

**COMMISSION ANSWERS TO THE QUESTIONS OF
THE BUDGETARY CONTROL COMMITTEE OF THE
EUROPEAN PARLIAMENT ON THE APPOINTMENT
OF MR MARTIN SELMAYR AS THE NEW
SECRETARY-GENERAL OF THE EUROPEAN
COMMISSION**

24 March 2018

I. Access to the file

Question of the European Parliament:

- 1. Please provide all documents relating to the selection process of Mr. Selmayr as Deputy Secretary-General:***
 - a) Vacancy notice, including considerations for choosing an internal advertisement, information on how the vacancy was brought to the attention of staff, and contents relating to job requirements/sought for qualifications of candidates;***
 - b) Applications, including letters of interest and CVs;***
 - c) Withdrawal of Applications, including letters of motivation;***
 - d) Assessments and Interviews of candidate(s); composition of the Consultative Committee on Appointment (CCA)***
 - e) Documents relating to the decision to nominate Mr. Selmayr.***

Commission answer:

- a) The vacancy notice COM/2018/292 is attached to this reply (see list of annexes). Following the appointment of Ms Michou as Director-General for Migration and Home Affairs on 31 January, the decision was taken by the College to publish the post of Deputy Secretary-General¹ with the standard deadline of ten working days for applications (i.e. 13 February).
- b) We ask for your understanding that these documents cannot be transmitted for reasons of protection of private life and personal data, and in order not to prejudice the institution's future staff selection procedures, including the decision-making process. However, we are ready to discuss with the CONT committee appropriate arrangements for confidential access to documents concerning Mr Selmayr, who agreed with this way of proceeding.
- c) These documents cannot be transmitted for reasons of protection of private life and personal data, and in order not to prejudice the institution's future staff selection procedures, including the decision-making process.
- d) The Consultative Committee on Appointments (CCA)² was chaired by the

¹ The Sysper2 job vacancy portal is an online system open to all officials working in the Commission on which job vacancies are posted.

² The Consultative Committee on Appointments (CCA) is an advisory body that establishes the list of candidates to be proposed for appointment by the College of Commissioners. The CCA meets in different configurations (depending on the level of the post to be filled) but it generally includes senior managers from the Commission's Secretariat General, the Directorate-General for Human Resources and the recruiting Directorate-General.

Commission's Secretary-General (who was also the recruiting Director-General) and included the Director-General of Human Resources and Security, a high-ranking official from the Directorate-General Human Resources and Security (the Permanent Rapporteur) and a Director-General selected from a list that is adopted periodically by the Commission (the Rapporteur). The assessments of the Consultative Committee on Appointments cannot be transmitted for reasons of protection of private life and personal data, and in order not to prejudice the institution's future staff selection procedures, including the decision-making process. However, we are ready to discuss with the CONT committee appropriate arrangements for confidential access to documents concerning Mr Selmayr, who agreed with this way of proceeding.

- e) The minutes of the meeting, the QABD³ brief relating to the appointment of the Deputy Secretary-General and distributed in the room and the act appointing Mr Selmayr to the function of Deputy Secretary-General are attached (see list of annexes).

Question of the European Parliament:

2. Please provide all documents relating to the resignation of Mr. Italianer as Secretary-General:

- a) *Letter of resignation;*
- b) *Any minutes of 'silent' agreement about date of resignation;*
- c) *Any documents relating to the appointment of Mr. Italianer as Advisor Hors Class, specifically devoted to the Multi-Annual Financial Framework.*

Commission answer:

- a) Mr Italianer has given his agreement to disclose part of his retirement letter which is attached (see list of annexes). The remainder of the letter cannot be transmitted for reasons of protection of private life and personal data.
- b) No such minutes exist.
- c) The College transferred Mr Italianer to an Hors Classe Adviser function in the Secretariat-General for the period 1 March 2018 to 31 March 2018 (see the minutes of the College meeting of 21 February 2018, PV(2018)2244, point 10.20). The press release⁴ concerning the reorganisation of President Juncker's

³ QABD stands for "Questions administratives et budgétaires diverses". This document serves as a basis for senior management decisions.

⁴ http://europa.eu/rapid/press-release_IP-18-1004_en.htm

close team and the appointment of the new Secretary-General referred to the agreement that Mr Italianer would continue to advise the President after 1 April 2018, as an unpaid Special Adviser on the EU agenda, in particular the Multiannual Financial Framework and Brexit Preparedness. The formal decision to appoint Mr Italianer unpaid Special Adviser to the President is expected to be taken soon.

