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ASPECTS OF COOPERATION BETWEEN THE PARLIAMENT AND THE GOVERNMENT REGARDING EUROPEAN AFFAIRS

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ABSTRACT

The unique creation in the history of the relationships between states, the European Union is an innovative construction whose structure is based on a number of institutions representing, as the case may be, the interests of the citizens of the European Union, of the Member States and of the Union itself, all of wich are involved in the decision-making process at the Union's level. The positions of the States that are expressed in the representative institutions are carried out after certain internal procedures, which are capable of offering a legal and legitimate nature, from a democratic point of view. Also, in the exercise of parliamentary supervision over European affairs, national parliaments are becoming a link in a complex institutional chain; these elements, in fact, are the subject of our study. In order to accomplish this, we propose to use the analysis of the primary sources, more specifically to identify the primary sources of European Union law (TEU, TFEU and its Protocols), as well as national legislation or the case-law of the CJEU. Last but not least, we will refer to the doctrine to critically interpret the legal framework identified.

Keywords: *European Union, Parliament, Council, Member States, cooperation, Government, position, vote, parliamentary control, European affairs, subsidiarity.*

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1. Introductory considerations

As we briefly explained in the abstract of this paper we endeavor this turn, starting from the provisions of the primary law of the European Union that concern both aspects of decision-making procedures as well as on how to exercise the competences of the Union, to take a step further in deepening the knowledge regarding this this process and to analyze the manner in which the consent of the Romanian representatives form within the Unions institutions.

As such, our analysis was born out of the desire to know not only the manner in which the legislative prerogatives are exercised but also if the national parliaments

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contribute to the formation of the position of the states and, through them, to legislative procedures.

2. The legislative process in the European Union

Regarding the Unions law process the main seat of the matter is found in the Treaty on the Functioning of the European Union in its sixth part *(„Institutional and financial provisions")*, Chapter II *(„Union legal acts, adoption procedures and other provisions")*, Section 1 *(„Legal acts of the Union")*.

Practically, in art. Article 288 TFEU explains as derivatives the acts that the Union adopts in order to exercise its powers, which are, in the enumeration of the Treaty, *„regulations, directives, decisions, recommendations and opinions"*[2].

From the aforementioned acts, we are especially concerned with the ones that have a certain binding force, and here we include the regulations, directives and decisions.

Of course, we consider, along with Paul Craig and Grainne de Burca[3], that recommendations and opinions produce in some situations certain legal effects but they can target either means of sanctioning their absence when the applicable procedure requires them to exist or, for example, to support the effort to correctly interpret Union law, but they are not endowed with mandatory force and, we add, given that art. 289 does not refer to them, for reasons of space we will not include them in our analysis.

Thus, as we previously said, art. 289 TFEU lays down the rule on the matter of procedures to be followed for the drafting of legislative acts. In order to highlight this, the procedure described in art. Article 289 (1) bears the name *„ordinary legislative procedure"*, paragraph 2 of the same article indicating that the adoption of said acts otherwise represents a *„special legislative procedure"* applicable *„in specific cases provided for in the Treaties"*[4].

Therefore, a grammatical, semantic interpretation of the TFEU and also a systemic one suggest the idea that the ordinary legislative procedure is the rule and the special procedure, the exception.

Just the same, we come to the same conclusion if we consider that the ordinary legislative procedure is applied to the vast majority of legislative acts[5] (95% of the adoption situations)[6] but the more important, regarding the democratic control, are

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[2] *Consolidated version of the Treaty on the Functioning of the European Union*, art. 288, available at www.eur-lex.europa.eu, accesed 29.12.2017.

[3] Paul Craig, Grainne de Burca, *Dreptul Uniunii Europene. Comentarii, jurisprudență și doctrină, ediția a VI-a*, Editura Hamangiu, Bucureşti, 2017.

[4] *Consolidated version of the Treaty on the Functioning of the European Union*, art. 289, available at www.eur-lex.europa.eu, accesed 29.12.2017.

