

# Role and election of the President of the European Commission

## SUMMARY

The President of the European Commission has taken on an ever more prominent leading role within the College of Commissioners, with the increasingly presidential system eclipsing the principle of collegiate decision-making. With the European Parliament now more involved in the appointment, the Presidency has not only become a much more politicised office, but the President has also gained greater influence vis-à-vis the other members of the Commission.

The Commission President plays a crucial role in relations between Parliament and Commission. Presenting his or her priorities to Parliament prior to election sets the course for the whole term, on which the President will be called to account by Parliament. Building on this, Parliament has an increasingly prominent role in political agenda-setting, shaping the EU's legislative programming together with the Commission and the Council.

At the end of President Barroso's second term as Commission President, many had criticised the lack of ambitious initiatives undertaken, whereas others believe that the economic and institutional difficulties which the EU faced made this inevitable. The legacy of President Juncker's mandate can claim, on the one hand, to show progress in trade and defence, although some maintain that more ambition could have been displayed in other areas, for instance on the digital market or monetary union. On the other hand, the Juncker Commission introduced some significant changes in the College's working methods and a more political role for the Commission.

Whereas Jean-Claude Juncker had been a *Spitzenkandidat* (lead candidate) in the European elections, Ursula von der Leyen, nominated as candidate for the Commission presidency by the European Council on 2 July, was not. As none of the *Spitzenkandidaten* were seen to have a clear majority in Parliament, it remains to be seen whether an 'outsider' from that process can muster the support of the required majority of Parliament's component Members at the time of the election, currently planned for the July II plenary session.

*This is an updated edition of a [2014 briefing](#) drafted by Eva-Maria Poptcheva.*



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# Towards a presidential regime in the European Commission

## The European Commission

The European Commission's President has a prominent role in the EU's institutional setting, which has evolved with advances in EU integration and the Commission itself. Besides the traditional vocation of the European Commission (EC) to promote the general interest of the Union and to oversee the application of Union law, the Treaty of Lisbon expressly lists some of the (political) tasks already being undertaken by the Commission. These are the execution of the budget and the Union's external representation, as well as the Union's annual and multiannual programming and the coordinating, executive and management functions, as laid down in the Treaties (Article 17(1) TEU). In carrying out these responsibilities, the Commission as a whole, but also its members, including the President, shall be independent and neither seek nor take instructions from any Government or other institution, body, office or entity (Article 245 TFEU).

## The Commission President: no longer *primus inter pares*

The Commission is a collegiate organ, meaning that decisions are taken collectively by the College of Commissioners (Article 1 [EC Rules of Procedure](#)), who are collectively responsible before the European Parliament. Commissioners submit their proposals to the College, which, in general, deliberates by consensus. The College may also take a vote, at the request of any Commissioner, with decisions taken by simple majority. In practice, however, decision-making has become more centralised – more so in an enlarged College. Important issues are increasingly handled by the President and the respective Commissioner rather than through discussions of the College.<sup>1</sup> The Juncker Commission introduced new working methods, strengthening the power of vice-presidents and introducing a certain degree of hierarchy in the structure of the College (see below).

Up until the Amsterdam Treaty (1997), the functions of the Commission President were mainly of organisational nature, except for the representative functions outside the Union and participation in meetings of the European Council. With the Amsterdam Treaty, the office of President was formally politicised through the addition of the task of providing 'political guidance' for the work of the Commission (Article 219 [TEC Amsterdam](#)).

