

# THE EUROPEAN UNION INSTITUTIONAL REFORM. THE LEGAL FRAMEWORK

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## **Abstract**

*The EU legal framework is represented by the European Parliament and the Mediator. The European Parliament is the most democratic body of the EU, benefiting according to the Treaty of Maastricht an increased role as a legislative body, the treaty providing decision rights, as well as the Council; it is the body approving the budget of the EU with powers related to the implementation of its special policies. The European mediator also called the ombudsman was created by the Treaty of Maastricht. The mediator sends the Parliament a yearly report. By the Treaties of Maastricht, Nice, Amsterdam and Lisbon, the reform achieved is a special one. The increase of the European Parliament powers become a colegislator for almost all the fields make the European citizen to feel a better representation.*

**Keywords: institutional reform, enlargement, integration, ratification, cooperation, co-decision, co-legiferation**

## **INTRODUCTION**

The institutional reform is the most debated upon and presented in the mass-media subject in the European Union. In a European Union that is regulated by obsolete treaties, with numerous voids for its current form and content, the question mustn't be why a Reform Treaty, but why not more dedication and inclination towards consensus.

Most of the analysts of the European phenomenon considered the Treaty that establishes the European Union a huge step towards the European construction, the integration process entering in a new phase. The Treaty of Maastricht represents the ensemble of the 3 initial treaties: The Treaty of Paris regarding the European Coal and Steel Community and the Treaties of Rome regarding the European Economic Community and the European Atomic Energy Community. Also related to this treaty, one has to mention that it was closed with the reservation of a special status for the United Kingdom, that didn't consent to the idea that the Common Market become a federal state and that the national coins be replaced with a sole common coin, the European Currency Unit (Savu, 1996, 121). Still, we consider that a huge step was made towards the European construction, a step considered “*an irreversible step*” by the French president Mitterrand.

The next phase was the Amsterdam Treaty that modifies the Treaty that establishes the European Union, the treaties that establish the European Communities and other connected documents. The Amsterdam Treaty is the second treaty of the European Union that is meant to ensure the continuation of the integration. It maintained and simplified the institutional modifications brought by the Maastricht Treaty to the founding agreements of the European Economic Community (Vese, Ivan, 2001, 205).

One can say that the Amsterdam Treaty, like the Maastricht Treaty, did not represent the final phase of the European construction, being only a new phase in a process of the creation of a closer and closer union between Europe's peoples, according to Article A of the Treaty that establishes the European Union. The problems that were not clarified at Amsterdam will be talked about at a new summit - that of Nice, that had the role of institutional reform to allow the candidate states to adhere to the European Union.

By ratifying, not without emotions, the Treaty of Nice, the European construction surpassed another chapter in its evolution, passing on to a new phase of its existence. Nice is a new step across the European way that is ended by the orientation of the Community towards a Europe that reunites the interests of the citizens that it represents. The Treaty was not a radical one, as many adepts of a federal Europe would have wanted, but it allowed the extension of the European Union to the east. "*A too radical treaty would have had many chances to be rejected*", stated Jacques Chirac at the end of the summit.

The Treaty of Nice made 3 things possible: Europe's beginning of extension to the east, the marking for ever of the fall of the Iron Curtain and the forgetting of the Communist past (Vese, Ivan, 2001, 241; Duculescu, 2001, 49-56).

By the Treaty of Lisbon, the realized reform is a special one. The institutional reform reached its target, the European Parliament becomes co-legislative for almost all domains and all of this make the European citizen feel better represented. The Treaty of Lisbon does not transform the European Union in a "super-state" but it introduces some institutional innovations that will make the Union stronger and more efficient, but not in the disadvantage of the member states. The relation between the European Union and the member states remains essentially unchanged, so that any modification of the treaties will require the unanimous agreement of the member states, and the Union has the explicit obligation to respect their identity (Buşoi, 2008, 38-39).

