PERSPECTIVE ON EUROPEAN PARLIAMENT'S POSITION IN THE COMMUNITY INSTITUTIONAL TRIANGLE

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Abstract

The present article intends to analyze the position occupied among the time by the European Parliament inside the process of creation of the communitary legislation reported to the others institutions of the European Union, respectively the European Commission and the European Council. Doing this analysis, we noticed the fact that following to the multiples changes of the communitary treaties, the European Parliament has enforced it's position, starting as a consultative body, the European Parliament has developed it's influence becoming an authority with power of decision equal to the one possessed by the European Council in most domains of the communitary legislation. This new position was acquired step by step by each modification of the communitary treaties, first by the creation of the decisional procedures which imply the collaboration between the European Parliament, the European Council and the European Commission, such as the cooperation procedure, the codecision procedure.

In the final part of the article, we stopped on the codecisional procedure, the procedure which marks the climax of the evolution registered by the European Parliament in acquiring the position of institution with legislative prerogatives. Through the introduction and the extension of the codecisional procedure, the European Parliament has obtained the colegislator position having a power of decision equal to the one possessed by the European Council. Finally, we have analyzed also the future position of the European Parliament from the perspective of the provisions included in the future Constitution of the European Union.

Keywords: communitary institutions, European Parliament, communitary legislation, codecisional procedures, codecision.

Chapter I – A first glance from chronological perspective at the European Parliament or how was the European Parliament envisioned since the origin of the Community treaties and up to the present time

By the coming into force of the Treaty of Paris establishing the European Coal and Steel Community (ECSC)[1], a body with executive powers was created,

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[1] The ESCS Treaty, signed on 18 April 1951 în Paris for 50-year term by six States: Germany, France, Italy, Luxembourg, Belgium and the Low Countries, entered into force on 23 July 1952.

the High Authority[2]. This fact generated the need to introduce a new institution in the Community structure, which was to operate as a body ensuring a parliamentary type of control, allowing the application of the democratic principles underlying the creation of the European Communities. Thus, it was decided that a parliamentary type assembly should be created, representing an emanation of the national parliaments of the Member States of the European Communities which, however, in the beginning was to be invested only with a consultative competence.

The model envisioned by the European Communities at the time of creation of the Community institutional architecture could be found in the institutional structure of the international organizations, such as NATO or the European Council. After the World War II these organizations formed a consultative assembly, and following this model the European Communities also added a consultative assembly, not endowed with a genuine decisional or control power, but which nevertheless had the power to issue endorsements whenever consulted on the main resolutions proposed by the European Commission.

In the 70s, a new step forward was taken in the development of this institution, as the parliamentary body acquired decisional powers limited only with respect to budgetary issues, nevertheless in time this assembly, transformed into the European Parliament, gradually evolved and in the end became a co-legislator, with the introduction of the codecision procedure under the Treaty of Maastricht[3]. This legislative procedure places the two Community institutions, the European Parliament and the European Councils, in positions of juridical equality in the Community legislative process, the two institutions functioning similarly to the model of the two chambers composing the national bicameral parliaments of the Member States.

We reckon that this increased power allocated to the European Parliament is founded on the strengthening of its legitimacy as a result of the election of its members by direct universal suffrage, beginning in 1979.

Chapter II – European Parliament's powers

Section 1. General powers of the European Parliament

Initially, the Treaty establishing the European Economic Community (EEC) described the powers of the European Parliament as "advisory and supervisory". This provision is rather limitative in its scope, and hence, by the coming into effect of the Treaty of Maastricht, article 189 introduced a new wording, pursuant to

[2] The ESCS Treated established the following three institutions besides the High Authority: the Council of Ministers; the Common Assembly and the Court of Justice.

[3] The Treaty of Maastricht, the establishment act of the European Union, was signed on 7 February 1992 and came into force one year later, on 1 November 1993.

which the „*The European Parliament shall exercise the powers conferred upon it by this Treaty"*. The Constitution for Europe goes ever further in defining the powers of this institution, expanding the sphere of activity of the European Parliament, thus article I–19 of the Constitution for Europe setting forth that the European Parliament exercises, jointly with the Council, legislative and budgetary functions, and besides those powers the Parliament is to exercise as well functions of consultation and political control.

