

THE LEGAL FRAMEWORK OF THE ELECTIONS FOR THE EUROPEAN PARLIAMENT IN ROMANIA

Laura Magdalena TROCAN
University Lecturer Ph.D.

Faculty of International Relations, Law and Administrative Sciences,
“Constantin Brâncuși” University of Târgu-Jiu, Romania,

ABSTRACT: WITH THE ACQUISITION OF MEMBER STATE STATUS IN THE EUROPEAN UNION, ROMANIA HAS GONE FROM ACTIVE OBSERVER STATUS, AFTER SIGNING THE TREATY OF ACCESSION IN 2005, TO THE FULL MEMBER OF EUROPEAN UNION SINCE 2007 AND BECAME THE SEVENTH COUNTRY IN THE EUROPEAN UNION BY THE NUMBER OF INHABITANTS. FIRST ELECTIONS FOR A FULL TERM MANDATE IN THE EUROPEAN PARLIAMENT WERE HELD IN ROMANIA, IN 2009. AFTER THESE ELECTIONS, ROMANIA HAS SENT IN THE EUROPEAN PARLIAMENT A NUMBER OF 33 REPRESENTATIVES. IN ROMANIA, THE EUROPEAN PARLIAMENT ELECTIONS TAKE PLACE LARGELY UNDER NATIONAL LAW BUT WITH RESPECT THE COMMON RULES ESTABLISHED AT EUROPEAN UNION LEVEL REGARDING: GENDER EQUALITY, SECRET VOTE, DIRECT UNIVERSAL SUFFRAGE AND PROPORTIONAL REPRESENTATION. THE PURPOSE OF THIS ARTICLE IS TO PRESENT AND ANALYZE THE ROMANIAN LEGAL FRAMEWORK REGARDING THE ORGANIZATION AND CONDUCT OF ELECTIONS FOR THE EUROPEAN PARLIAMENT.

KEY WORDS: EUROPEAN PARLIAMENT, ELECTIONS FOR THE EUROPEAN PARLIAMENT, THE RIGHT TO ELECT AND TO BE ELECTED IN THE EUROPEAN PARLIAMENT, CANDIDATURE FOR THE EUROPEAN PARLIAMENT

The juridical framework regarding the organisation and development of the elections for the European Parliament in Romania. The document regarding the election of the European Parliament members by a direct universal suffrage annexed to Decision 76/787/CECO,CEE, EUROATOM (adopted on September 20th, 1976) has opened a new perspective on the interest representation in a supra-state framework and it has introduced a new actor on the international political stage (reserved for the states): the citizen[1]. Thus, democracy, at the level of the European Union member states, has been manifested since 1979[2], not only by means of the national parliaments, but also by means of the European Parliament[3]. According to the stipulations of art. 14, paragraph 2 of the Treaty regarding the European Union, as it was amended by the 2009 Lisbon Treaty “The European Parliament is composed of the representatives of the Union citizens. Their number cannot be over seven hundred fifty, plus the president. The citizens’ representation is proportionally provided in a descending way, with a minimum limit of six members for each member state. No state can have more than ninety-six places”. Romania’s accession

to the European Union in January 2007 also determined the amendment of the legislative framework in the electoral matter. Expressing the article 38 of the 1991 Romanian Constitution amended in 2003, regulating the Romanian citizens' right to be elected in the European Parliament, the Romanian legislator adopted a legislative document establishing the general juridical framework for the organisation and development of the elections for the European Parliament, namely Law no. 33/2007 published in the Official Gazette no. 28 from January 16th, 2007 and republished in the Official Gazette no. 627/August 31st, 2012[4]. The European regulations in matter are added to this regulation[5].

The election procedure and the mandate duration for the European Parliament. According to the stipulations of art. 1, paragraph 2 of Law no. 33/2007 the European Parliament members from Romania are elected by a universal, equal, direct, secret and freely expressed vote, in the conditions stipulated by the national regulations and by the European Union regulations. According to art. 4, paragraph 1 of Law no. 33/2007 the European Parliament members from Romania are elected based on a list poll, according to the proportional representation principle[6], and based on independent candidatures. According to the stipulations of art. 1, paragraph 3 of Law no. 33/2007 and to the ones of art. 14, paragraph 3 of the Treaty regarding the European Union as it was amended by the 2009 Lisbon Treaty, the mandates of the European Parliament members from Romania last for 5 years.

Who has the right to be elected in the European Parliament. Based on art. 5, paragraph 7 of Law no. 33/2007 the Romanian citizens having the right to vote and who have turned 23 years old until the reference day, have the right to be elected in the European Parliament. The same right is enjoyed by the Romanian citizens having their domicile or residence abroad and they have the right to vote according to the stipulations of Law no. 33/2007. At the same time, as a result of Romania's accession to the European Union, the citizens of the European Union member states, having their residence or domicile on Romania's territory, have the right to vote and to be elected as European Parliament members from Romania, in the same conditions as the Romanian citizens, only if they accomplish the requirements of Law no. 33/2007[7]. We should specify that, for the election of the European Parliament members from Romania, both the national elector[8], and the community elector[9] have the right to only one vote[10]. Law 33/2007 also stipulates that the Romanian citizens being a part of the following categories: the judges of the Constitutional Court, the people lawyers, the army active members, the policemen and other categories of civil servants[11], including the ones having a special status, established by an organic law, cannot be elected as European Parliament members from Romania[12]. The same interdiction also applies to the community eligible persons being a part of categories similar to the ones stipulated above, in the states whose citizens they are[13]. The national legislative stipulations also stipulate the fact that, without reaching the incompatibilities stipulated by the 1976 Document regarding the election of the European Parliament members by a direct universal vote, as further amended, the European Parliament membership is incompatible with the deputy or senator quality in the Romanian Parliament, with the membership of the Romanian Government, with the functions stipulated by art. 81 and 82 of Book I, Title IV, Chapter III, Section 2 of Law no. 161/2003 regarding some measures for providing the transparency in exerting the public dignities, the public functions and the business environment, the corruption prevention and sanctioning, as further amended and completed[14], or with equivalent function from the European Union member states. The persons placed in the incompatibility situation should

