is subordinated to it.

The Ombudsman is elected from among persons who are European citizens, have and exercise all civil and political rights, offer every guarantee of independence, and in the country of origin meet all the conditions set by law for the exercise of the highest judicial function, is competent and has experience in exercising their mediator duties.

Nikiforos Diamandouros, former People's Lawyer in Greece, was re-elected as European Ombudsman in January 2010 for another term of 5 years, he fulfilled this function since 2003. The Ombudsman has its headquarters in the same place with the European Parliament.

Throughout the term of office, the Ombudsman can not exercise any other public or private position or any professional activity whether gainful or not.

Cessation of the function may occur at the end of the mandate, by voluntary resignation or compulsory retirement. Compulsory retirement is determined by the situation in which the Ombudsman committed a serious offense or no longer qualifies to hold office, in which case, the Court of Justice at the request of Parliament, will declare him resigned.

Unlike the Parliamentary Committee that has in jurisdiction the analysis of complaints dealing with the irregularities noticed in the Member States, the Ombudsman has to analyze complaints regarding maladministration, abuse by institutions and bodies, offices and agencies of the European Union through which have been damaged rights of citizens, such as: the abuses committed through their unwarranted abstentions, abuse of power, discrimination, unlawful refusal to inform, abuse by delay, neglect, unfair practices, unfair procedures.

The Ombudsman may commence an investigation, following a complaint, but also on its own initiative.

Therefore, if a citizen is dissatisfied with the work of an institution, body, office, agency of the European Union, he will first provide the responsible body with the possibility to remedy the situation, and if this approach remains without a result, he will send a complaint to the European Ombudsman.

The complaint shall be in writing in one of the 24 official languages in not more than 2 years from the date of knowledge of abuse and only if in the case there is a lawsuit pending before the national court or a judicial decision on this abuse. After receiving the petition, the Ombudsman performs certain research after which times to reach a friendly solution, or to dismiss the petition, or on recommendation to the body concerned. If the notified body does not solve the problem in 3 months, the Ombudsman shall submit a special report to the European Parliament (Fabian, 2010).

The ombudsman has the duty to inform as soon as the person who made the complaint about the steps they intend to carry out and perform any investigation they deem necessary in order to detect cases of maladministration. In case it is possible, he can seek with the institution of concern, a solution to eliminate the bad administration.

If, in conducting an investigation, he learns of facts from criminal law, he shall at once inform the competent national authorities.

Ombudsman informs the Parliament about the cases of maladministration which he discovers, and the committee may draw up a report about them. At the end of each annual session the Ombudsman submits to the Parliament a report on the results of his inquiries. The committee responsible shall prepare a report that is presented to the Parliament in order to debate (Fabian, 2010).

The Ombudsman has decisively contributed to legislative changes in several areas: following an investigation conducted by him the European Commission repealed the rule that allowed discrimination of gender; equally, the European Parliament and the European Commission repealed the provisions relating to the retirement age up to 65 years that was necessary to employ Conference Interpreter Agents due to the pressure exerted by the European Ombudsman. This last one argued that the limitation due to age is assimilated to discrimination, which is contrary to Art. 21 of the Charter.

The European Ombudsman is still the one that has the merit of being proposed, so that every citizen has the right to a quality, open and flexible administration, and this right is provided for in the Charter. Detailed regulation of this right, was also done by the Ombudsman in 2001 by adopting the European Code of Good Administrative Behaviour, a document that all institutions and bodies must respect and national administrations have had it adapted to be applied in each Member State. This code is used, by the mediator in the investigations he conducts, after complaints made by citizens on cases of maladministration.

The Ombudsman was also involved in investigations regarding the procedures by which the EU institutions and bodies, are recruiting staff and as a result of these investigations, currently the lists of successful candidates are made public and candidates have the opportunity to know the composition of the selection panel and the sheets for the contest; this fact aims to increase transparency, public confidence in employment procedures and, ultimately, to increase confidence in public institutions.

The results of investigations undertaken by the Ombudsman can be illustrated with an example: The European Parliament agreed to reclassify the positions of some Portuguese officials, the applicable matter of from the time of their appointment, after the Ombudsman found that they were victims of discrimination. Other candidates who have been admitted from the same competition for employment, had been employed in a senior position (Ivanof, 2008).

Therefore, by the institutions and its actions, the Parliament gave constantly particular attention to, the respect for the rights and freedoms of citizens within the European Union, but also beyond it, which is why, from 1993 to the present, annually organizes debates and adopts resolutions on the subject.

Throughout its existence, the European Parliament has progressively diversified functions, during the changes introduced by the founding Treaties, starting initially only from advisory positions and control and reaching, currently to legislative and budgetary positions. Therefore, this European institution currently has three essential functions: holding legislative power, democratic control and meets the budgetary function.