Section 2. Essential aspects pertaining to the legislative function and decisional procedures

The legislation function at Community level consists in the adoption, through the European Union institutions, of certain acts of general application on the territory of the Member Sates, for the purpose of a direct application of the treaties concluded at the European Union level. The Parliament participates to the exercise of this function whenever its gives its assent to the Council to adopt an act, however the European Parliament may be called a legislator only in the case when it has decisional power in the procedure of adoption of legislative enactments, and not as well in the case when its role merely consists in giving a consultative assent which is not obligatory but merely orientative.

The main goal of the decisional procedures that can be accessed by the European Parliament is the enforcement of the political provisions of the treaties, however, besides that, via certain specific procedures the institution adopts the Community budget and participates to the conclusion of new treaties together with the executive.

The procedures applied during the decision making process at Community level are multifarious and diversified as against the existing situation in the Member States. This condition is due to the lack of homogeneity as regards the Community's exclusive competences, but also to the resistance of the States, that refuse to waive negotiations at intergovernmental level, so that they can not be obligated to comply with undesired laws.

Section 3. Historical approach of the European Parliament evolution along the Community legislative process

Ever since 1952, the two institutions of the European Community, the Council and the European Parliament, were placed on equal footing. The first president of the European Union, Konrad Adenauer, made a visionary statement in his first speech, when he compared these two institutions with the two chambers of a bicameral parliament. Although at that time, according to the applicable treaties, the scales clearly tipped in favor of the Council, it was only after about 50 years that this idea turned into reality. The Constitution for Europe is the one that

entrusted the Council and the Parliament with genuine legislative power, and henceforth the European Union is ever closer to the classic federal scheme where the laws are adopted by the two parliament chambers, one representing the States and the other representing the people.

In the beginning, the treaties entrusted to the Parliament a mere consultative role in the adoption of the Community legislation, in actual fact the legislative power at European level belonging solely to the Council.

A fist step was taken only with the adoption of the Single European Act[4], when the Parliament acquired the right to be consulted in that regard. However, this prior consultation was only obligatory in the cases provided for by the treaties, and took the form of a Parliament's assent. Mention should be made that in this procedure, whenever the European Parliament issued only an assent, the Council had the last word.

A further step forward was taken also by the coming into effect of the Single European Act, by the introduction of the cooperation procedure, which expanded the influence of the European Parliament on the Community's decision making process, however without entrusting it with genuine decisional powers.

A third and essential phase is represented by the coming into effect of the Treaty of Maastricht, which introduced for the first time on the European legislative scene the codecision procedure. This assumed that the Parliament and the Council were co-lawmakers, and for the time being shared at parity the legislative power only in relation to a limited number of areas, such as: internal market, free circulation and education. Moreover, the Parliament was given new competences over matters that could not be addressed by it before, therefore the Parliament's consent became instrumental in the adoption of resolutions on structural funds and on the conclusion of international agreements.

In a fourth phase, the revision treaties of Amsterdam[5] and Nice[6] expanded the codecision procedure, which became applicable in 35 areas, such as: health, fraud fighting, professional formation, environmental policy. The codecision progressed and surpassed the other procedures, as the consultative procedure underwent a considerable shrinking of its sphere of application, and the cooperation procedure was almost renounced.

The last step and the climax of the European Parliament's legislative evolution is the Treaty establishing a Constitution for Europe[7] which, though not effective as yet, consecrates codesion as the ordinary procedure for the adoption of legislative enactments at Community level, being applicable to 89 areas, of which we remind

[4] The Single European Act was negotiated at the Intergovernmental Conference held between 9 September 1985 – 17 February 1986, and came into effect on 1 July 1987.

[5] The Treaty of Amsterdam was signed on 2 October 1997 and entered into force on 1 May 1999.

[6] The Treaty of Nice was signed on 26 February 2001 and came into effect two years later, on 1 February 2003.

[7] On 29 October 2004, the Treaty establishing a Constitution for Europe was signed in Rome.

here: the intellectual property rights, the common agricultural policy, the worker protection, the judicial cooperation in criminal matters.