choose, in a 30 day term since the result validation for the European Parliament, between the European Parliamentary mandate and the function generating the incompatibility, quitting from one of these functions[15].

Which are the persons who may exert the right to vote for the European Parliament? According to art. 5, paragraph 5 of Law no. 33/2007 – the Romanian citizens who had turned 18 years old until the reference day, have the right to elect European Parliament members from Romania. Law no. 33/2007 also institutes the interdiction to vote regarding the feeble-minded and the mentally alienated persons under interdiction and the persons who are sentenced to lose their electoral rights by a permanent judicial decision, the voting day for the European Parliament members from Romania[16]. As we showed above, the citizens of the European Union member states, having the residence or the domicile on Romania’s territory, have the right to vote for the European Parliament, in the same conditions as the Romanian citizens, under the reserve of accomplishing the conditions spotlighted above.

The entities administrating the development of the elections for the European Parliament in Romania. According to art. 65, paragraph 5 of Law no. 33/2007, the Permanent Electoral Authority, together with the competent public authorities[17] accomplish the formalities necessary for accepting the members from Romania in the European Parliament. For electing the members from Romania in the European Parliament, Romania’s territory constitutes an only electoral circumscription[18] and according to the stipulations of art. 21, paragraph 1 of Law no. 33/2007, for the organisation and development of the operations specific to the electoral time, there are the Central Electoral Office[19], the county electoral offices[20], the electoral office for the voting sections abroad[21], the electoral offices of the sectors of Bucharest municipality and the electoral offices of the voting[22] sections[23], whose tasks are expressly stipulated by Law no. 33/2007. According to art. 67 of Law no. 33/2007 the expenses for the accomplishment of the electoral operations are supported by the state budget.

The electoral lists. According to the stipulations of art. 11, 12 and 13 of Law no. 33/2007 the electoral lists are permanent, special and additional. 60 days before the reference day, the latest, the citizens having the right to vote from the European Union member states, different from Romania, having their domicile and the residence in Romania, may complete registration applications for the special electoral lists. These applications are made in written at the mayor of the domicile or residence town, accompanied by a copy of a valid identity document[24]. According to art. 13, paragraph 1 of Law no. 33/2007, the additional electoral lists contain national electors who are in another town different from the domicile one the reference day and who may exert their right to vote in any voting section. The electoral office members of the voting section are registered on these additional lists and the persons responsible for keeping the order vote at the voting section where they develop their activity and they are registered on the additional electoral lists. Also, the national electors exerting their right to vote by means of a special urn are registered on the additional electoral lists.

The candidate lists for the European Parliament. In case of the election based on a list poll, according to the stipulations of art. 16, paragraph 1 of Law no. 33/2007 may suggest candidate lists only as the political parties, the political alliances and the citizen organisations belonging to the national minorities legally constituted, and also the electoral alliances. The candidate lists[25] for electing the members from Romania in the European Parliament should be laid down at the Central Electoral Office, 60 days before the

reference day, the latest[26]. For being registered at the Central Electoral Office, the candidate lists[27] suggested by the political parties, the citizen organisations belonging to the national minorities, the political alliances or the electoral alliances should be accompanied by a list containing at least 200,000 supporters[28].

According to the stipulations of art. 16, paragraph 5 of Law no. 33/2007 the candidate list should be accompanied by the following documents:

- a) a copy of the supporter list;
- b) the copy of every candidate's identity document;
- c) the acceptance declarations of the candidature;
- d) the candidates' fortune and interest declarations[29];
- e) the candidates' affidavit whether they were or not employees or collaborators of the Romanian Security.

The independent candidatures for the European Parliament. If there are independent candidatures, the stipulations of Law no. 33/2007 specify that the Romanian citizen or the citizen of another European Union member state having the right to be elected and who is supported by at least 100,000 electors, may candidate independently. According to art. 17, paragraph 1 and 2 of Law no. 33/2007 the admission demand of the independent candidature is laid down at the Central Electoral Office, in 4 copies, at least 60 days before the reference day, and it should be accompanied by a copy of the supporter list, the copy of the identity document, the admission declaration of the candidature, the fortune and interest declaration, the affidavit whether they were or not employees or collaborators of the Romanian Security. In case of the candidature of a citizen of the European Union member state, different from Romania, according to art. 14, paragraph 1 of Law no. 33/2007, when laying down the candidature, he should present: a) an affidavit specifying the citizenship, the date and place of birth, the last address in origin state, the domicile or residence address from Romania, the local collectivity or the circumscription of the state whose citizen is, was registered for the last time on the electoral list and that he does not candidate for the elections for the European Parliament in another member state of the European Union; b) a certificate released by the competent authority from the state whose citizen he is, attesting that he did not miss the right to be elected in that state by means of a permanent judicial decision or that such an interdiction is not known by this authority; c) a valid identity document.