[5] According to article 289 TFEU, *„legal acts adopted by legislative procedure shall constitute legislative acts"*.

[6] Sean von Raepenbush, *Drept Instituțional al Uniunii Europene*, ed. Rosetti, Bucureşti, 2014, p. 233.

the special legislative procedures, because, in their cases, the Council's role is even more important.

Under this procedure, extensively regulated by article 294 TFEU, The European Parliament and The Council adopt the legislative act together. Of course this state of affairs is so in the present, but it has not always been so. Practically, as explained by professor Augustin Fuerea in his paper called *„European Union legislation - between bnicameralism and bicameralism"*, the role of the European Parliament has evolved overtime from that of an institution occasionally consulted in the decision-making process to a system component that can be assimilated to a bicameral legislative. As such, the European Union legislative corps has evolved from unicameralism, represented only by the council, to *„that in which the EP and the Council come to form the bicameral legislature of the European Union"*[7].

As a matter of fact, we can state, in this context, that the participation of the European Parliament, which according to Article 14 paragraph 2 of the TEU, is comprised of representatives of Union citizens, democratic legitimacy is somewhat assured, at least by referance to the standards of an international organization, even though a problem may arise when the Union decides through a procedure other than the ordinary legislative procedure.

Such a situation may occur if the Union decides in a specific area by a special legislative procedure. These situations may require, in accordance with Article 294 (2) TFEU, the adoption of one of the said acts *„by the European Parliament with the participation of the Council or by the Council with the participation of the European Parliament"*[8].

However, we can state that the order of the above enumeration is somewhat misleading because the situation in which the European Parliament adopts an act with the participation of the Council is limited to *„adopting the statute and general conditions for the exercise of the function of its members"*, *„the adoption of the statute and the general conditions to perform the function of mediator"* and *„estabilishing of the ways of exercising the right of investigation"*[9].

On the other hand, the instances in which the Council adopts an act with the participation of Parliament are more numerous, the role of the representative institution of Union citizens varying in these situations from simple consultation to approval.

In addition, the Council has a leading role in other matters of primary importance, such as the external action of the European Union (for example, under Article 218 TFEU, it authorizes the start of negotiations to conclude an international agreement, it authorizes its signing and adopts a decision on the conclusion of the agreement,

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[7] Augustin Fuerea, *Legislativul Uniunii Europene – între unicameralism şi bicameralism*, în Revista Dreptul, nr. 7/2017, p. 200.

[8] *Consolidated version of the Treaty on the Functioning of the European Union*, art. 294, available at www.eur-lex.europa.eu, accesed 29.12.2017.

[9] Sean von Raepenbush, *op. cit*., p. 236, *apud* Augustin Fuerea, *op. cit.,* p. 194.

procedure in which the EP also participates), with particular reference to the CCP, but also the CFSP or other matters to which, for space considerations, we will not refer here. These duties are exercised in accordance with art. 16 TUE, atr. 237-243 TFEU and all other articles of the Treaties which refer to the special procedure or attributions of the Council since, as is well known, the special procedures do not know a well-defined and comprehensive stage of the matter but must be identified by analyzing the specific provisions of Union action in each domain.

In this sense, it is also useful to take a look at the provisions of Article 16 of the TEU on the way in which the vote is exercised in the Council and on the acts which regulate this matter, even if, for the same reasons of space, we will not insist upon them. What is important for our study is that all this involves the exercise of the consent of the governmental representatives of the Member State (in our case, Romania).

3. Verification of compliance with the principles of subsidiarity and proportionality

If until now we concerned ourselves with the way the Union is acting, in the following we will make concise references to how the Union mush choose when and if to intervene. As we will later see, this is another area where cooperation between Parliament takes place and can have legal effects.