A genuine democratic progress has been achieved in this last phase, and at the same time the Parliament completed its evolution in the deliberative area, and turned into a colegislator in principle. In accordance with the Constitution for Europe, the Parliament also has the possibility to give its assent with reference to the Council's texts, assent that is not only orientative, consultative, but has obligatory force. Notwithstanding that, we should not understand that the European Parliament is a co-lawmaker in all the situations pertaining to the adoption of legislative enactments, as a matter of fact there are still certain cases when the Council legiferates itself or after a mere consultation of the Parliament.

Chapter III – Assessment of the currently applicable legislative procedures

At present, we can affirm with certainty that the European Parliament participates to the elaboration of the Community legislative acts, having a significant or formal involvement, contingent upon the relevant juridical basis of each such individual act. We have to emphasize once more that its role has underwent a progressive evolution, from a solely consultative participation to codecision, where it stands on equal footing with the European Council.

For the purposes of a final assessment, we have to specify that the Parliament's legislative power is exercised via four distinct legislative procedures, contingent upon the nature of the concerned proposal, namely: consultation, codecision, assent and cooperation.

The first decisional procedure is the simple consultation, under which the Parliament gives a consultative opinion that does not juridically restrict the Council's power to take action.

Codesion, the second legislative procedures, allows the European Parliament to prevent the adoption of the Commission's legislative proposal, whenever the Council's common position does not reflect as well the Parliament's opinion. The Treaty of Amsterdam extends this procedure and simplifies it, in order to increase its efficacy.

The third procedure is the assent, which is used for agreements of association with third countries, agreements of accession of new member States, or for instituting a strengthened cooperation in the areas where codecision applies. The assent is obligatory from the juridical viewpoint, and as such has to be observed by the Council.

The fourth and last decisional procedure is the cooperation, which after the coming into effect of the Treaty of Amsterdam applies solely in the area of economic and monetary union. This is used whenever the parliament opinion after the first reading is not taken into account by the Council's common position, so

that at the second reading the Parliament may reject the proposal. The Parliament's opposition may only be surmounted by the Council's unanimous voting.

Chapter IV – Codecision procedure, expression of the progress achieved by the European Parliament within the European Union's institutional structure

Section 1. Evolution of procedure

We deem it beneficial to pay attention to the development and explanation of codecision, a decisional procedure utterly important from the perspective of how are at present adopted a large part of the Community laws and, at the same time, a true image of how is the Community institutional structure tailored at the present moment.

Therefore, as we have already mentioned before, the most significant change as regards the development of the European Parliament's powers is the introduction of the relatively new legislative procedure of codecision. The codecision legislative procedure was launched by the Treaty of Maastricht, and subsequently significantly extended and simplified by the Treaty of Amsterdam. Later on, under the auspices of the Constitution, the codecision becomes the ordinary legislative procedure, being applied to the large majority of the European laws.

This consecration confirms the institutional movement towards a bicameral legislative authority, where the European Parliament and Council adopt the laws in conjunction, the adoption of the Community laws requiring the consent of both these bodies.

2. Applicability of codecision procedure under the successive Community treaties

Initially, after the adoption of the Treaty of Maastricht, the codecision procedure[8] was applicable in only 15 areas, which represented a quarter of all the texts passed through the Parliament. These areas included internal market, public health, consumer protection, educational and cultural measures, and workers freedom of movement.

After the coming into effect of the Treaty of Amsterdam, the codecision procedure was simplified as a result of an increased number of the areas in which the qualified majority was sufficient and, at the same time, this procedure was extended to other areas as well, such as: transports, fraud fighting, cooperation development, environmental policy, nondiscrimination, and social policy. Pursuant to this change, the codecision came to cover 38 legislative areas. The Council's

[8] Codecision procedure is regulated in article 189 B.

unanimity was required with reference to only four of these areas, for all the others the qualified majority being applicable.

The Nice Treaty does not expand the codecision procedure as much as we would have expected, however it adds five new areas[9], so that the codecision is currently applicable to 43 areas, of which we remind as novelties the judicial cooperation in civil and criminal matters, the industrial policy and the rules governing the political parties at European level, the measures pertaining to asylum, refugees and clandestine immigration. In the aftermath of these legislative changes, there are still three areas[10] which require the Council's unanimity.