Checking the candidatures for the European Parliament. After laying down the candidatures, the Central Electoral Office checks the accomplishment of the content and form conditions stipulated by Law no. 33/2007 for candidatures and it accepts the candidatures accomplishing these conditions or rejects the candidatures which do not accomplish the legal conditions, in a maximum 5 day term since their registration[30]. Until reaching 45 days before the reference day, the national electors, the community electors, the political parties, the citizen organisations belonging to the national minorities, the political alliances and the electoral alliances may contest the candidatures. The contestations are solved by Bucharest Court in a maximum two day term since the registration, and there may be an appeal against the decision of Bucharest Court at Bucharest Appeal Court. This court pronounces by a permanent decision in a two day term since the registration[31].

Giving up the candidature/retiring the candidatures for the European Parliament. Law no. 33/2007 also regulates the possibility to give up the candidature which may occur until the date of the permanent remaining of the candidatures, worded by

means of an affidavit laid down at the Central Electoral Office. At the same time, the political parties, the citizen organisations belonging to the national minorities and the political or electoral alliances may retire candidatures from the list and they may lay down other suggestions for completing the candidate list until the deadline for laying down the candidatures. The candidature retirement is made by a written application signed by the same persons signing the initial candidate lists[32]. As an exception from the ones specified above, in case of giving up the candidature or in case of a candidate's death after the deadline for laying down the candidatures, the political parties, the citizen organisations belonging to the national minorities and the political or electoral alliances have no possibility to replace the candidate.

The electoral campaign for the European Parliament. As it is specified in art. 35, paragraph 1 of Law no. 33/2007 the electoral campaign starts 30 days before the reference day and it ends the Saturday morning before the reference day, at 7 o'clock. In the electoral campaign, the candidates, the political parties, the political alliances and the electoral alliances, the citizen organisations belonging to the national minorities participating to elections, and also the citizens have the right to express freely their opinions, with no discrimination, by meetings, assemblies, marches, and also by means of mass-media. The organisation of the meetings, assemblies and marches may be made only by means of the authorisations stipulated by the valid legislation[33]. We specify that the electoral campaign actions of any kind are forbidden in the military units, in the educational units, during the educational program, in the headquarters of the diplomatic representations, and also in penitentiaries.

The electoral campaign, by the public and private audio-visual programs, should serve the following general interests:

- a) the interests of the electorate – to receive correct information so that they could exert their right to vote in full knowledge;
- b) the interests of the political parties, of the political alliances, of the electoral alliances, the citizen organisations belonging to the national minorities participating to the elections and the independent candidates – of becoming known and of presenting their platforms, political programs and electoral offers;
- c) of the radio-diffusers – to exert the rights and responsibilities coming from the journalist profession[34].

48 hours before the reference day, it is forbidden to present opinion polls, TV-votes or street investigations. Also, the voting day, it is forbidden to present the polls accomplished when coming out from the urns, before the voting is ended. At the same time, we should specify that the opinion polls when coming out from the urns may be accomplished by the institutes of public opinion polls or by the commercial societies or by the non-governmental organisations having the opinion polls as their activity objects and which are accredited by the Central Electoral Office, by a decision, in this sense[35]. The stipulations of Law no. 33/2007 forbid the introduction of the electoral advertising spots in other shows than the electoral ones.

According to the stipulations of art. 40 of Law no. 33/2007 the mayors are forced to establish, by a stipulation, special places for the electoral display, where they should place electoral panels, considering the number of political parties, the citizen organisations belonging to the national minorities, the political or electoral alliances participating to the elections, and also the number of the independent candidates, after the expiration of the term for the candidature laying down, but until the start of the electoral campaign[36].

After the end of the electoral campaign, it is forbidden to diffuse electoral messages in an audio, visual or mixed format on digital screens placed in public or private places, and also by means of some especially arranged vehicles[37]. The electoral campaign may develop in another state different from Romania, only by respecting the valid legislation of that state[38].