## **MATERIAL AND METHOD**

In as far as the mechanisms of adopting the legislative resolutions are concerned, the EU has developed four specific types: *advisory opinion, cooperation, assent and codecision*. Generally speaking, they mirror the EU institutional development, their elaboration being regarded from the perspective of the transfer of legislative power between the European Union Council and the European Parliament. From a historical point of view, the current European

Parliament is the inheritor of the European Coal and Steel Community Common Assembly, created by the Treaty of Paris (1951). From a simple consultative assembly, without legislative power, the Parliament has considerably extended his authority once the first direct European elections were held in 1979 and the strategic openness occurred by the negotiation of the Single European Act in 1986.

At the origins of the European Communities, the standard legislative procedure was represented by the *advisory opinion*. According to this, the European Commission comes up with a proposal on the new legislation, and the Council adopts it by the unanimity rule or by a political consensus (agreement) in cases where sensitive fields of the national sovereignty are touched (Mark A. Pollak, 2003, 217). Advising still remains a common procedure in both sections of the European system (the European community and the European Union), including in fundamental political areas such as: agriculture, state allowances, indirect taxation and aspects related to the environment policies, monetary policies, citizens' rights, migration.

The *cooperation procedure* was introduced by the Single European Act in 1986 in order to be used in matters related to the internal market, regional policy and research. By the cooperation procedure, the Parliament may amend a common position of the Council, forcing it to choose between adopting its amendments (accepted by the Commission) by the majority vote or their rejection by a unanimity vote. During the five years preceding the ratification of the Treaty of Maastricht, approx. 10% of the legislative measures set forth by the Commission were enacted by means of the cooperation procedure (Konig, Poter, 2001, 329-351). The Treaty of Amsterdam almost eliminates this procedure (except for four articles on the Monetary Union) in order to make room for a quasi-general use of co-decision.

The *assent procedure* allows the Council to request the bulk agreement of the Parliament for certain legislative measures foreseen in the Treaty, without having the possibility (option) of a negotiation. The procedure was adopted by the Single European Act in order to sanction association treaties with third countries and to have access to the Community. The Treaty of Maastricht extends the procedure to other fields related to: serious violation of human rights norms by Member States, structural funds, European Elections and international treaties having major budgetary implications. The assent provides a clear example of asymmetry between the power to create policies for the Council and the blocking power of the Parliament.

The *codecision* was introduced by the Treaty of Maastricht as a substantial development of the cooperation procedure. Codecision introduces a third lecture of a proposal and request the arbitration committee to reach a compromise between the Council and the Parliament. For the first time in the Union history, the Parliament has the power to say *no* to the Council, being able to determine the final giving up of a legislative proposal (Shackleton, Raunio, 2003, 171). Besides the fact that it strengthens the Parliament's co-legislature power, the Treaty of Amestrdam

doubles the number of fields where the codecision is applicable. By the Treaty of Lisbon, the codecision procedure became the rule of thumb for the European legislative process, considerably extending the applicability of the rule including the agricultural and fishing policy, spatial policy, intellectual property protection, citizens' initiatives, humanitarian aid. Also, a few legal bases were transferred under the codecision procedure: The European Central Bank, the Structural Funds, the cohesion fund, Europol, border police, immigration and asylum.

After the undertakings expressed as a result of the Treaty of Amsterdam regarding the increase of the codecision efficiency, there was an increase of the efficiency of decisional process. After 1999, the absolute number of finished codecisions has increased, 429 acts (2004 – 2009), 403 acts (1999 – 2004) as compared to 165 (1993-2004), there is a tendency of annual progress. Another tendency in the functioning of codecision is the increase of the number of agreements concluded in its initial phases. If under the auspices of the first version of codecision, approximately 40% reached the arbitrary phase, during the first three years after the ratification of the Treaty of Amsterdam (1992 – 2002), the percentage of the arbitration considerably decreased. Thus, between 2004 – 2007, 125 joint decisions (64% of the total) were finished at a first lecture, 55(28%) at the second and 16 (8%) during arbitration.

## **DISCUSSION-THE LEGISLATIVE SYSTEM**

### **The European Parliament**

The European Parliament was named, at its foundation in 1952, the Common Assembly of the European Coal and Steel Community, its prerogatives being limited only to debates and issuing notifications. So, the Parliament could express its advisory opinions in matters regarding the Legislation of the Community and it could dismiss the leaders of what is today the European Commission for misconduct. The first free elections for the European Parliament took place in 1979, and it became the sole institution directly elected by the European citizens.