The Treaty of Nice (2001) further strengthened the role of the President in relation to the rest of the College. Until then, the collegiality principle prevailed in the work of the European Commission, with the President being to some extent *primus inter pares*. The Treaty of Nice, however, gave preference to the coherence and efficiency of the Commission decision-making processes over collegiality, shifting towards a more 'presidential' regime.<sup>2</sup> The 'presidentialisation' of the EC is seen on one side as positive in terms of effectiveness and political accountability, and as negative on the other side for the defence of the 'general interest', for which the collegiality principle is a guarantee.<sup>3</sup>

The particular function of the President relative to the other Commissioners was further acknowledged in respect of the appointment procedure for the members of the Commission. The Treaty of Maastricht established that the governments of the Member States nominate the Commissioners in consultation with the nominee for Commission President (Article 158(2) [TEC Maastricht](#)), and later, with the Amsterdam Treaty, by common accord with him or her (Article 214(2) [TEC Amsterdam](#)). This process enables the President to issue political guidelines for the work of the Commissioners. The President-elect does not, however, nominate fellow Commissioners, a power which rests with the Member States' governments – a process President Barroso termed 'a blind date'.<sup>4</sup> According to the [2010 EP-EC Framework Agreement](#),

### Article 17(6) TEU

The President of the Commission shall:

- a) lay down guidelines within which the Commission is to work;
- b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
- c) appoint Vice-Presidents, other than the EU HR for Foreign Affairs and Security Policy, from among the members of the Commission.

Parliament will take into account the remarks of the President-elect when giving its consent to the new Commission.

Since the Treaty of Nice, the Commission President can seek the resignation of individual Commissioners and must be in agreement if the European Council intends to ask the High Representative for Foreign Affairs and Security Policy to resign (Articles 17(6), 18(1) [TEU](#)). The President also assigns and can reallocate portfolios to each Commissioner (Article 248 [TFEU](#)). The President calls and chairs meetings of the College (at least once per week, [Article 5 EC Rules of Procedure](#)), and can assign responsibility for specific activities to Commissioners or set up working groups (Rule 3 EC Rules of Procedure).

The majority of commentators argue that the President can not only give guidance for the work of the Commission, but even instructions to individual Commissioners within the scope of their duties. The fact that according to the Treaty, they 'shall carry out the duties devolved upon them by the President under his authority' (Article 248 TFEU) is seen as a softening of the collegiality principle for the sake of an efficient and coherent functioning of the Commission.<sup>5</sup>

Furthermore, the President represents the Commission and, in this capacity, takes part in meetings of the European Council and of the Group of seven leading industrialised countries (G7), as well as in debates of the European Parliament.

## Election of the Commission President

### Historical development

Originally, the Commissioners were appointed by common accord by the Member States' governments; the President of the Commission was then elected by the College from among the Commissioners (Article 161 [TEEC 1957](#)). The European Parliament initially was not involved in the appointment of the Commission President. It could only, once the Commission was in office, adopt a motion of censure of the entire Commission, obliging it to resign (Article 144 [TEEC 1957](#)). Parliament gained a role in the appointment procedure with the Maastricht Treaty (1992). Governments were to nominate by common accord a candidate for the EC Presidency, only after consulting Parliament. For the first time, Parliament would formally vote to approve the Commission as a body, though not the President as such (Article 158(2) [TEC Maastricht](#)).

This changed with the Amsterdam Treaty when Parliament was entrusted with approving the Commission President-nominee in advance of the College as a whole (Article 214(2) [TEC Amsterdam](#)). The candidate for the post of Commission President is therefore confirmed twice by Parliament – once individually, and once as part of the Commission as a whole (Article 17(7)1, 3 [TEU](#)).

The Treaty of Lisbon strengthened the role of Parliament further. Whilst previously, the nomination of a presidential candidate was merely 'approved' by Parliament (Article 214(2) [TEC](#)), Parliament now **elects** the candidate (Article 17(7) [TEU](#)), which places particular emphasis on the political linkage between Parliament and Commission.

A major step was the change of the decision-making process in the European Council. Whilst until then common accord among national leaders was necessary to appoint a candidate for the Commission presidency, the Treaty of Nice introduced the requirement of qualified majority, so avoiding the possibility for individual Member States to veto a specific candidacy.