In these conditions, we can now assert that the codecision is the normal legislative procedure, since it is applicable to more than half of the primary Community legislation. We remind herewith a number of legislative areas where codecision applies: right of free movement and residence of the citizens on the territory of the Member States, border control and rules on visas, sea and air transport, harmonization of internal market, research, data protection by the establishment of an independent supervisory body, transparency – general principles and limits of the access to documents, education, and also a number of areas where the codecision procedure is not applicable: agriculture, fishing, tax matters, trade policies, State aids, industrial policy, competition and the economic and monetary union.

3. Applicability of codecision procedure under the Constitution

Unlike the limited expansion of the codecision under the auspices of the Treaty of Nice, the European Constitution proves the Member States' availability to apply the codecision to the majority of the Community areas. All the States accepted at the Inter Governmental Conference of 2004 the argument that the procedure was beneficial in the process of strengthening the European legislation legitimacy and should be the normal procedure to adopt European laws. Thus, the Inter Governmental Conference, which concluded its proceedings in June 2004, in Brussels, accepted to define the codecision as the ordinary legislative procedure, applicable to the majority of the Community laws.

Article I–33 defines the essential elements of the procedure, setting forth that the laws and the framework laws are to be adopted, on the basis of proposals by the European Commission, jointly by the Parliament and the Council.

Article III–302 of the Constitution describes the procedures, however in fact it reproduces article 251 of the TCE. The changes occurred appear as purely formal. The development stages of the procedure are synthetically referred to as:

[9] Articles 13 par 2, 65, 157 para 3, 159 paras 3 and 191 of the Treaty of Nice.

[10] Article 42 on the workers freedom of movement, 47 para (2) on the measures relating to self-employed persons, and art. 151 para (5) referring to the measure to encourage the culture, of the Treaty of Nice.

the first reading, the second reading, the conciliation and the third reading. The word assent disappears from the first stage and is replaced by the wording position of the Parliament.

Pursuant to the constitutional changes, the number of areas where the codecision applies doubles, being covered by 90 articles, which represent almost all the relevant spheres of action of the European Union. Along this guideline, the Constitution eliminates important exceptions from the codecision application, for example the agriculture and fishing, however it further on maintains certain significant exceptions, pertaining to the constitutional order of the Member States (such as the European citizenship), sensible domains (taxation, social policies), areas deemed as "sovereign rights", as well as the foreign affairs and security policy.

According to the Constitution, the codecision procedure becomes applicable to new areas, such as: citizens initiative, European spatial policy, judicial cooperation in civil matters with transborder implications, social integration of citizens from third parties, human health protection, encouragement of sports activities, administrative cooperation, services of general economic interest, tourism and humanitary aid. At the same time, certain juridical grounds regarding the European Central Bank and the European System of Central Banks, the structural funds and the unity fund which involved the asset procedure shall also be ruled by the codecision procedure. As well, the codecision shall be applicable in certain domains previously regulated by the consultation procedure, thus we should mention a series of juridical grounds concerning justice and internal affaires, especially Eurojust, Europol, certain aspects regarding the police cooperation, the harmonization of the penal legislation, borders control, the asylum and the and the immigration. The finalization of the internal market in the energy domain, some aspects concerning the competition and the organizations on the common market inside the common agricultural policy, as well as the protection of the intellectual property shall also be regulated by the „ordinary legislative procedure", together with certain domains in which previously the European Parliament had no competence: the capitals circulation to or from third countries and the common commercial policy.

Despite all this progresses registered by the codecision procedure, the Constitution maintain also other legislative procedures as: the consultation procedure and the cooperation procedure, the last one being applicable in a sole matter.

Notwithstanding this evolution of the European Parliament's role on the Community legislative scene, there are still areas where the Parliament has no say, such as the expansion of the freedom to supply services to the third counties, the capital movement towards or from the third countries, the measures on the use of Euro currency, the framework of administrative measures pertaining to the movement of capitals and payments aimed at preventing and fighting the terrorism and related activities.

If we are looking in perspective, we can observe few new domains in which the codecision may become the applicable procedure, more exactly the environment

protection, aspects regarding the family legislation with cross borders implications, social policy.

4. Introductory presentation of codecision concept

In pursuance of article 251 of the TCE, the codecision is the central legislative procedure of the European Union. This is founded on the principle of parity between the directly elected European Parliament, representing the Union's people, and the Council, as representative of the governments of the Member States. Neither one of these two institutions may adopt the Community laws without the consent of the other institution, and each is obligated to find the appropriate means of surmounting any possible disagreements between them. Should no agreement be reached pursuant to the intervention of the conciliation committee, the text will be deemed as not to have been adopted, and the only possibility to adopt a law in the respective area is to commence a new legislative approach, pursuant to a new legislative proposal made by the European Commission.

