

## Parliamentary hearings of the Commissioners-designate

### *A decisive step in the investiture process*

The hearings of the Commissioners-designate before the European Parliament's committees are a necessary ingredient in informing Parliament's decision to give its consent to, or reject, the proposed College. Each Commissioner-designate appears before a single hearing, involving one or a few parliamentary committees, after responding to a questionnaire. Due to some national governments' delay in nominating candidates, this time around Commissioners-designate will have only 10 days to prepare for the hearings.

In past hearings, the main point of criticism was the lack of specialist knowledge of some candidates on their portfolio as well as their vague answers and reluctance to make commitments. Since the 2004 investiture, Parliament has used its role in the appointment of the Commission to press for the replacement of certain controversial candidates, although it can only reject or accept the College as a whole.

Whilst some experts warn of excessive politicisation of the hearings and of the Commission as guardian of the Treaties, others welcome the increased accountability of the Commission to Parliament, and see the deepening political link between the two as a step towards further democratisation of the EU decision-making process.

Hearings have become critical for Parliament's holding the Commission to account and are set to gain significance as a means for a greater role for Parliament in agenda-setting at EU level.



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## Parliament's role in the appointment of the Commissioners

Commissioners were originally appointed by common accord of the Member States' governments. The European Parliament was not involved in their appointment and could only, once the Commission was in office, adopt a motion of censure of the entire College. Parliament pushed to be involved in the investiture of the 'European government' in the 1970s and 1980s, to emphasise the democratic legitimacy of the Commission. These efforts led to the introduction of a vote of confidence in the designated Commission. But it was not until 1993 that Parliament gained a significant role, with the Maastricht Treaty. For the first time, Parliament would vote formally to approve the Commission. The first Commission subject to 'hearings' was the Santer Commission in 1995. The model for '**confirmation hearings**' was those held by the US Congress on presidential nominations to judicial and executive posts.

Currently, the members of the European Commission are proposed by the Member States' governments and nominated by the Council in agreement with the President-elect of the Commission (Article 17(7) TEU). In order to be appointed, the Commission needs, however, the consent of Parliament. 'Hearings' of Commissioners are not stipulated in the Treaties, but required under Parliament's Rules of Procedure. They are a necessary counterpart to the requirement of obtaining Parliament's consent, which would have no substance if Parliament cannot examine the aptitude of the candidates.

Parliament can only refuse or accept a Commission in its entirety and not individual Commissioners-designate – as most national parliaments can only vote on the government as a whole. This is a consequence of the collective responsibility of the Commission as a collegiate body. The threat to vote down the designated Commission has however proven to be a powerful means to encourage national governments to replace candidates opposed by Parliament.

## Procedure for the hearings

The procedure for holding hearings is set out in Rule 118 of Parliament's Rules of Procedure and in Annex XVI thereto. Parliament's President requests the Commissioners-designate to appear before the appropriate committees according to the portfolio they have been assigned. The hearings are organised by the Conference of Presidents, on a recommendation from the Conference of Committee Chairs. They are held in public and are broadcast live. Each Commissioner-designate is subject to a single hearing; it may, however, involve more than one parliamentary committee. If the portfolio of a Commissioner-designate falls within the remit of more than one committee, he/she shall be heard jointly by those committees (**joint committees**). Conversely, if the portfolio of a Commissioner-designate is mainly within the remit of one committee and only to a limited extent within that of others, the Commissioner designate will be heard by the committee mainly responsible, with the other committee(s) also participating (**associated committees**). For the vice-presidents, who will have cross-cutting competences in the Commission, not all committees can be involved in their hearings, even if the mandate of the Commissioner-designate touches on their remit. The Conference of Committee Chairs heard arguments in favour of allowing more committees to be involved in specific hearings, but, with some exceptions, no more than three committees will be involved in each hearing.

Committees submit **written questions** to the Commissioners-designate before the hearings. Given the late nominations by certain governments, the last of which came

only on 3 September, Commissioners-designate will have less time (around 10 days) than in previous hearings to learn the portfolio assigned to them. Commissioners-designate receive **two common questions** drafted by the Conference of Committee Chairs. The first is on their general competence, European commitment and personal independence. The second is on the management of the portfolio and their cooperation with Parliament. The Committee responsible for the hearing drafts **three policy-specific** questions about their main priorities and legislative initiatives. In the case of joint committees, each may ask two questions. Associated committees only participate in the hearings, where they can ask oral questions. Each hearing will be scheduled to last **three hours**. Commissioners-designate make an opening statement of no more than 15 minutes. Speaking time for questions is allocated to Members taking into account the size of each political group (including the non-attached Members), and dependent on whether they come from a responsible or associated committee. In order to avoid repetition, questions are grouped by topic. Commissioners-designate may also make a closing statement.