Thus, if from Article 5 paragraph 1 and 2 TEU we learn about the principle of attribution, according to which „any competence not attributed to the Union belongs to the member states" which represents a line of action of the Union, paragraphs 3 and 4 refer to the principles of subsidiarity and proportionality, which we will continue to analyze.

The Principle of subsidiarity applicable to non-exclusive component domains (by way of interpretation, we consider that the main applicability of this principle concerns the field of protected competence) requires the Union's intervention *„only if and to the extent that the objectives of the action envisaged can not be sufficiently achieved by the Member States, either at central level or at regional and local level, but can, by reason of the scale and effects envisaged, be better achieved at Union level*[10]".

Further, given that the aim of our approach is not to analyze this principle but to the role of the National Parliaments in verifying its observance, we will proceed to the analysis of the related disparities in Protocols 1 and 2 annexed to the Treaties.

Thus, Protocol No. 1 begins by establishing the obligation for the Commission to transmit to the National Parliaments, at the time of their publication, White Papers, Green Papers, the annual legislative program and other programming documents, simultaneously with their transmission to the Council and the Parliament.[11]

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[10] *Consolidated version of the Treaty on European Union*, art. 5 (3), available at www.eur-lex. europa.eu, accesed 29.12.2017.

[11] *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, Protocol. No. (1)*, art.1, available at www.eur-lex.europa.eu, accesed 29.12.2017.

Through this mechanism, national Parliaments do not have the possibility to influence the content, but to influence early on the actions of their own governments in relation to them.

Moreover, the draft legislative acts issued by the Commission and the European Parliament are transmitted directly by them to the national Parliaments, while the projects coming from the Member States, the CJEU, the ECB, the BEISC are transmitted by the Council to the national parliaments[12].

National Parliaments are also presented with the agenda of the Council meetings[13] and what constitutes an additional means of control over the activities of their own governments.

Title 1 of Protocol I, it offers the possibility of establishing genuine intra-parliamentary European cooperation.

The same obligations of transmission, this time by the Commission, of draft of normative acts to the National Parliaments and also by the Council, for projects initiated by the SN, the ECB and the EIB are also considered by Article 4 of Protocol No. 2.

Also, Protocol 2 in Article 5 establishes the obligation of notification regarding normative acts (by the issuer, we would say), which is called the Subsidiarity File, in compliance with the principles of subsidiarity and proportionality.

If national parliaments consider that the drafts of normative acts do not respect these principles, they can address a national opinion to the EP President, to the Council Presidency and to the President of the European Commision, with their arguments in this regard. The protocol mentions that the issuers of the protocol must take into account the opinions received[14], although it is unclear what this obligation is.

If the opinions given by the national parliaments (provided that each of them is allocated two votes, equally divided in the case of two-chamber parliaments) exceeds the threshold of one-third of the total (or one-fourth for projects based on Article 76 TFEU) the issuer must re-examine the project, with the possibility, after that review, to maintain, modify or withdraw the project concerned[15].

The same considerations apply if, in the ordinary legislative procedure, the above-mentioned cases exceed a simple majority[16] and the Commission wishes to maintain the project, it will have to motivate this decision. Next, the option to maintain or not the project belongs to the European Parliament (with the majority of votes cast) and/or the Council (55%)[17].

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[12] *Ibidem*, art. 2.

[13] *Ibidem*, art. 5.

[14] *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, Protocol. No. (2)*, art. 6 and 7, available at www.eur-lex.europa.eu, accesed 29.12.2017.

[15] *Ibidem*, art. 7.

[16] *Ibidem*.

[17] *Ibidem*.

Moreover, national Parliaments may initiate, through their governments, in accordance with Article 8 of Protocol No. 2, art. 263 TFEU and with national regulations, an action for annulment, having as object the violation of the principle of subsidiarity.

However, to date, the Court of Justice tends to give the Commission a wide margin of appreciation for the opportunity of legislative projects (including subsidiarity material) by controlling, preferably, the fulfillment of the form conditions.