The development of the elections for the European Parliament. In a maximum 5 day term since bringing the reference day to the public knowledge, the Government establishes, by a decision, at the suggestion of the Permanent Electoral Authority and of the Ministry of Internal Affairs, the calendar program for the accomplishment of the actions necessary for electing the Romanian members in the European Parliament, the budget and the expenses necessary in order to prepare, organise and develop the poll, the model of the electoral lists, the model of the stamps which are to be used, the model of the vote bulletin, the model of the sticker stamp, the measures which should be taken by the central and local public authorities for the good organisation and development of the elections[39]. According to art. 45, paragraph 6 of Law no. 33/2007 the president of the electoral office of the voting section is forced to take the measures necessary for the elections to develop in good conditions[40]. His tasks, in this regard, also extend outside the voting place, in its yard, in the yard entrances, around the voting place, and also on the streets and in the public squares to a 500 m distance. The measures taken by the president of the electoral office of the voting section are made public by being posted in a visible place. Beside the members of the electoral office of the voting sections, the candidates and the observers, no other person may stand in the public places in the voting area or in the voting place for longer than the time necessary for voting. During the voting, it is forbidden to the electoral office members, to the persons responsible for keeping the order and to the accredited persons to wear tags, badges or other signs of electoral propaganda[41]. All the electoral operations accomplished by the electoral offices of the voting sections may be assisted, beside their members, by the accredited persons in the conditions of Law no. 33/2007[42]. These accredited persons may interfere in no way to the organisation and development of the elections, having only the right to notify in written the president of the electoral office in case of finding an irregularity[43]. According to art. 46, paragraph 1 the voting starts at 7 AM and it ends at 9 PM. The electors may vote at the voting section where they are registered on the copy of the permanent electoral list or on the copy of the special electoral list or at any other voting section, in the conditions stipulated by art. 13 of Law no. 33/2007. The electors' access in the voting hall has place in series corresponding to the number of cabins. The national elector and the community elector present the identity card, respectively the identity document to the electoral office of the voting section which, under art. 6, paragraph 2 of Law no. 33/2007, may be an identity card emitted by the Romanian state, respectively the identity card, the provisory identity card, the identity bulletin or the diplomatic passport, the electronic diplomatic passport, the service passport, the electronic service passport, the simple passport, the electronic simple passport, the temporary simple passport, and in case of the pupils of the military schools, the military service book[44]. The president of the electoral office of the voting section or the member assigned by him checks if the elector is registered on the copy of the permanent electoral list or of a special electoral list, and after that the elector signs on the list at his position. Based on the signature on the copy of the permanent electoral list or of the special electoral list, the president or the member of the electoral office of the voting section assigned by him entrusts to the elector the ballot and the stamp

with the mention “VOTED[45] that he will apply on the ballot[46]. When the elector, for strong reasons found by the president of the electoral office of the voting section, cannot sign the electoral list, the president adds a mention to the list, confirmed by his signature and by the signature of a member of the electoral office[47]. According to art. 46, paragraph 7 of Law no. 33/2007 the electors vote separately in closed cabins, applying the stamp having the mention “VOTED” inside the quadrilateral containing the candidate list or the name and surname of the independent candidate they vote. It is forbidden the presence of any person in the voting cabins, except for the one who is voting[48]. After they voted, the electors bend the bulletins, so that the unprinted page having the control stamp should be outside, and they put them in the urn, without opening them[49]. The stamp entrusted for the voting is returned to the president or to those members of the electoral office of the voting section assigned by him, and then the president or that member applies on the elector’s identity card or, where appropriate, identity document the stamp having the mention “VOTED” and the poll date or, where appropriate, a sticker stamp having the mention “VOTED” and the poll date[50]. In order to exert the right to vote in non-discriminating conditions, Law no. 33/2007 stipulates in art. 47, paragraph 1 that, for the electors who are non-transportable because of certain diseases or of invalidity, the president of the electoral office of the voting section may approve, at their written demand laid down the latest the day before the elections, accompanied by copies of some medical documents or other official documents proving that those persons are non-transportable, as a team formed of at least 2 members of the electoral office goes with a special urn and with the material necessary for voting – the stamp having the mention “VOTED” and ballots – to the place where the elector is, for accomplishing the voting, and only one special urn is used around a voting section. At 9 PM, the president of the electoral office of the voting section declares the end of the voting and decides the closing of the voting hall[51]. After closing the voting hall, the president, in front of the members of the electoral office, accomplishes the operations of counting the ballots and of consigning the voting result[52]. In maximum 24 hours since closing the voting, the president of the electoral office of the voting section lays down to the county electoral office or, where appropriate, to the electoral office of the sector of Bucharest municipality, the file containing the ballots and the records accomplished by the electoral office of the voting section. Also, in maximum 48 hours since receiving the last record from the electoral offices of the voting sections, all the documents are laid down at the Central Electoral Office[53]. According to the stipulations of art.76 of Law no. 33/2007 the Central Electoral Office confirms the suffrage result and provides the publication in the Romanian Official Gazette, Part I, of the election results of the Romanian members in the European Parliament.

The electoral threshold. According to art. 51, paragraph 1 of Law no. 33/2007 for the political parties, the citizen organisations belonging to the national minorities, the political alliances and the electoral alliances, the electoral threshold of assigning the mandates represent 5% of the total validly expressed votes, at the national level. The independent candidates may have mandates assigned if each of them obtained a number of validly expressed votes at least equally to the national electoral coefficient. The national electoral coefficient represents the entire part of the report between the total number of validly expressed votes and the number of mandates of the European parliamentarians belonging to Romania[54].

Assigning mandates of European parliamentarian. The assignment of the mandates of European parliamentarian is made by the Central Electoral Office, as it follows:

a) in the first stage, the Central Electoral Office calculates the electoral threshold and the national electoral coefficient and establishes, in the decreasing order of the validly expressed votes, the list of the political parties, the citizen organisations belonging to the national minorities, the political alliances, the electoral alliances and the independent candidates who may have mandates assigned;

b) in the second stage, the mandates are assigned at the level of the national circumscription for the lists selected in the conditions showed above or by d'Hondt method[55];

c) the independent candidate who would have at least one mandate, has only one mandate assigned, no matter how many mandates resulted from the calculation[56].

The Central Electoral Office gives a finding certificate of election to the elected candidates.