The old European Parliamentary Assembly became “The European Parliament” once with the signing of the Single European Act. This institution became more and more important as time passed, following the signing of the European treaties, which is natural because it represents the peoples of the European Union, defending their interests by means of the deputies elected by universal direct suffrage, as a result of the decision of the Council that came into force on the 1<sup>st</sup> of July 1978. Moreover, the Parliament has a decisive role in the forging on the European conscience.

#### ***The deputies' status***

The Euro-deputies are elected for a period of 5 years, on the basis of the universal direct suffrage, by proportional poll, respecting the democratic rules. The number of deputies varied across the time. So, from 626 deputies existent after the extension from 1995 **Appendix 1.1.** it arrived to 732 after the elections from 2004

**Appendix 1.2** their number increasing following the adherence of Romania and Bulgaria in 2007 **Appendix 1.3.** The maximum limit of 700 deputies fixed by the Amsterdam Treaty was surpassed following the Nice Treaty that fixed the number of deputies to 732 (Avram, 2001, 60-61). The number of members of Parliament was fixed to 751 (750 plus the President) following the ratification of the Treaty of Lisbon.

The number of deputies varies depending on the population of each country. So, Germany has 99 deputies, and France, Italy and Great Britain have each 72 deputies.

The European citizens can vote and be elected either in the home country or in the country of residence. The same democratic rules are applied everywhere, and of these especially the right to vote at 18 years, the equality between men and women and the secret vote. In some member states, Belgium, Luxembourg and Greece, the participation at vote is compulsory. The Euro-deputy status is incompatible with that of member of a national government and with that of European civil servant. The Amsterdam Treaty assigned the Parliament the establishment of the status and the exerting conditions of the deputies' mandate, but only after the Commission's notification and the Council's agreement.

#### ***Organization***

The current president (from the year 2012) is the German Martin Schulz who succeeds the Polish Jerzy Buzek. His role is to preside the plenary sessions of the Parliament, the reunions of the Bureau and the conferences of the presidents. He also represents the Parliament in the external relations.

The Bureau is made up of the President, 14 Vice-Presidents and 5 Quaestors elected for 2 years and a half. The Bureau names a Secretary General who leads a structure of more than 3500 persons.

The Presidents' Conference regroups the President of the Parliament and the presidents of the political groups. His role is to settle the attributions of the Commissions, the timetable and the order of the day. The current Parliament is made up of 7 transnational political groups ([www.europarl.europa.eu](http://www.europarl.europa.eu)):

#### **Appendix 1.4**

- European People's Party (Christian-Democrats)-(EPP);
- Progressive Alliance of Socialists and Democrats (S&D);
- Alliance of Liberals and Democrats for Europe (ALDE);
- European Greens/European Free Alliance (EGP/EFA);
- European Conservatives and Reformists (ECR);
- European United Left/Nordic Green Left (GUE/NGL);
- Europe of Freedom and Democracy (EFD);

One also has to notice that there is a group of "non-inscrits" and the group of independents disappeared.

A minimum number of deputies is needed to form a political group (from 29, 24, 18 to 4, provided that the deputies of that group come from 2, 3, 4 or even more member states).

### ***The Way of functioning***

The Parliament is headquartered in Strasbourg. The annual session begins on the second Tuesday from March and it continues its activity in each month of the year for one week. The European Parliament performs its activity in 12 plenary sessions a year.

In the other weeks, the deputies reunite in the political groups or in the Parliamentary Commission from Bruxelles where they study the texts and reports on which they have to pronounce themselves.

Often, heads of foreign states are invited to address to the Euro-deputies in the plenary sessions.

Starting from the 20<sup>th</sup> of July 1999, 27 permanent commissions were assigned to analyze the proposals that came from the Commission. Following this analysis, the commissions make reports depending on their areas of competence, and they are delivered by the deputies to the political groups for examination, they are debated and subjected to vote in plenary meeting (report and amendments).

The Parliament can establish Temporary Committees and Investigation Committees, at the request of a third of its members.