In the same note, it is not without interest to mention that the same Commission is required to submit to the European Council, the EP, the Council and the national parliaments an annual report on the application of Article 5 TEU[18].

4. The role of the National Parliament.

If, until now, we have analyzed the provisions of European Union law and we have observed some general aspects of ordinary and special legislative proceedings, we will continue to analyze certain national provisions with the incidence in this matter.

For this, from our EU law perspective, we will start from the analysis of Article 148 of the Romanian Constitution, one that we could say that it does not the transition, nor the delimitation, but the link between the European Union legal order and the national one.

We say these because here we find the essential provisions according to which, *„as a result of accession, the provisions of the Constitutional Treaties of the European Union, as well as the other binding Community regulations, take precedence over the contrary provisions of the internal laws"*, but after accession was made in accordance with paragraph 1 of the same article, *„by law adopted in the joint sitting of the Chamber of Deputies and the Senate, with a two-thirds majority of the number of deputies and senators*[19]*"*.

Also, the Ratification Law of the Accession Treaty, in it's article 2, repeats the general obligation, provided in art. 148 (5) of the Romanian Constitution, in the sense that the Romanian authorities guarantee the fulfillment of the provisions of the Accession Treaty, of the constitutive treaties of the European Union and of the binding Community regulations. This provision is thus intended to highlight, at national level, the importance attached to the compliance with the obligations under the Accession Treaty.[20]

Moreover, from the content of this article results the different nature of the accession to the primary legal instruments of the European Union, as compared to the ratification of the treaties, for their insertion into the national law is provided

[18] *Ibidem*, art. 9.

[19] *Constituția României*, art. 148, available at www.cdep.ro, accesed 29.12.2017.

[20] Mihaela Augustina Dumitrașcu, *Tratatul de aderare a României şi Bulgariei la Uniunea Europeană – prezentare generală*, Revista de Drept Public nr. 2/2005.

by Article 11 of the Constitution, to which are added the norms of Law 590/2003 regarding Treaties.

Thus, if Article 11 of the Romanian Constitution and Section 5 and following of Law No. 590/2003 result in the general way of ratification of treaties by law (where the provisions of Article 76 of the Constitution of Romania on the Adoption of Laws and Decisions and Article 73 on categories of laws are applied), art. 148 requires the adherence to the constituent treaties of the EU be made by *„a law adopted by a two-thirds majority of the number of deputies and senators"*, a majority somewhat similar to that provided by Article 51(1) regarding the revision of the Constitution (*„at least two thirds of the number of members of each chamber"*).

We identify a possible explanation of this in the possibility, conferred by the accession, of *„transferring some attributions to the communitarian institutions"* and exercising *„jointly with the other member states of the competences stipulated in these treaties"*[21], which contains the indications of influencing some fundamental social relations, such as those subject to constitutional norms.

In fact, we believe that our fundamental law perceives in a fair way the effects of joining the Union, which does not involve a fall of sovereignty, as sovereignty is, in fact, indivisible, which makes it impossible to break down any parts of it, but allows their exercising jointly, with other states. Besides, even the existence of art. 50 TEU, which allows Member States to withdraw from the Union, is a conclusive proof of the fact that Member States are saving their own sovereignty. In fact, the same conclusion of the special importance of accession is transmitted by the similar majority required by art. 149 for NATO membership and, if we only think about the provisions of art. 5 of the NATO Treaty, which can lead to the engagement of the Romanian State in the collective defense effort, the provisions I have referred to appear to be natural.

Moreover, in an opinion expressed in the doctrine, the existence of such a special procedures leads to the idea that in the internal legal order, the legal force of the act by which Romania adheres to the European Union is lower the Constitution and constitutional laws, but higher than the organic and ordinary laws[22].

And, because we referred to Parliament before, it is time to mention that according to Art. 61 of the Constitution, the Parliament is the supreme representative body of the Romanian people.