### Further politicisation of the EU institutional setting

#### The 2014 European elections

The Lisbon Treaty provides that the EP elects the Commission President on the basis of a proposal from the European Council taking into account the elections to the EP (Article 17(7) [TEU](#)). The provision applied for the first time in the 2014 elections. In order to 'Europeanise' the elections and

to boost the democratic legitimacy of EU decision-making, Parliament called on the political parties to nominate candidates for the Presidency of the EC allowing for citizens to influence directly, through their vote in the European elections, the choice of the head of the European executive. Five European political parties nominated their '*Spitzenkandidaten*' and argued that the candidate of the party winning the most [seats](#) be nominated by the European Council as candidate for the Presidency of the EC, so as to try and secure a sufficient majority in Parliament. For the first time, the [nomination](#) in the European Council was not made by consensus but through a formal vote, with 26 Heads of State or Government voting in favour of Jean-Claude Juncker (European People's Party) and two – UK Prime Minister David Cameron and Hungarian Prime Minister Viktor Orbán – voting against. The process was completed with the [election](#) of Jean-Claude Juncker by Parliament in July 2014.

## The 2019 European elections

For the 2019 elections, the desire of the Parliament to repeat the [Spitzenkandidaten](#) process was no surprise, also encouraged by the open support of the [European Commission](#) and some EU leaders. Most of the main European political parties proceeded to nominate their own *Spitzenkandidaten* well in advance of the May 2019 European elections. The *Spitzenkandidaten* process encouraged discussion in several *fora*, culminating in a final [public debate](#) held on 15 May 2019, just before the 23-26 May European elections.

The *Spitzenkandidaten* process, applauded by many experts and political actors as a step forward in the democratisation and politicisation of the EU decision-making process, has been criticised by others, including some heads of government, claiming that the Treaties entrust the European Council, and not Parliament, with the nomination of the candidate for Commission President, and arguing that the loss of control over the nomination process undermines Treaty provisions. On the other hand, the process is seen by some as natural, since the Treaty requires Parliament to 'elect' the candidate nominated by the European Council.

The *Spitzenkandidaten* process reached an impasse after the 2019 European elections, when the European Council had to decide on the nomination for the position of President of the European Commission. Such an impasse is reminiscent of the contentious aspects of the process itself, sometimes seen as creating an institutional imbalance, or even a 'power grab', to the advantage of the European Parliament. The European Council's reluctance towards the *Spitzenkandidaten* process is a testament to this, with the latter institution making clear it considers the process not binding on itself and therefore not automatic. The 2019 *Spitzenkandidaten* process in fact did not lead to the [lead candidate](#) of the European political party gaining most votes being nominated for the Presidency of the European Commission, nor to the nomination of the *Spitzenkandidat* of one of the other European political parties, but instead to an *outsider*, in Ursula von der Leyen. The agreement on Ursula von der Leyen in the [European Council](#), by consensus, came alongside two other nominations for top EU positions: Christine Lagarde, Managing Director of the International Monetary Fund, as President of the European Central Bank, and Josep Borrell, Spain's Foreign Minister, to be the High Representative of the Union for Foreign Affairs and Security Policy, as well as the appointment of Charles Michel, Belgium's Prime Minister, as the next President of the European Council.

## Relations with other institutions

### Political accountability to Parliament

The Commission is responsible to the European Parliament as a collegiate body. In accordance with Article 234 TFEU, the European Parliament may vote on a motion of censure of the Commission. If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of all MEPs, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he/she carries out in the Commission. A motion of censure must be lodged with the President of Parliament by at least



one-tenth of Parliament's Members, and must be supported by reasons ([Rule 127](#) EP Rules of Procedure). Seven motions of censure have been tabled since Parliament was first directly elected in 1979; none has reached the necessary majority.

No motion of censure procedure is provided for in respect of individual Commissioners, including the President. An individual Commissioner is required to resign only on the express request of the President. However, according to the [2010 EP-EC Framework Agreement](#), if Parliament asks the President of the Commission to withdraw confidence in an individual Commissioner, the President shall either require the resignation of that member or explain his/her refusal to do so before Parliament (para. 5). Furthermore, Parliament grants discharge to the Commission under the budget procedure (Article 319 TFEU). A refusal is equivalent to a motion of censure.