The mandate abeyance of the members from Romania of the European Parliament. The stipulations of Law no. 33/2007 also regulate the situation when, in case of mandate abeyance of the members from Romania of the European Parliament, appeared as a consequence of the resignation, of the loss of the electoral rights, of the incompatibility with the European parliamentarian quality or of death, the mandates for the places in abeyance are assigned to the following on the candidate lists[57], in the order they were registered on these lists, if the political parties or formations on whose list they stood confirm in written that they belong to them, until the validation date for occupying the places in abeyance[58]. At the same time, the mandate abeyance of the members from Romania of the European Parliament, appeared as a consequence of the prior agreement regarding the resignation or the giving up to this function, is considered as null[59].

The elections situation in Romania for the European Parliament in 2007. The year 2007 will remain, for Romania's history, as the year of accessing the European Union, of getting used to the policies of the European Commission and to the interaction with the other member states[60]. At the same time, it will also remain in history as the year when elections for the European Parliament were organised for the first time in Romania. According to the stipulations of art. 74, paragraph 1 of Law no. 33/2007 where it was stipulated that “the first elections for the European Parliament are organised and develop maximum until on December 31st, 2007”, the first elections for the European Parliament in Romania developed on November 25th, 2007 and they referred to 35 mandates for a lapse of time of 2 years, expressing thus art. 74, paragraph 2 of Law no. 33/2007 where it was mentioned that “the mandate of the members from Romania in the European Parliament, assigned based on the first organised elections, stops at the end of the 2004-2009 legislature of the European Parliament”. From the total number of electors of the electoral lists of 18,224,597, 5,370,171 electors having the right to vote came to the urns, representing 28.38 %[61]. After expressing the vote, the elections results were the following:

1. ***The political parties, the political alliances, the electoral alliances achieving the electoral threshold were:*** The Democrat Party obtained 1,476,105 votes (representing 28.81%), the Social Democrat Party obtained 1,184,018 votes (representing 23.11 %), the National Liberal Party obtained 688,859 votes (representing 13.44 %), the Liberal Democrat Party obtained 398,901 votes

(representing 7.78 %), the Democrat Union of Hungarians of Romania obtained 282,929 votes (representing 5.52 %).

2. ***The independent candidate who achieved the electoral coefficient:*** László Tőkés: 176,533 votes (representing 3.44%).
3. ***The number of mandates assigned to each candidate list or to each independent candidate was the following:*** the Democrat Party obtained 13 mandates, the Social Democrat Party obtained 10 mandates, the National Liberal Party obtained 6 mandates, the Liberal Democrat Party obtained 3 mandates, the Democrat Union of Hungarians of Romania obtained 2 mandates and László Tőkés – one mandate.

From the analysis of the statistic data regarding the voting presence at the elections for the European Parliament, we may appreciate that the voting presence for the first elections for the European Parliament in Romania was comparable to the percentages obtained in the Czech Republic (29%), in 2004, and Bulgaria (28.6%) in May 2007, but under the interest manifested in Malta and Cyprus (over 80%, respectively over 70%), in Hungary (almost 40%), but over the percentages of Slovakia (17%) and Poland (20.8%)[62].

The elections situation of the European Parliament in Romania in 2009.

According to the information supplied by the official site of the Central Electoral Office of Romania, for the elections for the European Parliament from June 7th, 2009, 18317 voting sections were organized and 18,237,627 citizens had the right to vote[63]. According to the communicates emitted by the Central Electoral Office, 27.21% of the electors registered on the electoral lists expressed their option, by voting, for electing the members of Romania in the European Parliament, among which 20.40% in the urban environment and 36.56% in the rural environment[64]. The total number of expressed votes was 4,840,033, and the national electoral threshold was 242,001. The county that registered the highest voting presence was Teleorman county with 48.82% of the total electors registered on the lists, and the county that registered the lowest voting presence was Constanța county with 20.74% of the total electors registered on the electoral lists. In the capital (Bucharest) the voting presence situation was the following: Bucharest municipality: 15.92% of the total electors registered on the electoral lists, and the sector situation was the following: sector 1- 19.30%, sector 2-16.22%, sector 3-13.55%, sector 4-15.50%, sector 5-17.07%, sector 6- 15.72%[65]. The candidates for the European Parliament from the Liberal Democrat Party, the Liberal National Party, the Hungarian Democrat Union of Romania, the Democrat Christian Peasant National Party, the Great Romania Party, the PSD+PC Electoral Alliance, were 43 candidates for each political formation or electoral alliance. In addition, there were 29 candidates from the Civic Force Party and 2 independent candidates. After expressing the vote, the results were the following:

1. ***The political parties, the political alliances, the electoral alliances which achieved the electoral threshold were:*** the PSD+PC Electoral Alliance: 1,504,218 votes, the Liberal Democrat Party: 1,438,000 votes, the Liberal National Party: 702,974 votes, the Hungarian Democrat Union of Romania: 431,739 votes and the Great Romania Party: 419,094 votes[66].
2. ***The political parties, the political alliances, the electoral alliances which did not achieve the electoral threshold were:*** The Democrat Christian Peasant National Party: 70428 votes and the Civic Force Party: 19436 votes.
3. ***The independent candidate who achieved the electoral coefficient:*** Băsescu Elena: 204280 votes.

4. *The number of mandates assigned to each candidate list or to each independent candidate was the following:* the PSD+PC Electoral Alliance: 11 mandates, the Liberal Democrat Party: 10 mandates, the Liberal National Party: 5 mandates, the Hungarian Democrat Union of Romania: 3 mandates, the Great Romania Party: 3 mandates and Băsescu Elena: 1 mandate[67].