In this quality, the Parliament is called upon, under Article 103 of the Constitution, to cast a confidence vote to each new government on which it exercises, as deduced from Chapter IV of the Romanian Constitution, the political control. Practically the provisions of art. 111-113 of the Constitution show that the Government, in the

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[21] *Ibidem*.

[22] I. Muraru, E.-S. Tănăsescu (coord.), *Constituția României. Comentariu pe articole*, Editura C.H. Beck, București, 2008, p. 1433, *apud* Roxana Popescu, *Aspecte constituționale ale integrării României în Uniunea Europeană*, Revista Dreptul nr. 3/2017, p. 138.

exercises of its affairs, is obliged to transmit to the Chamber of Deputies, to the Senate or to their Committees all the information or elements that they request for exercising this control.

Furthermore, this control can be manifested through a variety of procedures, including questions, interpellations, simple motions (which can cover, according to article 112 (2) of the Constitution, both aspects of internal polics as well as the foreign policy aspects – of interest for our study – and can rely on the content of the answers to the questions or interpellations addressed to the Goverment or the solicited documents) and, in extreme cases, censorship motions (votes of no confidence).

According to Article 165 (2) of the Chamber of Deputies Rules of Procedure, the question *„consists of a simple request to answer whether a fact is true, if a piece of information is accurate, if the Government and the other public administration bodies understand to communicate to the Chamber the information and documents required by the Chamber Deputies or parliamentary committees or if the Government intends to take a decision on a determined issue*[23]*"*.

The interpellation, however, according to art. 173 (2) of the Chamber of Deputies Rules of Procedure consists of a request addressed to the Government by a parliamentary group of one or more deputies, asking for explanations on the Government's policy on important issues regarding its internal or external activity[24].

Regarding simple motions, they, according to art. 158 of the same Rules of Precedure, express the position of the initiators (minimum 50 MPs) and, in the case of approval (with the vote of the majority of the present members), of the Chamber of Deputies, on an internal or external policy issue or on an aspect that has been the object of an interpellation[25].

The problem that arises in the case of simple motions is related to their effect. More exactly, art. 167 of the Rules of Procedure provides for the Chamber's decision to be sent to the Government, which must take account of its position. In this respect, we find additional explanations in the Constitutional Court's judgment no. 148/2007. According to the Constitutional Court, the adoption of the simple motion does not have the legal effect of revoking a member of the Government, but the lack of legal effects of the nature mentioned does not result in the lack of political effects, as ignoring a simple motion may be a reason for introducing a motion of censure if the deputies/senators deem it necessary[26].

Regarding the framework of cooperation between the Parliament and the Government in European affairs, it is mainly established by Law no. 373/2013.

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[23] *Regulamentul Camerei Deputaților, aprobat prin Hotărârea Camerei Deputaților nr. 8/1994, republicat în temeiul art. II din Hotărârea Camerei Deputaților nr. 48/2016 privind modificarea şi completarea Regulamentului Camerei Deputaților*, publicată în Monitorul Oficial al României, Partea I, nr. 432 din 9 iunie 2016, art. 165 (2), available at www.cdep.ro.

[24] *Ibidem*, art. 173 (2).

[25] *Ibidem*, adr. 158.

[26] *Hotărârea Curții Constituționale nr. 148/2007 asupra sesizării privind neconstituționalitatea dispozițiilor art. 157 alin. (2) din Regulamentul Senatului*, available at www.lege5.ro.

Even in its first article, the law in question refers to the fact that one of its main regulatory areas is Romania's participation in the EU decision-making process[27].

Furthermore, the normative act refers to the enumeration and definitions of the terms used in its contents (which, considering the limited space available to us, we do not reproduce), and we observe that the law takes into account aspects such as motivated opinions offered by the Parliament in the procedure of verifying compliance with the principle of subsidiarity or proportionality, opinions on non-legislative draft acts, subsidiarity and proportionality control, parliamentary scrutiny, mandates, draft legislative or draft non-legislative acts of EU institutions.