Whilst the motion of censure is a last resort instrument, Parliament may resort to other rights, including questions for oral or written answer (Article 230(2) TFEU) and committees of inquiry (Article 226 TFEU). Moreover, the President of the Commission is tasked in several instances with special reporting duties to Parliament. He or she shall, for example, report to it on the results of multilateral surveillance (Article 121(5) TFEU).

#### EC President and European Council

The European Council increasingly includes in its conclusions 'policy requests' to the Commission. This practice, not established in the Treaties, has intensified with the calls for leadership at the peak of the economic crisis and the centre-stage role of the European Council. It led to quasi-legislative functions of the European Council, converting it into an informal initiator of legislation, and watering down the Commission's monopoly of legislative initiative. Indeed, the Commission President is also a member of the European Council and, as such, participates in drafting its conclusions.

## Legislative programming

The new rules for the election of the Commission President, taking into account the elections to the EP (Article 17(7) TEU), are seen by many as increasing Parliament's role in political agenda-setting. Many argue that this may entail discussion not only of a candidate's overall vision for the EU, but more detailed specification of the legislative programme for the entire mandate.<sup>6</sup>

Indeed, whilst the EC has a monopoly over formal legislative initiative, it 'shall initiate the Union's annual and multiannual programming with a view to achieving **inter-institutional agreement**' (Article 17(1) TEU). The fact that EU leaders agreed on a strategic agenda on [26/27 June 2014](#) and again on [20-21 June 2019](#) for the coming political-institutional cycles, shows the increasing interest of national governments in exercising control of agenda-setting.<sup>7</sup> Moreover, under the [2010 EP-EC Framework Agreement](#), the Commission must take into account the priorities expressed by Parliament and justify any departure from the proposals set out in the Commission work programme (CWP). Parliament's contribution towards shaping the CWP has been enhanced with the 2016 [Interinstitutional Agreement](#) (2016 IIA). This institutionalised a dialogue between the three institutions before the adoption of the CWP and introduced an exchange of views after that adoption on initiatives for the coming year. It also established a joint declaration on annual interinstitutional programming, to be signed by the presidents of the three institutions (paragraph 6 and 7 of the 2016 IIA). The 2016 IIA also provides that the presidents of the three institutions, after an exchange of views, draw joint conclusions on principal long-term objectives and priorities for the new term, subject to mid-term revision. As a consequence, there is some dilution of the Commission's monopoly of initiative and a shift towards stronger political agenda-setting, with the active participation of Parliament and Council.

The timetable for the CWP is set out in Annex IV to the EP-EC Framework Agreement. It envisages dialogue between the Commission and the corresponding parliamentary committees. Each year in the first part-session of September, the President of the Commission delivers a [State of the Union speech](#) to Parliament, taking stock of the current year and looking ahead to priorities for future years. In October, the Commission adopts its work programme for the following year. The Commission President presents it either to the Conference of Presidents or to plenary.

Parliament's [initiative reports](#) have already proved of great importance in influencing the law-making process, even if the Commission has not always provided a satisfactory follow-up. But Parliament has also recognised the potential of its increased role in the EU's agenda-setting long before the start of the legislative process and has placed itself in the position of being able to assess the needs for new legislation and the amendment of existing legislation based on the results of its implementation. The European Added Value Unit within the European Parliamentary Research Service (EPRS) produces '[Cost of Non-Europe](#)' studies looking into possible benefits of further EU integration. It also undertakes specific follow-up research on major legislative requests made by Parliament within the negotiations with the EC on the CWP. Furthermore, EPRS examines Commission impact assessments and conducts ex-post impact assessments, thus organising systematic feedback from all relevant actors to be fed into the entire legislative cycle, from the agenda-setting until the scrutiny phase.