It is found again a low voting presence but we should say that the percentage of the voting participation for the European Parliament in Romania, in 2009, registered to the European descending tendency, considering that, at the European level, the percentage of the voting participation decreased from 45.47% in 2007 to 43.24% in 2009, the lowest one of the election history for the European Parliament[68].

The analysis of different studies accomplished by a series of non-governmental organisations regarding the organisation and development of the elections for the European Parliament in Romania, spotlights the necessity to take some measures referring, in the first place, to the accomplishment of a serious informing campaign regarding the role of the European institutions and the Romanians' awareness of their rights as European citizens. Also, other imposed measures consider the necessity to upgrade the electoral lists in order to remove the suspicions regarding the frauds, the necessity of the legislative improvement in order to remove the possibility of the multiple vote registration, the necessity to improve the education and to increase the knowledge degree of the legislation by the presidents of the voting sections etc[69].

Conclusions. Even if most of the specialists appreciate that the direct election of the European Parliament members offers the strongest legitimacy to this European Union institution[70], there are opinions showing that, no matter if the election is accomplished by vote, the voting system is not uniform in the ensemble of the European Union, and the elections for the European parliamentarians are not organised in electoral circumscriptions constituted at the European level, but they are organised by each member state according to certain electoral systems relatively similar to the ones used for the national elections, so that the European Parliament tends to represent the majorities and the reports of political power existing at the national level, and its framework represents the European peoples organised in their states, not an European people[71], despite the fact that art. 14, paragraph 2 of the Treaty regarding the European Union, as it was amended by the 2009 Lisbon Treaty showing that the European Parliament is composed of the representatives of the European Union citizens. However, Romania's accession to the European Union has opened new plans of manifesting the parliamentary action in the framework of the processes of democratic articulation of the member states citizens' political will[72]. Even though the analysis of the elections situation for the European Parliament in Romania in 2007 and 2009 emphasizes the fact that the citizens' interest for the European Parliament registered no increase, at least from the perspective of the electoral participation, the specialists identify an entire series of motivations regarding this aspect: the inexistence of a date and of a common procedure for the European elections, the weak information regarding the European institutions and policies, extremely heterogeneous electoral messages, perceiving the European elections as a prolongation for the national political stakes at the European level etc.[73], the elections for the European Parliament should remain a civic exercise meant to express the European democracy at the highest level. Let's hope that, until the 2014 elections[74], the Romanian citizens had the motivations necessary for the active exertion of their rights as European citizens!

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- [4]. Further on, we will refer to Law no. 33/2007 published in the Official Gazette no. 28 from January 16th, 2007 and republished in the Official Gazette no. 627/August 31st, 2012 by using the abbreviation Law no. 33/2007.
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- [6]. The lists of candidates for electing the European Parliament members from Romania are accomplished for providing the representation of both of the sexes. (Art. 16, paragraph 8 of Law no. 33/2007).
- [7]. Art. 5 paragraph 9 of Law no. 33/2007.
- [8]. A *national elector* means any citizen of Romania, having the domicile or residence inside the country or abroad, having the right to elect European Parliament members from Romania. (Art. 5, paragraph 2 of Law no. 33/2007).
- [9]. A *community elector* means any citizen of a European Union member state, different from Romania, having the right to elect in Romania for the European Parliament, having the domicile or the residence in Romania. (Art. 5, paragraph 1 of Law no. 33/2007)
- [10]. Art. 5 paragraph 10 of Law no. 33/2007.
- [11]. M. R. O. Curelar, English-Romanian Dictionary, “Academica Brâncuși” Publishing House, Târgu-Jiu, 2011, p. 67.
- [12]. Art. 8, paragraph 1 of Law no. 33/2007.
- [13]. Art. 8, paragraph 2 of Law no. 33/2007.
- [14]. According to the stipulations of art. 81 of Law no. 161/2003 regarding certain measures for providing the transparency in exerting the public dignities, the public functions and in the business environment, the corruption prevention and sanctioning, as further amended and completed, the deputy or senator quality is incompatible with the exertion of any public authority function (for example, the functions of the public administration assimilated to the minister ones, the functions of state secretary, state sub-secretary and the functions assimilated to the ones of state secretary and state sub-secretary in the framework of the special organs subordinated to the Government or to the ministries, the functions of the Presidential Administration, from the working device of the Parliament and of the Government, the leading functions specific to the ministries etc.), according to the Constitution, except for the one of the Government member.
- [15]. Art. 9, paragraph 2 of Law no. 33/2007. If there is or if it continues to be a case of incompatibility, after the expiration of the 30 day term, the incompatible persons are considered as quitted from the European parliamentary function. The resignation is found by a decision of the Permanent Electoral Authority, which is published in the Romanian Official Gazette, Part I, and it is communicated to the European Parliament. (Art. 9, paragraph 3 of Law no. 33/2007).
- [16]. According art. 5, paragraph 4 of Law no. 33/2007- the voting day for the European Parliament members from Romania – is called a reference day. According to the stipulations of art. 10 of Law no. 33/2007 the reference day is on Sunday and it is established in the framework of the lapse of time decided for this purpose by the European Union Council. Making the reference day public is accomplished at least 90 days in advance, by publishing the Governmental decision regarding the establishment of the reference day in Romania's Official Gazette.