Question of the European Parliament:

- 3. Please provide all documents relating to the preparation of the meeting of the College of 21 February, during which Mr. Selmayr was appointed as Secretary-General:**
- a) Minutes of the meeting of Heads of Cabinet of 19 February and, in particular, any information relating to the question who chaired the meeting when the appointment of Mr. Selmayr was discussed;**
 - b) Documents provided to the Commissioners for the relevant agenda item;**
 - c) Agenda of the College meeting of 21 February (OJ 2018 2244 final, SEC 2018 2244 final);**
 - d) Compilation of reactions of Commissioners, both on the procedure followed and on the decision taken.**
 - e) Opinions of the Consultative Committee on Appointments of 14 and 16 February 2018 (PERS 2018 16/2 and 3), as referred to, page 24 (paragraph 10.11) of the abovementioned minutes? if needed under the relevant confidentiality rules?**

Commission answer:

- a) In accordance with normal practice, and in order to safeguard the necessary degree of confidentiality, senior management appointments at Director-General or Deputy Director-General level are presented directly to the College on the same day that the College decides on them. This is why this was not discussed amongst Heads of Cabinet. Consequently, there is no information relating to the topic in question in the minutes of this meeting.
- b) The minutes of the Commission meeting of 21 February 2018 (PV(2018)2244final) which are attached (see list of annexes), identify under point 10.11 the documents which were submitted to the Commission. There were no additional documents necessary for point 10.22.
- d) The agenda of the College meeting of 21 February 2018 (OJ 2018 2244 final) is publicly available on the website of the Commission, and attached to this reply. The agenda was amended during the meeting, and as documented in the minutes

of the meeting. In line with Article 6(5) of the Commission's Rules of Procedure (C(2010)1200), the Commission may, on a proposal from the President, discuss any question which is not on the agenda or for which the necessary documents have been distributed late.

Document SEC(2018)2244final, the so-called *liste des points prévus*, is a document with indicative dates for major policy initiatives. Such document never refers to senior management decisions. Therefore, it does not refer to the decisions in question.

- d) The minutes of the meeting of the College 21 February 2018 reflect the discussion during the meeting and the decisions taken, in respect of the collegial nature of the Commission. There are no other official records of the meeting.
- e) We ask for your understanding that these documents cannot be transmitted for reasons of protection of private life and personal data, and in order not to prejudice the institution's future staff selection procedures, including the decision-making process.

Question of the European Parliament:

- 4. Please provide the exhaustive minute (PV Special) of the 2244th meeting of the Commission if needed under the relevant confidentiality rules (in accordance with the relevant provisions of the framework agreement between the Commission and the European Parliament)?***

Commission answer:

The minutes attached (see list of annexes) are the exhaustive record of this meeting. No other minutes exist.

Question of the European Parliament:

- 5. Please provide all documents relating to the Communication Strategy of the Commission in relation to the appointment of Mr. Selmayr:***
- a) Instructions to the spokespersons before each of the briefing sessions with the media, during which the appointment came up;***
 - b) Reports back to the Commission of the spokespersons about the questions asked by journalists and the increasing unrest during the briefing sessions;***
 - c) Any information on how the Commission could underestimate the turmoil its communication strategy caused and on any ideas on how to approach the interested journalist in order to de-escalate the situation.***

Commission answer:

- a) The Spokesperson's Service answers questions from the media and provides explanations to the press through its daily midday press briefings and on the basis of established positions. These are prepared on a daily basis through discussions with all the relevant services concerned.
- b) The midday press briefing is public, available [online](#) and reflected in media reports. You can access all midday press briefings on Europa by Satellite where midday briefings can be found according to dates: <https://ec.europa.eu/avservices/ebs/schedule.cfm>. The midday press briefings during which the appointment was raised include: 26 and 27 February and 2, 5, 6, 8, 9, 16, 19, 20 March (see list of annexes).
- c) Given the interest around the procedural aspects of the appointment, the Spokesperson's Service prepared an internal paper relating to the most frequently asked questions in the press room which was made available as an information tool to provide assistance to interested journalists (see list of annexes). It can in no way be considered an official Commission document and it does not produce legal effects⁵.

Question of the European Parliament:

- 6. *Please provide the exhaustive minutes (PV SPECIAL) of all the meetings where the proposal of a new Code of conduct for the Commissioners was discussed, if needed under the relevant confidentiality rules?***

Commission answer:

The new Code of Conduct⁶ was discussed in the Commission seminar on 31 August and 1 September 2017. There are no minutes of the seminar.