## Barroso's Presidency: passivity or cyclical downswing?

The two mandates of José Manuel Barroso at the head of the European Commission started in 2004 in a complex political and institutional environment. Enlargement from 15 to 25 Member States and the failure of the European Constitutional Treaty following the referendums in France and the Netherlands then dominated political discourse, removing further European integration or any institutional changes from the political agenda. President Barroso was therefore, according to many, well advised to refrain from any overly ambitious Commission initiatives, while others blame him for being too passive and for having eroded the Commission's monopoly of initiative in favour of the European Council and the Parliament.

Indeed, the direct negotiations between Parliament and Council, in trilogues under the ordinary legislative procedure, have marginalised the Commission to some extent, often reducing it to a mere 'honest broker'. This has led the Commission to refrain from submitting a legislative proposal if it expects one of the co-legislators, generally the Council, to oppose it. Commentators argue, therefore, that the Barroso Commission's relative passivity was the consequence of a structural tendency to transform the Commission from 'autonomous initiator' to 'reactive initiator'.<sup>8</sup>

President Barroso is said to have made the Commission more 'presidential', with his strong leadership and by taking personal ownership of key policy initiatives. A study among Commission officials rated him higher than his predecessors, second after Jacques Delors.<sup>9</sup>

The Barroso II Commission had to face the challenges posed by the economic and financial crisis, with the European Council [taking leadership](#) over economic governance and anti-crisis measures. The creation by the Lisbon Treaty of the office of a permanent President of the European Council as well as of the EU HR for Foreign Affairs and Security Policy also contributed to the partial marginalisation of the Commission and its President in EU agenda-setting. The rise of intergovernmental decision-making, at the cost of supranationalism within the EU framework, particularly in budgetary and economic matters, protected by Member States as ultimate bastions of national sovereignty, led to a reduction in the Commission's power of initiative.<sup>10</sup> While some accused him of executing a 'neo-conservative' agenda, President Barroso is credited for several initiatives in the course of the economic crisis, such as the [six-pack and two-pack](#) instruments for budgetary surveillance, as well as the [banking supervision](#) mechanisms. During his terms of office, the EC finalised negotiations on the [Services Directive](#) and the [REACH Regulation](#), as well as on the completion of the [Common European Asylum System](#).<sup>11</sup> He engaged intensively in the '[Better Regulation](#)' initiative, launched by his predecessor Romano Prodi, which progressively generalised stakeholders' consultation and impact assessment.

## Jean-Claude Juncker's Presidency: a 'political Commission'

Jean-Claude Juncker was [nominated](#) by the European Council as candidate for the EC Presidency during its meeting on 26 and 27 June 2014. Before running as the European People's Party's *Spitzenkandidat* for the post, he had been Prime Minister of Luxembourg (1995-2013) – and therefore a member of the European Council – and president of the [Eurogroup](#) of euro-area finance ministers (2005-2013).<sup>12</sup>

Jean-Claude Juncker's mandate (2014-2019) has been aimed at delivering on the 10 priorities announced at the beginning of his mandate: 1) A new boost for jobs, growth and investment; 2) A connected digital single market; 3) A resilient energy union with a forward-looking climate change policy; 4) A deeper and fairer internal market with a strengthened industrial base; 5) A deeper and fairer economic and monetary union (EMU); 6) A reasonable and balanced free trade agreement with the United States; 7) An area of justice and fundamental rights based on mutual trust; 8) Towards a new policy on migration; 9) Europe as a stronger global actor; and 10) A union of democratic change. On the basis of a [first assessment](#) of Juncker's mandate, produced by EPRS, it can be observed that the great majority of proposals envisaged have been tabled (nine out of ten). Moreover, by the end of the parliamentary term, in April 2019, two-thirds of the Commission's proposals had been fully agreed, if not yet formally adopted, by the co-legislators. From a qualitative perspective, in certain situations the Commission can be seen as having transformed difficulties into opportunities, e.g. in the area of trade, and in security and defence, while in other situations its proposals may have lacked the necessary ambition or complexity to meet the challenges, e.g. in the digital single market and economic and monetary union. In some other cases, proposals could not achieve full results due to late tabling, for example on the single market, or progressed on one aspect at the expense of moving back on another, e.g. in some aspects of migration policy or the union of democratic change.