Moreover, there are also Mixed Parliamentary Committees (that are meant to link the European Parliament to the parliaments of the candidate countries) and inter-parliamentary delegations (that make the connection to the parliaments of the third countries).

### ***The Attributions***

The treaties of Maastricht and Amsterdam extended the Parliament's attributions and its domains of intervention considerably.

The European Parliament received, on the basis of the Maastricht Treaty, an increased role as legislative body, compared to its old status. The treaty offers it decision powers, together with the Council, in the following areas: workers' free movement, the realization of the internal market, education, scientific research, environment, the realization of the trans-European connections, health, culture and the consumers' protection.

### ***The "co-legislative" Parliament***

The European Parliament shares with the Council of the European Union the prerogative of the adoption of the legislation of the Community, by applying various procedures:

- the Co-decision, introduced by the Maastricht Treaty, sets the Parliament on equal foote as the Council, because it can prevent the adoption of a text at the second lecture in an important number of areas (art. 251 TCE).

- the Co-operation, introduced by the European Single Act, is about to be eliminated after the adoption of the Treaty of Amsterdam. According to this procedure, the Council is constrained to recur to the rule of unanimity if its legislative proposal is rejected in Parliament, at the second lecture.

- the According Notice that the Council has to take into account, regards the international agreements, the new adherences, the structural funds, the European

system of central banks and the repeated violation of fundamental rights by a member state (the Treaties of Amsterdam and Nice).

- the Simple Notice allows the Parliament to express its position, but the Council is not obliged to take its opinion into account. Still, the Parliament must necessarily be consulted in the domains of the external policy and internal affairs.

### ***The “checker” Parliament***

The body that holds the legislative power exerts the control on the executive power, also in the European Union, as in any democratic system. The Parliament exerts this control by various ways:

- One of the most important handspike of control on the executive power is represented by the Parliament’s attribution to invest the Commission and its President;

- The censure motion addressed to the Commission.

- Questions asked in written or verbally to the Council of the European Union and to the Commission that can be interpellated.

- The creation of committees of investigation.

- The notification of the European Court of Justice.

- The right to receive petitions and the nominalization of the Mediator.

### ***“The big treasurer” Parliament***

The treaties from the 22<sup>nd</sup> of April 1970 and from the 22<sup>nd</sup> of July 1975, as well as the Maastricht Treaty, assigned the Parliament a series of attributions in the financial domain:

- First of all, the Parliament evaluates the multi-annual financial perspectives and decides on the budget. So, the budget can only be operational after it was signed by the President (see the block rejection of the budget in the years 1980 and 1985).

- The Parliament has priority in front of the Council regarding the unnecessary expenses (for example the industrial policy).

- The Parliament can only propose modifications of the necessary expenses (for example agriculture), the Council having the last word in this area.

Apart from these multiple obligations of the Parliament from Strasbourg in the financial area, the European legislative tribunal also enrolled in the action to defend the human rights. In order to sustain this activity, the European Parliament created the Sakharov Prize in 1988, which is given each year. The Parliament’s powers increased unceasingly with each new document. This evolution is surprised in **Appendix 2** (the accumulation of the powers of the European Parliament). The analysis is focused of the actual formal powers of the Parliament. The year of the adoption of the important document is shown in the first column to show which where the attributions of the legislative at each electoral moment. The documents that modified the Parliament’s attributions are shown in the second column, and the actual attributions that the Parliament got are shown in the third column.

## **The European Mediator**

The European mediator function, also called Ombudsman, was created by the Maastricht Treaty. His status and attributions were settled by the decision of the European Parliament from the 9<sup>th</sup> of March 1994, his role constantly increasing across time.

### ***The Mediator's status***

The Mediator's mandate is of 5 years, with the possibility of its renewal by the European Parliament. The Mediator acts like a counselor and an mediator that is independent from his office in Strasbourg. It is only the European Court of Justice that can end his activity.

The current European Mediator, Nikiforos Diamandouros, was re-elected for a new mandate until 2014 by the European Parliament.

### ***The Mediator's role***

Any physical or moral person that lives within the European Union can inform the Mediator by lodging a complaint either on a piece of paper, or by a form (that can be sent also on Internet).