The chair and coordinators of the Committee responsible for the hearing (or of the joint committees) meet *in camera* after the hearing to **evaluate** the Commissioner-designate. There is one single evaluation statement for each candidate, including the opinions of any associated committees. If the coordinators are unable to reach consensus on the evaluation, or at the request of one political group, the chair will convene a committee meeting and, as a last resort, call a vote by secret ballot. The Committees' evaluation statements will be made public within 24 hours of the hearing. The statements will be examined by the Conference of Committee Chairs and submitted to the Conference of Presidents. The Conference of Presidents then declares the hearings closed.

After the hearings have concluded, the President-elect will present the college of Commissioners and its programme in plenary. The Presidents of the European Council and of the Council will be invited to attend. The statement is followed by a debate and any political group or at least 40 Members of Parliament may table a motion for a resolution. Finally, the consent to the Commission as a whole is given by a vote in plenary, whereby the majority of the votes cast is necessary. The new Commission can then be formally appointed by the European Council, acting by qualified majority.

### Critical issues in past hearings

The first Commission subjected to hearings was the Santer Commission in 1995, where the parliamentary committees made many critical comments on certain Commissioners-designate and asked for Irishman Pádraig Flynn to be assigned a different portfolio. The main point of criticism in the hearings was the lack of specialised knowledge of some candidates on their portfolio, as well as their vague answers and reluctance to make commitments, invoking the collegiate decision-making of the Commission. This led in subsequent hearings to Commissioners-designate preparing more thoroughly on the concrete policy fields and even making concrete commitments and signing commitments proposed by a parliamentary committee — a practice established by the Economic and Monetary Affairs Committee in 2010, with Joaquín Almunia, Michel Barnier, and Olli Rehn. In general, those who had held office in a national government have been criticised for their intergovernmental approach to the portfolio in question, whilst former MEPs did better due to their experience in inter-institutional relations.

Parliament pressed for the first time in 2004 for the replacement of a Commissioner-designate. Amongst others, Italian nominee Rocco Buttiglione drew sharp criticism due

to his comments on the role of women and on gays. Confronted with the possibility of Parliament rejecting his College, President-elect Barroso was obliged to ask Parliament to postpone its vote and to come back with two new Commissioners-designate. In 2009, the focus fell on Bulgarian nominee Rumiana Jeleva, whose business dealings and her competence in her portfolio were questioned in the hearing. As a consequence the Bulgarian government withdrew her nomination, with Parliament gaining further ground in the appointment of the Commission as against the Member States.

### **Strengthening the Commission's accountability to Parliament**

The hearings of the Commissioners-designate have contributed to increasing the political dynamic in relations between Parliament and Commission, similar to that found in the national context. Many experts and stakeholders credit the procedure for having further politicised the European Commission, and therefore also the EU decision-making process, which is seen by many as a necessary step towards further democratisation.

However, the growing politicisation of the parliamentary hearings is not universally welcomed. Criticism has been expressed by some experts that the Commissioners-designate are tested in the parliamentary hearings on their competence in the portfolio assigned whereas the Treaties stipulate that the Commissioners be chosen on the ground of their "general competence and European commitment". Moreover, the focus on the political views of individual Commissioners-designate is seen by some as contradictory to the Parliament being able only to approve or reject the Commission as a whole. Some argue that Members' far more aggressive interrogation of candidates from opposing European political families than of those belonging to their own results in a power struggle not only within the institutional triangle of EP, Council and Commission, but also between the political groups in Parliament. This may be seen to reduce the future ability to build stable majorities throughout the legislative period.

However, it is widely agreed that the hearings play a major role in the Commission's accountability to Parliament. Whilst seen as an ordeal, once passed it strengthens the new Commissioners' positions. This is all the more important taking into account Parliament's increasing efforts to shape, together with the Commission and the Council, the Union's annual and multiannual programming (Article 17(1)5 TEU). Hearings could therefore become the starting point for stronger political agenda-setting at EU level.

### **Further reading**

C. Moury, [Explaining the European Parliament's right to appoint and invest the Commission](#), West European Politics Vol. 30, 2007, pp. 367-391.

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[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu)

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

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