The codecision appears as a procedure developed along several stages, on the basis of the dialogue between the European Parliament and the Council, supervised by the European Commission. This procedure may prove to be very short, whenever the Parliament and the Council reach an agreement in an expedient fashion, nevertheless otherwise it may be prolonged and intricate, and may even lead to a deadlock. The disagreement between the two institutions does not always lies in the content of the text, but may also originate in the modalities of exercise of the delegated executive powers.

5. Codecision development scheme

First of all, we point to the fact that the starting point of this decisional procedure is the legislative procedure launched by the European Commission and submitted to the Parliament and the Commission.

As a matter of fact, the completion of the codecision procedure may involve three hypotheses, each having certain sub-hypotheses.

The first hypothesis is known as the adoption after the first reading, which in practice can materialize into two possible courses of action.

The first one refers to the case when the Parliament submits to the Council a position which does not contain any amendment proposal. The Council subjects the same to debate and, if the required qualified majority is obtained, the text is adopted, its content being identical to the proposal initiated by the European Commission.

In a second sub-hypothesis, the Parliament submits to the Council its opinion comprising amendment proposals. The Council has to unanimously approve the respective amendments departing from the proposal formulated by the Commission, while the amendments consistent with the legislative proposal require only a

qualified majority. Eventually, the Commission may intervene in order to amend the proposal text consistently with the amendments raised by the Parliament, thus as to facilitate in the end the adoption of the respective text by the Council. In this case, the adopted text is that desired by the Parliament.

The second hypothesis is known as the adoption or rejection after the second reading. The Parliament amends the proposal and submits its position to the Council. The Council does not agree with the text as amended by the Parliament, and consequently formulates a common position, and thereafter submits it to the Parliament together with the rationale underlying the adoption of the same. If the common position is founded on the amendments brought to the Commission's proposal, the respective amendments have to be unanimously adopted. At that point, the European Commission has to submit to the Parliament its position on the Council's common position.

The first sub-hypothesis assumes that the Parliament would specifically or tacitly approve the Council's common position. The tacit approval occurs if, within three months from the submittal of the common position to the Parliament, the latter fails to adopt a position or take any action. In that case, the legislative text will be founded on the common position of the European Council.

The second sub-hypothesis is more unfortunate, since the Parliament rejects with absolute majority of its members the Council's common position, and thus the proposed text will be deemed as not to have been adopted.

The third possible hypothesis refers to the case when the Parliament amends the common position by the majority of its members. The text would be submitted to the Council, and the Council would issue its position thereon.

A first sub-hypothesis leaves from the three-month time limit available to the Council from the receipt of the amendments brought to the common position. During this timeframe, the Council may approve by qualified majority the amendments making the subject matter of a positive opinion of the Commission, while the rejected amendments require a unanimous approval. If all the amendments are approved, the adopted text will take the form of the amended common position.

In the second course of action, if the European Council rejects all the amendments, the President of the Council in agreement with the President of the Parliament must convene within six weeks a conciliation committee. This committee is composed of all the members of the Council, more specifically of their representatives, and of an equal number of Euro deputies, representing various political groups within the European Parliament. The committee will be alternatively chaired during the respective six weeks by the President of the Council and the President of the Parliament. The Commission will participate to the proceedings of this committee, and may take all necessary initiatives with a view to reconciling the positions of the two institutions. The working base of the committee is represented by the text that could not be adopted by the Council, and its goal is to find a text sensibly different, lightly amended, that is likely to obtain

the required qualified majority of the Council and the Parliament's favorable voting. The committee has six weeks to deliberate, at the end of which the two concerned parties will separately vote on the text established by it, the Council by qualified majority, and the Parliament by the majority of its members.

Henceforth there are two sub-hypothesis, the first assuming the approval by the committee of a common draft, which is submitted to the Council and to the Parliament. Each institution has thereafter six weeks to form its position. The text will be deemed adopted if adopted by the both institutions, which however cannot amend it, namely by the Council's qualified majority and by the Parliament's absolute majority. If either institution rejects it, the text will be deemed as not to have been adopted. The second hypothesis is simpler, as the committee does not adopt any common draft, and consequently the respective text will be deemed as not having been adopted.