Treaty of Community Establishment provides that any citizen of the European Union, any person or legal person residing or established in a Member State has the right to petition the European Parliament, on its own or in association with others, on any topic that affect them directly and is related to the fields of activity of this institution. These petitions may concern only areas covered by the activities of the Union, and the petitioner must have a direct interest.

The petition is drawn in the form of complaints and can address issues of public or private interest, such as: rights of European citizens established by treaties, aspects of the right to a healthy environment, consumer protection, free movement of persons, services, goods, employment, professional qualifications or issues relating to misapplication of EU law. The petition shall be submitted to the Petitions Committee which, as noted, works in the Parliament and can be written in any of the official languages of the European Union.

Therefore if the petition is related to the areas listed above, it will be declared admissible by the Committee on Petitions, taking into account the Rules of Procedure will decide the category of measures to be laid out and will inform the petitioner as soon as possible on following the decision to be taken, whatever will it be.

Petitions Committee may decide:

- to require the European Commission to conduct a preliminary investigation and to provide information with reference to respecting the EU legislation in the field;

- to submit the petition to other committees of the European Parliament for information or for them to take action;

- to develop and submit a complete report to the European Parliament, in exceptional cases, for it to submit it to the plenary vote, or to make an informative visit to the country or region concerned and issue a committee report that would contain its observations and recommendations;

- take any other action deemed appropriate to try to solve the problem or to provide an appropriate response to the petitioner (<http://www.europarl.europa.eu>).

The Petitions Committee meets monthly except for August when the Parliament is on holiday. This is assisted by a Secretariat which has the role to monitor the process of petitioning, but also has advisory role. To solve in an optimal way and timely manner petitions the Committee on Petitions may try to cooperate with the national authorities of

the Member States. For this purpose, the Commission may cooperate with these authorities they may communicate to each other details that lead to a better handling of the petition, (except where the petitioner explicitly opposes), but does not have the right to pass over the decisions taken by national authorities and can not revoke the decision of the courts of the Member States. Petitions that are sent for this purpose will be declared inadmissible.

In case the petition does not fall within the scope of activity of the European Union it will be declared inadmissible by the The Petitions Committee, which will however, send the petitioner, the response to the decision of inadmissibility and, depending on the subject of the petition, the Commission may recommend to the petitioner to appeal to another body which may belong to the European Union or not.

The European Parliament has in each Member State one information desk, which has the role of making people know the institution of Parliament, of its importance as well as of encouraging to vote.

These information offices, provide complete answers to the citizens about the European Parliament's institution and its policies, provide public material information, organizes symposiums, debates on major European issues, provide information to the media on the work of the Parliament in press conferences and at the same time, working with higher education institutions in order to promote through their institutions. At the same time, shaping and developing links with NGOs, professional organizations, societies, associations that have an interest in developing European businesses and get to know the role of the European Parliament. In our country the information office is located in Bucharest. An institution of information for the media and the general public, it informs the Romanian citizens regarding the decisions adopted by the European Parliament, promotes their activities, works with the media to ensure the accuracy of the information related to the functioning of the European Parliament.

Also, according to art. 15 of the Treaty on the Functioning of the European Union, citizens and residents have the right to access the European Parliament's documents, this right being a key element of the transparency policy that must be applied at the level of the European institutions.

To facilitate access to documents as provided for in Regulation (EC) no. 1049/2001, the European Parliament has created an electronic register of documents. Designed as a tool to assist in the search, it contains references to the produced documents, but also of those received by the European Parliament since 2001 (<http://www.europarl.europa.eu>).

Therefore, the institution of the European Parliament, is concerned to conduct the entire activity on the principle of transparency, and its works enjoy a high degree of visibility, especially since, it operates in the service of the citizens who elected them directly.

Starting from on April 1st 2012, EU citizens possess a tool that is new and allows them to participate in shaping EU policy. Established by the Treaty of Lisbon, the European Citizens' Initiative enables a number of one million citizens from at least one quarter of the Member States to request the European Commission and the European Parliament to present legislative proposals in areas falling within their scope of competence. The organizers of a citizens 'initiative (which should be a citizens' committee composed of at least seven EU citizens residing in at least seven different Member States) have one year to gain the necessary support. Collected signatures must be authenticated by the competent authorities in each Member State. The organizers of successful initiatives will participate in a hearing organized by the European Parliament. The Commission shall have three months to examine the initiative and decide how to act[The Bureau decision of the 2nd of July 2012 for laying down rules on document management in the European Parliament states "ensuring document accessibility, especially for researchers and historians" [Article 8 (c)].

So, there were already formulated legislative initiatives regarding matters such as: exploring the possibilities of emancipation of living conditions, a single tax, all-inclusive services, to make phone calls from anywhere in Europe to another place Europe at the same price, setting a speed limit of 30 km / h at EU level for urban areas, environmental protection tools, quality education for all European citizens, legal protection of dignity and the right to life, and the integrity of the human being from the date of conception etc..