[Juncker's Commission](#) has been marked by a significant change in working methods, with the aim of creating a more 'political Commission'. This expression has sometimes been the source of [misunderstandings](#). However, it is usually taken to mean ending a compartmentalised policy-making approach, in which Commission departments do not communicate well with each other, and rejecting the notion of the Commission as a faceless, anonymous bureaucratic entity without regard to values and benefits for citizens. With his mandate, Juncker introduced a new [working method](#) for the [College](#) whereby seven vice-presidents (including the High Representative of the Union for Foreign Policy and Security Policy) would lead seven major cross-cutting policy fields (Jobs, Growth, Investment and Competitiveness; Digital Single Market; Energy Union; the Euro and Social Dialogue; Better Regulation and Interinstitutional Relations; Budget and Human Resources; Europe in the World). Each vice-president coordinates a team composed of a variable number of Commissioners (who are not themselves vice-presidents) depending on the [portfolios](#) relevant to the topic area. While this required increased coordination of Commissioners' activity, it added a vertical hierarchical layer in the Commission's decision-making process, since each vice-president acted as a filter for policy initiatives coming from the various Commissioners, with the power to block them. On the other hand, the First Vice-President (Frans Timmermans) responsible for Better Regulation, Interinstitutional Relations, the Rule of Law and the Charter of Fundamental Rights, exercises a broader scrutiny at a horizontal level under the light of proportionality and subsidiarity of the Commission's proposals. This last step, is meant to ensure that the Commission's work is focused on bringing added value to European integration.

Finally, Juncker's mandate has, from the very beginning, been characterised by a number of unexpected challenges, such as terrorist attacks, the migration emergency, the rise of Eurosceptic political parties, and the withdrawal of the UK from the EU, which may have [affected](#) – either [positively](#) or [negatively](#) – [opinions](#) on his [legacy](#). Notwithstanding this, the Juncker Commission has also relaunched the broader [discussion](#) on the [future of Europe](#), setting out (five) possible scenarios according to which European [integration](#) could possibly develop in the future.

## Outlook: President-designate Ursula von der Leyen

With the *Spitzenkandidaten* process not having met the [expectations](#) of many [institutional](#) leaders, to the point that [doubts](#) have been raised as to its future survival as an institutional tradition, the candidate for President of the Commission has been named as [Ursula von der Leyen](#), a high-ranking German politician. She has been a prominent member of the CDU, Germany's Christian Democrat Party, Federal Minister for Family Affairs, Senior Citizens, Women and Youth (2005-2009), Federal Minister of Labour and Social Affairs (2009-2013) and currently, since 2013, in charge of the Federal Ministry of Defence. Describing herself as a convinced [European](#), Ursula Von der Leyen is [exploring](#) the extent of [political](#) support for her within Parliament, before the [vote](#) on her nomination, due to be held on [Tuesday 16 July](#), for which she requires the support of the majority of Parliament's component Members at the time of the election.

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### ENDNOTES

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- <sup>7</sup> J. A. Emmanouilidis, [The beginning of a new political cycle: the results and consequences of a nomination summit](#), European Policy Centre, 30.06.2014, p. 5.
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- <sup>10</sup> A. Schout, T. Buirma, [Ten years of Barroso's presidency: passive or smooth operator?](#), European Policy Institutes Network, 2014, p. 5.
- <sup>11</sup> See also [A United, Open and Stronger Europe. European Commission 2010-2014. A record of achievements](#), 2014.
- <sup>12</sup> Cicero group, The next Commission President: The democratic choice or institutional power grab?, 2014.

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