- [17]. Other authorities having direct tasks in the organisation and development of the elections are the Ministry of Internal Affairs, the National Institute of Statistics, the Ministry of External Affairs.
- [18]. Art. 4, paragraph 2 of Law no. 33/2007.
- [19]. According to art. 24, paragraph 1 of Law no. 33/2007 the Central Electoral Office is composed of 5 judges of the High Court of Cassation and Justice, the president and the vice-presidents of the Permanent Electoral Authority and maximum 10 representatives of the political parties, of the citizen organisations belonging to the national minorities, of the political or electoral alliances among which they participate to the elections. It uses, as a working device, specialty staff from the framework of the Permanent Electoral Authority and of the National Institute of Statistics. (http://www.cdep.ro/pls/dic/site.page?den=alegeri_eu_13 accessed on June 11th, 2013).
- [20]. According to art. 26, paragraph 1 of Law no. 33/2007 the County Electoral Office or the one of the sector of Bucharest municipality is composed of 3 judges, a representative of the Permanent Electoral Authority assigned by it by a decision and maximum 10 representatives of the political parties, of the citizen organisations belonging to the national minorities, of the political or electoral alliances among which they participate to the elections.
- [21]. According to art. 28, paragraph 1 of Law no. 33/2007 the Electoral Office for the voting sections abroad is composed of 3 judges in exertion of Bucharest Court, a representative of the Permanent Electoral Authority assigned by it by a decision and maximum 10 representatives of the political parties, of the political alliances, of the electoral alliances or of the citizen organisations belonging to the national minorities that do not participate to the elections.
- [22]. According to art. 29, paragraph 1 of Law no. 33/2007 The electoral offices of the voting sections are composed of a president, his replacer, who are usually magistrates or jurists, and also of 7 representatives of the political parties, of the citizen organisations belonging to the national minorities, to the political or electoral alliances among which they participate to the elections. The electoral offices of the voting sections cannot work with less than 5 members.
- [23]. The electoral offices are only composed of citizens having the right to vote. The election candidates, the husband, the wife, the family and the relatives to the second degree, cannot be members of the electoral offices. (Art. 21, paragraph 2 of Law no. 33/2007). The Central Electoral Office, the county electoral offices, the electoral office for the voting sections abroad, the electoral offices of the sectors of Bucharest municipality and the electoral offices of the voting sections working in the presence of most of their members and adopt decisions with the vote of most of the present members. If there is vote equality, the president's vote is decisive. (Art.22 of Law no. 33/2007).
- [24]. The special electoral lists contain the community elector's name and surname, citizenship and the address where the community elector lives in Romania. (Art. 12, paragraph 2 of Law no. 33/2007).
- [25]. The candidates suggested by a political or electoral alliance should be a part of that political part or, where appropriate, of a political party which is a member of that alliance. (Art. 16, paragraph 3 of Law no. 33/2007)
- [26]. The candidate lists are laid down in written, in 4 copies – the original and 3 copies -, is signed by the leadership of the political party, of the citizen organisation belonging to the national minorities, of the political alliance or of the electoral alliance or by the persons expressly empowered to sign them and they contain the candidates' name, surname, parents surname, birth place and date, address, political membership, job and profession. (Art. 16, paragraph 2 of Law no. 33/2007).
- [27]. Each political party, citizen organisation belonging to the national minorities, political or electoral alliance participating to the elections for the European Parliament in the conditions of the present law may lay down only one candidate list. (Art. 16, paragraph 10 of Law no. 33/2007).
- [28]. The number of candidates of every list may have maximum 10 mandates over the number of mandates which Romania has the right to in the European Parliament. (Art. 16, paragraph 9 of Law no. 33/2007).
- [29]. The candidates' fortune and interest declarations are published on the webpage of the Central Electoral Office, in a 48 hours term since the permanent remaining of the candidatures. (Art. 16, paragraph 6 of Law no. 33/2007).
- [30]. Art. 19, paragraph 1 of Law no. 33/2007.
- [31]. Art. 20, paragraph 3 and 4 of Law no. 33/2007.
- [32]. Art. 19, paragraph 5 of Law no. 33/2007.
- [33]. Art. 35, paragraph 2 of Law no. 33/2007. The means used for the electoral campaign cannot be against the law order. (Art. 35, paragraph 3 of Law no. 33/2007).
- [34]. Art. 36, paragraph 1 of Law no. 33/2007.