Moreover, Article 3 of Law No. 373/2013 establishes the government's obligationto take over the content of the decisions issued by the Parliament or one of its Chambers in the elaboration of the national negotiating position in the Council. Also, the provisions of the law include the answer to the possibility for the two Chambers to adopt divergent provisions, in which case the Government must ask Parliament for a joint decision to solve the divergent aspects, and if it is not transmitted within the term decided together with the Parliament, the Government will not be bound to respect, in its certainty, the provisions that contained divergencies[28].

The Government will also be able to support positions that differ from those recommended in the Parliament/Chambers' decisions, providing the motivation for the position it chooses.

The Chamber and the Senate are entitled, according to Article 4 of the same law, to examine the Annual Work Program elaborated by the European Commission in order to identify in advance the projects that might be subject of the parliamentary scrutiny. Article 5 contributes to strengthening the connection between the national Parliaments and the institutions of the European Union, establishing the Government's obligation to transmit to the Chamber of Deputies and the Senate a list of the projects on which an agreement has been reached and which are not actually voted in the Council (the „A list" projects), and a list of the initiatives on which the state representatives did not agree, therefore being subject to the actual vote in the Council.

It should not be forgotten that, given what Craig and de Burca mentioned, the projects on which an agreement is reached in the COREPER (the „A list") represent the overwhelming majority of cases, making the parliamentary control of the negociation process even more important than it seems at first sight.

All of these are included in the wider notion of participation in the EU decision-making process and involve those negotiation mandates referred to in Article 2 of Law no. 373/20012.

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[27] *Legea nr.373 din 18 decembrie 2013 privind cooperarea dintre Parlament şi Guvern în domeniul afacerilor europene*, art. 1, available at www.cdep.ro, accesed 29.12.2017.

[28] *Ibidem*, art. 3.

The initiative to start the parliamentary examination procedure of an EU draft act belongs, according to art. 10 of the Law no. 373/2013, to the Chambers of Parliament. Following this procedure, as art. 11 specifies, the Parliament or the Chambers shall adopt decisions which they shall transmit to the Government within the time limits set out in that Article.[29]

However, given the fact that in any negotiation process substantial changes may occur, the government is able to adjust its position according to this, having to inform the Chambers of Parliament about the changes that have occurred.

In order for the parliamentary examination to be carried out, without becoming a mere formality, the Government informs the Council that this procedure is triggered (according to article 12 of the Law no. 373/2013)[30], in order to obtain the time neded to complete it, among other reasons.

Another aspect that seems important to us comes from the provisions of Article 16, which refers to the possibility of the Parliament or it's Chambers to analyze non-legislative acts of the Union.

As stated in Article 289 (b) TFEU, the legislative acts of the EU are those acts adopted through the legislative procedure, and the non-legislative acts, according to art. 290, complement or amend essential elements of the initial legislative act, which confers the Commission such a delegation, in itself subject to a review by the EP and the Council, in the modalities provided for in paragraph 2 of Article 290 TFEU (revocation of the delegation or entry into force only if the EP and the Council do not object within a given deadline).

We understand from the above-mentioned provisions of Law 373/2013 that Parliament/its Chambers may participate in the formation of the Government's position in the Council in this case, as well.

However, having in mind the fact that Article 2 (i) of Law no. 373/2013 calls as „draft non-legislative acts" those draft acts issued by the European Union institutions which are not adopted by the legislative procedure, according to TFUE and TUE, without specifying the exact legal basis, the distinction made by Craig and de Burca between legislative acts, non-legislative acts and implementing acts, the provisions of EU Regulation 182/2011, which empowers the Commission to draw up implementing acts, with the participation of committees composed of representatives from the Member States, and the general purpose of Law no. 373/2013, that its provisions should be understood as applying to the implementing acts adoption procedure, as well, especially as it's article 17, allows the involvement of Parliament/ Chambers even in the ellaboration of EU strategies, programming or consultation documents, that have a lower impact than the implementing acts.