The new Code of Conduct was discussed and approved in the Commission meeting of 12 September 2017. This is reflected in the minutes of this meeting. The minutes are attached to this reply (PV(2017)2224).

The new Code of Conduct was finally adopted in the meeting of 31 January 2018 as reflected in the minutes of this Commission meeting. The minutes are attached (see list of annexes).

⁵ Cf. the orders of the General Court in Cases T-192/16, T-193/16, T-257/16 of 20 February 2017.

⁶ C(2018)700 Commission Decision of 31.1.2018 on a Code of Conduct for the Members of the European Commission.

II. 2244th Meeting of the Commission held in Brussels on Wednesday, 21 February 2018, from 9.35am to 10.09

Procedure of appointment

Question of the European Parliament:

7. *What, according to the staff regulation, are the preconditions for being appointed as Secretary-General? Were these preconditions fulfilled?*

Commission answer:

There are two formal requirements for being appointed as Secretary-General of the Commission: having the grade of AD14 or above (with a minimum of two years in the grade for AD14 officials) and a minimum of two years of management experience as a senior manager at Director level or above. The chart below reflects Annex I of the Staff Regulations.

Criteria for appointment as Director-General (or Deputy Director-General)		
Current function:	Current grade:	Seniority required:
Director-General / Deputy Director-General	AD16	No additional requirements
	AD15	
Director / Principal Adviser	AD15	2 years in Senior Management function
	AD14	2 years in Senior Management function AND 2 years in grade
Head of Cabinet	AD16	No additional requirements
	AD15	2 years in Senior Management / Head of Cabinet function
	AD14	2 years in Senior Management / Head of Cabinet function AND 2 years in grade

Beyond the formal requirements, the candidate needs to demonstrate European commitment, have an excellent knowledge of the Commission's policies and priorities as well as of its administrative practices and procedures, have a strong background as a manager and communicator with professional experience in leading and motivating teams as well as strong analytical skills and the ability to communicate efficiently with internal and external stakeholders. Also, the Secretary-General, as foreseen in Article 20 of the Commission Rules of Procedure (C(2010)1200), shall assist the President so that, in the context of the political guidelines laid down by the President, the Commission achieves the priorities that it has set itself. He must therefore have the full trust of the President and of the whole Commission.

Question of the European Parliament:

8. *What, according to the staff regulation, is the procedure for appointing the Secretary-General? Was this procedure followed?*

Commission answer:

The EU's Staff Regulations, adopted by the European Parliament and the Council, provide for two ways of being appointed Director-General or Deputy Director-General, both of which are the same type of post (graded at either AD15 or AD16, in accordance with Annex I to the Staff Regulations). The two ways are: (1) appointment by the College following publication of the post and selection procedure under Article 29 of the Staff Regulations or (2) transfer in the interest of the service pursuant to Article 7 of the Staff Regulations.

1. **Appointment by the College following publication** of the post and selection procedure (**Article 29**⁷ of the [Staff Regulations](#)). This selection procedure includes a full day Assessment Centre⁸ (run by an external consultancy) and an interview, assessment and opinion by the Commission's high-level Consultative Committee on Appointments (CCA). This Committee was chaired for this procedure by the Commission's Secretary-General and included the Director-General who was recruiting (in this instance, the Secretary-General), the Director-General of Human Resources and Security, a high-ranking official from the Directorate-General Human Resources and Security (the Permanent Rapporteur) and a Director-General selected from a list that is adopted periodically by the Commission (the Rapporteur). Finally, the candidate has to pass an interview with the responsible Member of the Commission and with the Commissioner responsible for Budget and Human Resources. The College appoints Directors-General and Deputy Directors-General⁹.

⁷ Article 29 of the Staff Regulations provides that:

1. Before filling a vacant post in an institution, the appointing authority shall first consider:

(a) whether the post can be filled by:

- (i) transfer, or
- (ii) appointment in accordance with Article 45a, or
- (iii) promotion within the institution;

(b) whether requests for transfer have been received from officials of the same grade in other institutions, and/or

(c) if it was not possible to fill the vacant post through the possibilities mentioned in points (a) and (b), whether to consider lists of suitable candidates within the meaning of Article 30, where appropriate, taking into account the relevant provisions concerning suitable candidates in Annex III and/or

(d) whether to hold a competition internal to the institution, which shall be open only to officials and temporary staff as defined in Article 2 of the Conditions of Employment of Other Servants of the European Union;