- [35]. Art.37, paragraph 4 of Law no. 33/2007.
- [36]. The mayor, supported by the public order organs, is forced to provide the integrity of the panels, of the electoral posters and of other electoral propaganda materials placed in authorized places. (Art. 40, paragraph 12 of Law no. 33/2007).
- [37]. Art. 40, paragraph 11 of Law no. 33/2007.
- [38]. Art. 40, paragraph 14 of Law no. 33/2007.
- [39]. Art. 66, paragraph 1 of Law no. 33/2007.
- [40]. For keeping the order, the president of the electoral office of the voting section has the necessary means of order provided by the mayor and by the prefect, together with the representatives of the Ministry of Administration and Internal Affairs. (Art. 45, paragraph 9 of Law no. 33/2007).
- [41]. Art. 45, paragraph 11 of Law no. 33/2007.
- [42]. According to art. 73, paragraph 1 of Law no. 33/2007 *accredited persons* means: a) the internal and external observers; b) the internal and external representatives of mass-media; c) the delegacies of the political parties, of the citizen organisations belonging to national minorities, of the political or electoral alliances participating to the elections and having no representatives in the electoral offices.
- [43]. E. G. Simionescu, Consumed offense - form of crime intentional, Annals of the Constantin Brancusi University - Juridical Sciences Series, No. 4, 2013, p. 27.
- [44]. The simple passport, the electronic simple passport and the temporary simple passport may be used for exerting the voting rights only by the Romanian citizens who are abroad or by the Romanian citizens having their domicile abroad. (Art. 6, paragraph 3 of Law no. 33/2007). At the same time, the valid identity document of the community elector or of the community eligible person means any document released by the member state whose citizen is the holder, a different one from Romania, and which is considered an identity document in the emitting state. (Art. 12, paragraph 4 of Law no. 33/2007).
- [45]. The stamps having the mention “VOTED” is made by the Ministry of Internal Affairs.
- [46]. According to the stipulations of art. 42, paragraph 1 of Law no. 33/2007, the model, the sizes and the printing conditions of the ballots are established by a governmental decision, in a 5 day term since establishing the reference day, at the suggestion of the Permanent Electoral Authority and of the Ministry of Internal Affairs. The printing of the ballots is provided by the Ministry of Internal Affairs which is responsible for all the necessary ballots to be printed at least 10 days before the reference day. The analysis of the stipulations of Law no. 33/2007 spotlights that this normative document also contains the procedure of establishing the order number on the ballots of the political parties, the citizen organisations belonging to the national minorities, the political alliances and the electoral alliances which laid down candidate lists, and also of the independent candidates.
- [47]. Art. 46, paragraph 3 of Law no. 33/2007.
- [48]. The elector who, for strong reasons found by the president of the electoral office of the voting section, cannot vote by himself has the right to call an escort chosen by him, in order to help him, in the voting cabin. The escort cannot be one of the observers or of the members of the electoral office of the voting section. (Art. 46, paragraph 8 of Law no. 33/2007.)
- [49]. Art. 46, paragraph 9 of Law no. 33/2007.
- [50]. Art. 46, paragraph 11 of Law no. 33/2007.
- [51]. The electors who are in the voting hall at 9 PM may exert their right to vote. (Art. 48, paragraph 2 of Law no. 33/2007).
- [52]. Art. 49, paragraph 1 of Law no. 33/2007.
- [53]. Art. 50, paragraph 3 of Law no. 33/2007.
- [54]. Art. 51, paragraph 2 of Law no. 33/2007.
- [55]. The d’Hondt method of assigning the mandates consists of dividing the validly expressed votes for each list and independent candidate, selected until the total number of mandates to be assigned, and the hierarchy of these results in a decreasing order. The number of mandates assigned to each list corresponds to the total number of results afferent to each list contained in the ordered line, until the assignment of all the mandates. (Art. 52 of Law no. 33/2007).
- [56]. Art. 52 of Law no. 33/2007.
- [57]. According to art. 72, paragraph 1: The candidates registered on the lists, who were not elected, remain on those lists in the order they were registered.
- [58]. Art. 72, paragraph 2 of Law no. 33/2007.
- [59]. Art. 72, paragraph 3 of Law no. 33/2007.

- [60]. http://www.apd.ro/files/publicatii/raport_alegeri_PE.pdf
- [61]. http://www.apd.ro/files/publicatii/raport_alegeri_PE.pdf
- [62]. http://www.euractiv.ro/uniunea-europeana/articles|displayArticle/articleID_11940/Prezenta-la-vot-pestea-media-%27Estului%27.html
- [63]. <http://www.bec2009pe.ro/statistici.html> (accessed on June 11th, 2013).
- [64]. <http://www.bec2009pe.ro/Documente%20PDF/Statistici/ora21.pdf> (accessed on June 11th, 2013).
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- [66]. <http://www.bec2009pe.ro/Documente%20PDF/Rezultate/Rezultate%20finale/Comunicat%20BEC.pdf> (accessed on June 11th, 2013).
- [67]. <http://www.bec2009pe.ro/Documente%20PDF/Rezultate/Rezultate%20finale/Proces%20verbal%20centralizare%20voturi.pdf> (accessed on June 11th, 2013).
- [68]. http://www.apd.ro/files/publicatii/raport_pe_2009.pdf.
- [69]. http://www.apd.ro/files/publicatii/raport_alegeri_PE.pdf
- [70]. H. Renout, *Institutions européennes*, Editions Paradigme, Orléans, 2006, p.201.
- [71]. R. D. Popescu, *The Parliament Role in Constitutional Law*—the abstract of the PhD thesis, University of Bucharest, PhD School, Faculty of Law, Bucharest, 2011 (<http://www.unibuc.ro/studies/Doctorate2011August/Florica%20Ramona-Delia%20%28Popescu%29%20-%20Raspunderea%20Parlamentului%20in%20Dreptul%20Constitutional/rezumat%20teza%20doctorat%20ramona%20popescu%202011.pdf>).
- [72]. M. Enache, *The Parliament Role in Reinforcing Democracy after Adopting Romania's Constitution* in Law Magazine no. 9/2011, p. 39.
- [73]. A. Dinu, op. cit., p. 49.
- [74]. According to the European Parliament Resolution from November 22nd, 2012 referring to the 2014 elections for the European Parliament (2012/2829(RSP)), the European Parliament required to the Council consultations regarding the elections organisation either on May 15th -18th, or on May 22nd – 25th, 2014.