For it to be accepted, the complaint must contain the identity of the claimant, the reason for complain, it has to aim at an institution of the Community (except for the European Court of Justice), to name a problem of dysfunctional administration, to be deposited in a period of 2 years from the happening of the illicit acts and to be preceded by measures at the institutions in cause.

After the examination of the complaint, the Mediator decides if an inquiry should be opened or not, he looks for an amiable solution and he informs the claimant. The institution that was claimed has 3 months at its disposal to formulate an answer.

The Mediator sends the Parliament an annual report.

## **CONCLUSION**

The achieved reform is a special one by the Treaty of Maastricht, Nice, Amsterdam and Lisbon. The challenges for the European Union ever since its creation, the strengthening of the efficiency of its institutions and the study of their way of functioning democratically find an adequate solution. The institutional reform reached its target, ensuring both the legitimacy of actions and decisions of the Community and the citizens' taking part into the democratic life of the European Union, conditions that are necessary for the approaching between Europe and the citizens. The increase of the power of the European Parliament that became co-legislative for all domains accomplish the fact that the European citizen feels better represented. The Treaty of Lisbon affects the life of each European citizen and creates an even more significant influence for the developed policies on the part of the institutions of the Community. The economic crisis that takes place revealed the importance of the institutions of the European Union for the strengthening of the cooperation and solidarity between the 27 member states, as solution for the economic re-launch.

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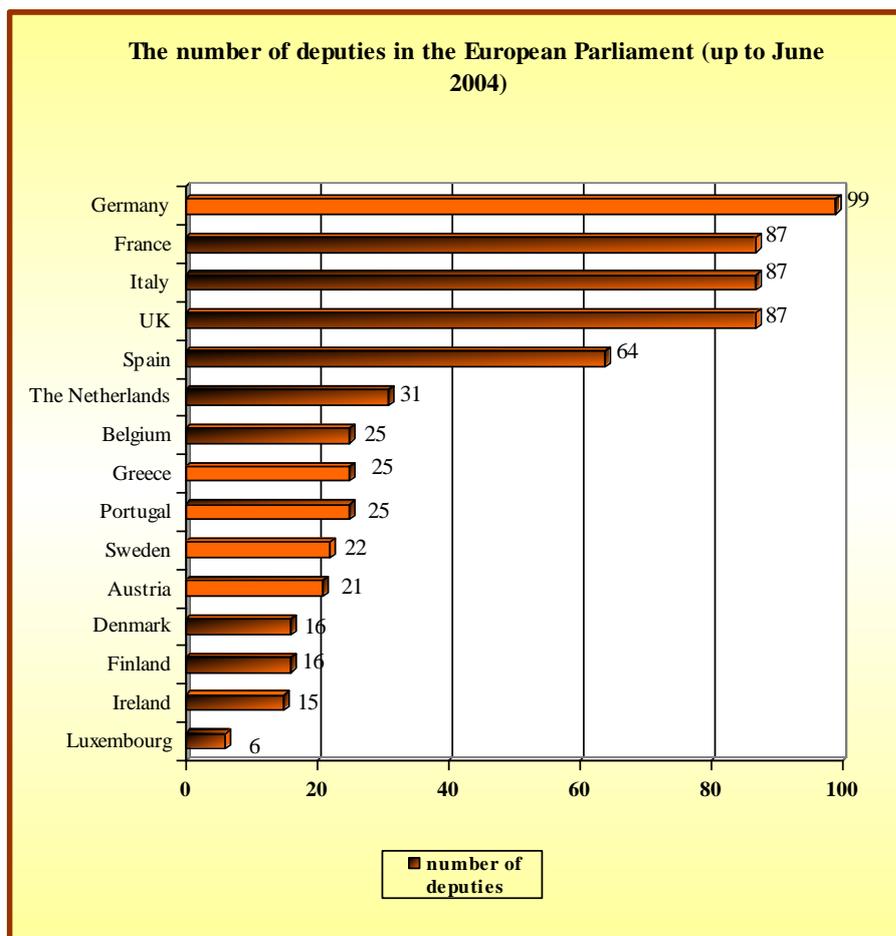
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**Appendix 1**

**The evolution of the distribution of the chairs of deputies in the European Parliament**

Appendix 1.1. The number of deputies in the European Parliament (up to June 2004)