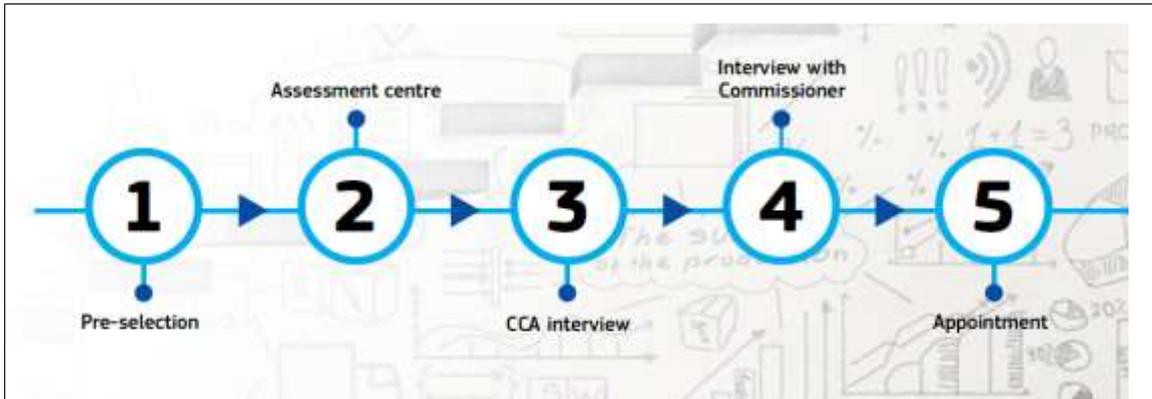
or follow the procedure for competitions on the basis either of qualifications or of tests, or of both qualifications and tests. Annex III lays down the competition procedure.

The procedure may likewise be followed for the purpose of constituting a reserve for future recruitment [...]

2. A procedure other than the competition procedure may be adopted by the Appointing Authority for the recruitment of senior officials (Directors-General or their equivalent in grade AD 16 or AD 15 and Directors or their equivalent in grade AD 15 or AD 14) and, in exceptional cases, also for recruitment to posts which require special qualifications.

⁸ Assessment centres are organised by an external contractor and assess managerial competencies. They were introduced by the Commission for internal selection procedures at Director level in 2007 and for Deputy Director-General/Director-General level in 2015 (see list of annexes).

⁹ Commission Decision C(2016)1881 of 4/4/2016 on the exercise of powers conferred by the Staff



2. **Transfer in the interest of the service** (Article 7¹⁰ of the [Staff Regulations](#)). Officials in grades of functions AD15 or AD16 who hold a post or carry out a function at senior management level, are eligible for transfer to another function at senior management level in the Commission in the interest of the service. This does not require the official to undergo the selection procedure outlined in point 1. This is the procedure that was used in 2000, when David O’Sullivan, at that time Head of Cabinet of the President, was appointed Secretary-General, as well as in 2005 for the appointment of Catherine Day and in 2015 for the appointment of Alexander Italianer.

In accordance with the Staff Regulations, the Article 7 procedure was used for the appointment of Mr Selmayr as Secretary-General of the Commission. The College took the decision on a proposal from the President, in agreement with the Commissioner responsible for Budget and Human Resources and after consultation of the First Vice-President.

Question of the European Parliament:

9. Who personally initiated the process of appointment?

Commission answer:

The process of appointment by transfer was initiated by the President in agreement with the Commissioner responsible for Budget and Human Resources and after consultation of the First Vice-President.

Regulations on the Appointing Authority (AIPN).

¹⁰ Article 7 of the Staff Regulations provides that: The Appointing Authority shall, acting solely in the interest of the service and without regard for nationality, assign each official by appointment or transfer to a post in his function group which corresponds to his grade.

Question of the European Parliament:

10. Did somebody within the Commission oppose it?

Commission answer:

The decision of the College of Commissioners was unanimous.

Question of the European Parliament:

11. According to the minutes, the 2244th College meeting started at 9.35 am; can the Commission confirm that at 9.39 the accredited press was informed that president Juncker and Günther Oettinger would held a press conference on 10.30?

Commission answer:

Journalists were informed by an e-mail sent at 9h40 that the read-out of the College meeting would be done by President Juncker and Commissioner Oettinger and would start at 10h30. This was done to guarantee timely information of journalists on the outcome of the College meeting and was without prejudice to further decisions taken by the Commission.