As a last specification, we mention the fact that each term provided for this procedure, either being one of three months or of six weeks, may be prolonged with a month, respectively with two weeks at the request of the European Parliament or of the Council.

6. Technical aspects pertaining to the certain phases of the codecision

After intense discussions between the three Community institutions, the Parliament, the Commission and the Council, in 1999 these signed a Joint Declaration on the practical arrangements regarding the new codecision procedure. More recently, at the end of 2003, the president of the Parliament and the President of the Council reached an agreement pursuant to which they would meet in Strasbourg to sign the legislative acts adopted under the codecision procedure, in order to ensure a fast publication of the acts jointly adopted by the two institutions.

Mention should be made that both institutions have discussed the manner of maximizing the advantages of the codecision procedures. For that reason, the European Parliament is examining two models in order to decide on the composition of its delegation in the conciliation committee. The first model is the American one, founded on the creation of an ad-hoc delegation for the settlement of each legislative disagreement occurred between the Senate and the Chamber of Representatives. The second model is the German one, characterized by the presence of a standing conciliation committee, dealing with each legislative disagreement occurred between the Bundesrat and the Bundestag. The Parliament opted for a compromise solution, a middle path between the respective two systems, a kind of *mélange*, so that the delegation of this institution in the conciliation committee would be composed of three standing members elected from the vice-presidents of the European Parliament, and other representatives from among the members of the parliament committee in charge of the respective matter. A number of attempts have been made in time to amend this system, in the

sense of drawing it closer to the German model, nevertheless the advantages of the current structures, ensuring a wide participation to the conciliation, have prevailed.

Moreover, the delegation as a whole should reflect the political equilibrium in the Parliament, therefore each parliament group would nominate its own members of the delegation, but also an equal number of standby members, which would have full rights in case of a substitution.

The conciliation meetings inside the codecision procedure are formally chaired by the leaders of the Parliament and Council delegations, but, in fact, these are chaired alternatively by one of the presidents of the two institutions.

As a matter a fact, these meetings should be attended by the two delegations of the Parliament and of the Council, however in reality the participation is much more numerous, as each member of the Council's delegation is usually accompanied by two – three other officials, the Parliament's delegation is accompanied by several consultants and assistants, and the Commission always comes with a large staff, in order to offer the required support to the Commission members attending the procedure. In these conditions, more than one hundred persons can often be found in one room on the occasion of a meeting of the entire conciliation committee. Taking into account this fact, the trend of preliminary contacts between the Parliament's, Council's and Commission's representatives emerged around 1994 – 1995. These meetings, known as trialogues, became an essential phase of the conciliation, as each party has the opportunity to negotiate more freely a compromise there than in the plenum of the conciliation committee.

The meetings which are attended by the entire conciliation committee are very long, because they are frequently interrupted to let time to the Parliament and Council delegations to meet on their own to decide if they will accept the compromise discussed in the plenary meeting. Therewith the practice shows that each party organize it's own meetings having as theme the strategy to be followed in the committee.

More concretely, the facts evolve in stages according to the following scenario: the Council informs the Parliament that it can not accept all the latter's amendments submitted after the second reading. The Parliament's delegation is nominated and organizes a first preparatory meeting, in order to decide on the strategy in the committee, and give a mandate for negotiations to its representatives. Subsequently, trialogues take place to examine the differences between the positions of the two delegations, and to seek a possible compromise, and in the end each party further informs its own delegation about those established on the occasion of the respective trialogue.

In the case of less controversial files, where no significant divergences of opinions exist, the procedure may be reduced to a series of trialogues and meetings of the delegates. Thereafter, in a future meeting of the conciliation committee held for another legislative topic, the elected solution is subjected to a formal approval, with no debates. Whenever the disagreement is profound, the two parties will agree on a date for the convening the conciliation committee in its plenum.

Each conciliation session should ensure the reaching of an agreement, and for that the parties have a time limit of six weeks, which can be extended at the initiative of either institution up to eight weeks. In order to fully use this legal term, the conciliation is always officially opened in the same day when the first meeting of the conciliation committee is held, and not sooner.