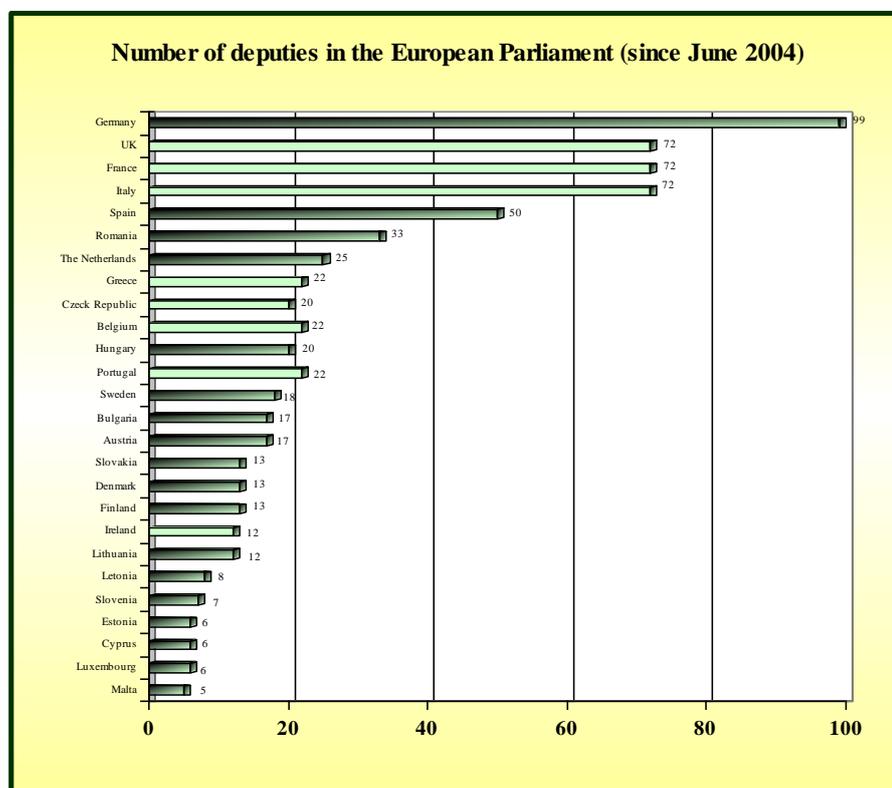
Germany	99	Portugal	25
France	87	Sweden	22
Italy	87	Austria	21
UK	87	Denmark	16
Spain	64	Finland	16
The Netherlands	31	Ireland	15
Belgium	25	Luxembourg	6
Greece	25	<b>TOTAL</b>	<b>626</b>



Appendix 1.2. Number of deputies in the European Parliament (since June 2004)

Germany	99	Bulgaria	17
UK	72	Austria	17
France	72	Slovakia	13
Italy	72	Denmark	13
Spain	50	Finland	13
Poland	50	Ireland	12
Romania	33	Lithuania	12
The Netherlands	25	Letonia	8
Greece	22	Slovenia	7
Czeck Republic	20	Estonia	6
Belgium	22	Cyprus	6
Hungary	20	Luxembourg	6
Portugal	22	Malta	5
Sweden	18	<b>TOTAL</b>	<b>732</b>

Source: The EU official site, section referring to the Parliament, [www.europa.eu](http://www.europa.eu). accessed on 15.07.2012.