It is also worth mentioning that art.18 of Law no. 373/2013 refers to a parliamentary control over Romania's representation at the European Council, in

[29] *Ibidem*, art. 10-11.

[30] *Ibidem*, art. 12.

which the Government submits to Parliament/Chambers the proposal of mandates which the Romanian delegation intends to support and the Parliament can formulate proposals, destined to be included in the draft mandates. This applies to the Prime Minister's participation, as in the case of the President's participation, he can only present his mandate to the Parliament.

It is also worth mentioning that the updated version of this article follows after and takes into account Constitutional Court's judgments no. 683/2012, 784/2012 and 449/2013.

Also, under the same law, the Government has to inform the Parliament about the persons nominated for appointment to EU institutions, which are subject to parliamentary hearings.

Moreover, the Parliament also controls the Government's legislative program, each year, in order to monitor the compliance with the obligations to transpose or apply to the Union's instruments.

An example of the application of the provisions of the law in question is constituted by the provisions of articles 161-183 of the Chamber of Deputies Rules of Procedure. Theese dispositions establish the European Affairs Comitee as the main responsible for the documentary circuit between the Chamber of Deputies and the Government, a fact that appears naturally. It also has the task of monitoring the observance of the Government's obligations resulting from the decisions of the Chamber, for which it ellaborates periodical evaluation notes, asks the Government to make the necessary modifications and, if it does not meet its demands, signals the matter to the Permanent Bureau.

Also, in order to fulfill the prerogatives of verifying the compliance with the principles of subsidiarity and proportionality, the Chambers or the Parliament adopt decisions containing reasoned opinions which they submit to the President of the Commission, the EP and the Council. The decisions that I have referred to are adopted, according to art. 163 (5) of the Rules of Procedure, with the majority of the deputies present. If it finds it necessary, the Parliament or one of the Chambers may introduce, in accordance with art. 152 of the Law no. 373/2013, an action in annulement at the CJEU, appointing an agent charged with representing the interests of the state. The decision in question, according to 183 (2) of the Rules of Procedure, is adopted by the majority of the deputies present and communicated to the Government for initiating the necessary procedures.

Of course, the Rules of Procedure also contain other detailed rules regarding the exercise of the atributs derived from the Law no. 373/2013 but naturally their pronounced techniqal nature and the spatial limits of such an approach do not allow us to include them in the present article.

As an illustration of the practical applicability and the willingness of Romanian Parliament to become aware of and implement its role under Protocol No. 2, it is not without interest to point out that, according to the Commission's 2017 subsidiarity report, in the previous year (2016), 65 motivated opinions of national parliaments

were issued, 713% more than in 2015. Out of these, 38 targeted 4 Commission proposals. Amongst them, Romania had two motivated opinions from the Chamber of Deputies and one from the Senate[31].

5. Conclusion

As a conclusion, it is our opinion that the democratic legitimacy of the European Union is manifested on several levels. One of these involves the existence and the work of the European Parliament, as a representative of the citizens of the Union. This is the most important and visible, but not the only one. In their turn, national parliaments confer some democratic legitimacy to the Council, by controlling the representatives of the states that are part of it (as members of national governments, they are subject to parliamentary control), but also to the Union legislative process, as a whole, by participating in its development.

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[31] *Report from the Commission – Annual Report on subsidiarity and proportionality (2016)*, Brussels, 30.06.2017, available at ec.europa.eu, accesed 29.12.2017.

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12. Hotărârea Curţii Constituţionale nr. 148/2007 asupra sesizării privind neconstituţionalitatea dispoziţiilor art. 157 alin. (2) din Regulamentul Senatului, found on www.lege5.ro;

13. Report from the Commission – Annual Report on subsidiarity and proportionality (2016), Brussels, 30.06.2017, available at ec.europa.eu, accesed 29.12.2017.