The parliament as the only institution democratically elected, proved to have a special vocation to promote human rights - even before the first direct elections in 1978 - and over the years has developed its own approach in this area. Because in the first stages of European Community, human rights were not of primary importance, the opportunity arose for the Parliament to bring the issue of human rights within its sphere of influence, because it concerned the protection of human rights as an essential part of EU activity (<http://www.acuz.net/html>).

Moreover, another reason for Parliament's activities to be focused on the protection of human rights is that by involving this European institution in the field of human rights, it will be able to expand its powers on other aspects that typically, did not fall within its competence.

One of the most important achievements of the European Parliament was that human rights are now considered in many spheres of activity of the European Union (<http://www.europarl.europa.eu>).

Therefore, the list of human rights in Europe was the basis for many discussions and the European legislation that resulted from these discussions has exerted a major direct influence on European citizens.

Today, the European Union through its protective tools, guarantees a level of protection of the human rights that has not been reached by many parts of the world and the European Parliament has always promoted these rights, making this approach a fundamental goal of his.

In its approach to the human rights, the European Parliament is based on principles such as:

- the indivisibility of human rights implies that it is forbidden to have different treatment between civil and political rights or between social, economic or cultural rights;

- the universality of the human rights which requires that human rights must be respected and protected equally in every corner of the world and no national legislation is should not provide rights below the minimum level established by the Universal Declaration of Human Rights;

- the human rights unit which requires a close connection and an increasing interdependence between the development policy and democratic principles in the field of human rights.

The Parliament, through its actions has shown that principles that do not interfere with human rights have a relative nature, since they are not seen as part of the internal affairs of a state and that they are the most important and legitimate motivation for dialogue between states .

The Treaty on the European Union states that the principles that should be taken into account are to develop and consolidate democracy and respect for human rights and fundamental freedoms. The European Parliament has played a very important role in the agreements with other countries and the development, cooperation and humanitarian aid policy has not been excluded from this requirement (Reinhard, Lausegger, 2009).

And in the matter of humanitarian rights, the European Parliament has an important contribution; so in the early 90s, in the context of a humanitarian aid reform, The parliament helped found a body in the Commission to coordinate aid, creating on the 1st of April 1992, the European Humanitarian Community Office that has significantly improved the efficiency and transparency of the measures of the Union in the field of humanitarian aid. As a result of its duties in budgetary matters, The parliament tried each year, a resizing of funds for humanitarian aid in the purpose of increasing them.

In the matter of the cooperation development policy, since 1991 the Parliament has established a link between the promotion of democracy, respect for human rights and the development policy, underlining the need to coordinate and complement between the internal measures taken by Member States and those ordered by the European Union emphasizing repeatedly that foreign policy outcomes that the states are leading, depend heavily on political cooperation between them.

Since at the moment it is directly elected the Parliament enjoys democratic legitimacy can argue that it truly represents all the citizens of EU Member States. However, the mere existence of a parliament elected by direct suffrage can not answer the fundamental requirement of a democratic constitution, according to which the whole public authority emanates from the people. This not only means that the decision making process should be transparent but also representative decision-making institutions. Parliamentary oversight is necessary and the Parliament must give legitimacy to EU institutions in the decision-making process (Borchardt, 2011).

In recent years, this field has achieved a significant progress. Not only the rights of the Parliament were continuously extended but by the Treaty of Lisbon, it was explicitly stated that EU initiatives must respect the principle of representative democracy. As a result, all EU citizens are directly represented in the Parliament and have the right to actively participate in the democratic life of the EU. The main objective is that EU decisions to be taken as openly and as closely as possible to the citizen as possible (Borchardt, 2011).

The European Parliament supervises and controls the implementation of European policies based on information received from the European Court of Accounts through the reports. Through its functions, the Parliament should determine the emergence of new opportunities for European citizens and seek solutions to their questions and concerns.

The parliament now has a range of tools and skills designed to help him achieve his goal; we must not forget that, in the legislative field, he has acted even before the Lisbon Treaty, as co-legislator in the co-decision procedure.

It also has powers, on the possibility to bring an action of annulment before the Union's Court of Justice, has the political initiative materialized in the adoption of resolutions and reports on any field of action under its competence, has the option to send delegates in EU Member States in order to identify problems and control how European legislation is implemented.

And in the future, the European Parliament's main priority will be to continue the respect and promotion of human rights, in any action of his, but this goal will be in the foreground.

The European Parliament always has been the most active European institution in the field of human rights not only in Europe but worldwide. It holds a unique position at the European level which allows and even compels - through its policies, by having the ability to have a dialogue with the citizens - to promote and protect the rights of European citizens and beyond. The parliament positions human rights in the center of European policies by putting individual cases on the political agenda, and the creation and implementation of mechanisms to promote and protect human rights at national, European and international level.

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