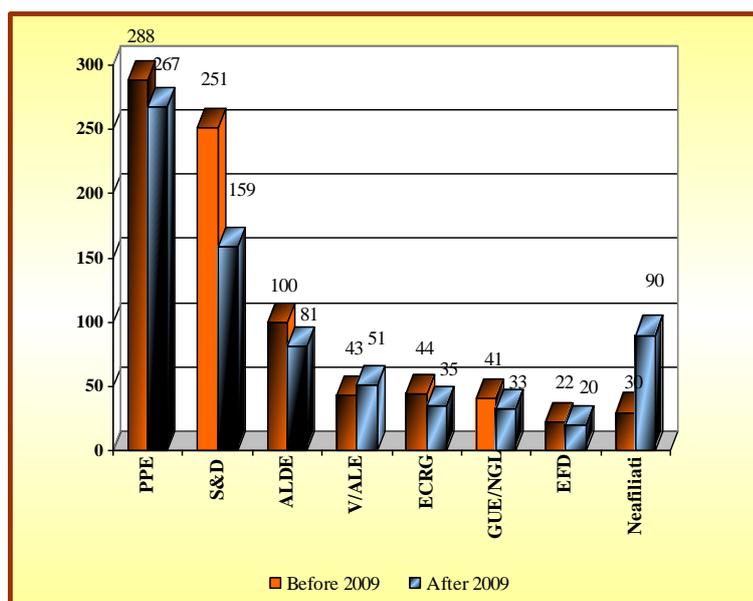
Appendix 1.3. The evolution of the deputy chairs in the European Parliament during 2004 – 2009

	Before Bulgaria and Romania's membership		After Bulgaria and Romania's membership	
		2004 elections	Before 2009 elections	After 2009 elections
<b>Member States</b>		<b>570</b>	<b>570</b>	<b>535</b>
Germany		99	99	99
France		78	78	72
Italy		78	78	72
UK		78	78	72
Spain		54	54	50
The Netherlands		27	27	25
Belgium		24	24	22
Greece		24	24	22
Portugal		24	24	22
Sweden		19	19	18
Austria		18	18	17
Denmark		14	14	13
Finland		14	14	13
Ireland		13	13	12
Luxembourg		6	6	6
<b>Countries which became members in 2004</b>		<b>162</b>	<b>162</b>	<b>151</b>
Poland		54	54	50
Czech Republic		24	24	22
Hungary		24	24	22
Slovakia		14	14	13
Lithuania		13	13	12
Letonia		9	9	8
Slovenia		7	7	7
Estonia		6	6	6
Cyprus		6	6	6
Malta		5	5	5
<b>Countries which became members in 2007</b>			<b>54</b>	<b>50</b>
Romania			35	33
Bulgaria			18	17
<b>Total</b>		<b>732</b>	<b>785</b>	<b>736</b>

Source: The EU official site, section referring to the Parliament, [www.europa.eu](http://www.europa.eu). accessed on 15.07.2012.

Appendix 1.4. European Parliament distribution of seats according to political groups before and after the 2009 elections

Political Groups	Before 2009 elections	After 2009 elections
<b>PPE</b> (conservatives)	288	267
<b>Socialist European Party -S&amp;D</b>	251	159
The Alliance of Democrats and Liberals (Alianța Democraților și Liberalilor) - <b>ALDE</b>	100	81
<b>Verzii - V/ALE</b>	43	51
The Union for a Europe of Nations (Uniunea pentru Europa Națiunilor) ( <b>eurosepticals</b> ) - ECRG	44	35
The Unitary European Left (Stânga Unitară europeană) ( <b>communists</b> ) – GUE/NGL	41	33
Independence and Democracy (Independență și Democrație)( <b>sovereign</b> ) - EFD	22	20
Non-affiliates, among which British conservatives and the Czeck, informing they were leaving the PPE (Neafiliați, printre care conservatorii britanici și cehii, care au anunțat că părăsesc PPE)	30	90
<b>Total</b>	<b>785</b>	<b>736</b>



**Appendix 2****European Parliament Accumulation of Powers**

<b>Year</b>	<b>Document</b>	<b>Powers earned</b>
1979	According to the previous documents	Budgetary powers, the influence on expenses related to common agricultural policies
1980	The Decision of the European Commission related to the Isoglucose	Strengthening of consultative role.
1986	Single European Act	Cooperation procedure introduced for certain legislative fields, amendment or blocking of some legislative acts
1992	The Treaty of Maastrich	Co-decision introduced for certain legislative fields, investment vote of the appointed Commission
1997	The Treaty of Amsterdam	An extended co-decision procedure, formal right to reject by veto the appointed president of the Commission
2001	The Treaty of Nice	Extended co-legislation and co-decision, increased control on the European institutions
2007	The Treaty of Lisbon	Consolidated role of the Parliament, elected by the EU citizens, major powers on legislation, EU budget and international agreements