Once the parties have reached a mutually agreed upon solution, the translators intervene and examine the text. After the completion of this stage, the text was subjected to the Parliament's and Council's approval by simple majority in the past, and is nowadays approved by a qualified majority. After its approval, the text is signed by the President of the Parliament and the President of the Council, and thereafter published in the Official Journal, and thus becomes applicable law, that is, part of the Community legislation, which both signatory parties as well as the Member States are obligated to observe and safeguard, especially when subjected to the judgment of the Court of Justice of the European Communities.

7. The impact of the codecision procedure. The increase of the importance and applicability of the codecision

At the beginning of the year 1993, everyone was tented to affirm that, in fact, the Council of ministers doesn't prove a fundamental change of attitude regarding the European Parliament. During forty years, the council has enjoyed a plenary supremacy in the legislative plan, for this reason the Council could be eager to find the ways to keep this position. The results of the introduction of the codecision procedure after more than 10 years from it's setting up confute this point of view. Thus we can count five cases in which the European Parliament has stopped the adoption of some legislative proposals, such as the directive concerning the licensing and the biotechnological inventions or the liberalization of the port services. In these situations, the plenum of the European Parliament has refused to ratify the results of the negotiations organized within the conciliation.

Although, the impact of the European Parliament in the communitary decisional procedure does not only reduce to the adoption or not in the end of the communitary legislation. Along the time, the parliament knows an evolution in qualitative and quantitative terms, thus, the first achievements appeared at the same time with the introduction of the consultation and cooperation procedure. After this first steps, follows the implementation of the codecision which brings a new progress in the legislative field.

Regarding the juridical base used by the European Parliament for the application of the codecision it is necessary to mention the fact that are used all the articles regarding the codecision, except for two articles, 35 and 46. The most frequently cited article for the resort to the codecision procedure is article 95 regarding the harmonization of the internal market, this being followed by article 175 concerning

the environment, then we have article 20 second paragraph regarding the maritime and aerial transport, article 152 concerning the public healthiness and, finally, article 47 second p0aragraph regarding the sojourn right.

Among the parliamentary commissions the most active in the last period we can mention the commissions for environment, public health and consumer policy, than follows the commission for the regional politics, transports and tourism, the legal commission and for internal market, than follows the industry commission, for foreign trade, research and energy and finally the economic and monetary commission.

Chapter V – Conclusion on the legislative evolution of the European Parliament

The European Parliament's role in the Community legislative procedure underwent a gradual but profound evolution, from no role at all to the status of consultative body, and in the end to the role of co-lawmaker jointly with the European Council. The Parliament proved its capacity to have legislative initiative in the areas of public interest, to impose substantial amendments of major legislative proposals, and to determine the Council to review significant issues included in numerous adopted common positions.

The expansion of the European Parliament's political influence may also be proved by the extension of the areas which can be addressed by it. We give the example of the foreign affairs polity, area in respect of which the European Council has to consult the Parliament in the form of recommendations or resolutions. Another example is the trade policy, area where any negotiation with the World Trade Organization (WTO) requires the Parliament's consent. We should not neglect the fact that in the sphere of the protection of fundamental rights at international level the Parliament also has an ever increasing significant role.

Notwithstanding that, the European Parliament is not sovereign, and is also not a Parliament whose powers are exerted in practice in order to make legitimate the executive's legislative desires, but the European Parliament is an independent institution, which does not require a permanent majority coalition, and whose members are not compelled to support a given majority of the executive, as in the case of the internal law of certain States. As a matter of fact, the European Parliament may be compared to the Congress of the United States of American, which enjoys its own identity, an independent legitimacy and separation from the executive, at the same time interacting intensely with the executive.

At this moment, the European Parliament is a clearly identifiable part of the Community institutional triangle, this status being truly remarkable if we look at the facts from the historical perspective. The expression "institutional triangle" has been improperly used for two decades, as with reference to those stages of the

Community construction we can not talk about a legislative, decisional structure having three poles, but merely about a bicephalic institutional structure represented by the European Commission and the European Council. Nowadays, the discussions are focused on maintaining and improving the position of equality won by the Parliament as against the other two institutions, and on the European electorate's awareness of the increased contribution of the European Parliament to the determination of the content of the Community laws, which regard and affect all of us.