Question of the European Parliament:

12. How was Article 29 of the Staff Regulations interpreted in relation to the preference for a direct transfer of Mr. Selmayr from Deputy SG to SG? Considering that this procedure can only be applied in 'exceptional circumstances', which were these?

Commission answer:

It is not correct that the transfer procedure of Article 7 of the Staff Regulations can only be used in "exceptional circumstances". It is, under the Staff Regulations, an alternative procedure to the publication procedure of Article 29.1 a) of the Staff Regulations and can equally be chosen by the institution depending on the interest of the service. Please also see answer to question 8.

Paragraphs 10.11 of the Minutes of the 2244th Commission meeting - Appointment of AD 15/16 Deputy Secretary-General

Question of the European Parliament:

13. What recruitment procedures are followed for Deputy Secretary Generals?

Commission answer:

Like Deputy Directors-General, Deputy Secretaries-General belong to the same type of post as Directors-General within the AD function group (Annex I to the Staff Regulations). Please see the answer to question 8 for the applicable procedures. Subsequent to the senior management decisions taken on 21 February 2018, two Deputy Secretary-General functions, as well as two Deputy Director-General functions have now been published and will shortly be filled.

Question of the European Parliament:

14. Can the Commission confirm that the post of Deputy Secretary General is the one of Mrs Paraskevi Michou? If not which one was it? If it was the post of Mrs Michou, is it correct that she remained Deputy Secretary General until the 1st of March, date at which her nomination as Director General of DG HOME took effect? If so, how could Mr Selmayr be nominated on a post of Deputy General Secretary on 21 February 2018, which was not yet vacant? What was the reason for removing Mr Matthias Ruete from his post (Director General DG HOME)?

Commission answer:

The Commission can confirm that the post of Deputy Secretary-General was the one previously occupied by Ms Michou. Since the College had decided, on 31 January 2018, to transfer her in the interest of the service to the post of DG HOME with effect from 1 March 2018, it was possible to fill this post again with effect from that date. The fact that her appointment took effect on 1 March 2018 is not an obstacle to the appointment. On the contrary, it is in line with the principle of good administration to avoid gaps by publishing in due time the post to ensure that it is filled rapidly.

As regards the reasons for the transfers of Ms Michou and Mr Ruete, which took place at the request of the First Vice-President Timmermanns and Commissioner Avramopoulos in agreement with Commissioner King, the Commission refers to the minutes of the College meeting of 31 January 2018 (PV(2018) 2241, p. 11 and 12) which state, “*The Commission proposed to appoint [Ms MICHOU] as Director-General of DG Migration and Home Affairs, with effect from 1 March 2018. Ms MICHOU was one of the key figures behind the Commission’s global response to*

the migration crisis, in particular coordinating numerous initiatives and steering its crisis management on migration in the different departments. In her new role as Director-General, she would work directly with Mr AVRAMOPOULOS, the Member of the Commission responsible for migration, home affairs and citizenship, Sir Julian KING, the Member of the Commission responsible for the Security Union, and Mr TIMMERMANS, First Vice-President of the Commission, responsible for better regulation, interinstitutional relations, the rule of law and the Charter of Fundamental Rights. Mr OETTINGER stressed that Ms MICHOU was in effect immediately to assume responsibility for the work under way on reform of the European asylum system provided for by the 'Dublin III' regulation. This fundamental reform to ensure the proper functioning of the Schengen area would be on the agenda of the European Council in June and must first be examined by the European leaders at their informal meeting in May [...] Mr OETTINGER stressed that these two appointments would ensure the continuity of senior management in the crucial area of migration and home affairs."

Question of the European Parliament:

15. Can the Commission confirm that regular procedures (publications of posts, call of interest, etc.) can be followed in a case where the post is not yet vacant? If so, how?

Commission answer:

In order to ensure continuity of service, the relevant procedures are normally launched as soon as it is clear that a post will have to be filled in the foreseeable future, for instance because of transfer of the jobholder.

Question of the European Parliament:

16. Does the Commission consider it normal to arrange in advance (i.e. 31 January, 21 February) the promotion, nomination and mutation into three management posts for the 1st of March? (Nomination of Michou DG HOME 1st March on 31st of January, and promotion of Selmayr to Deputy Secretary General on 1st March on 21st February, and mutation of Selmayr to the post of Secretary General 1st March on 21st February?)

Commission answer:

In the interest of the institution, situations where important functions of this level become vacant are to be avoided. The approach followed by the College guaranteed the seamless exercise of these functions.

None of these appointments or transfers led to a promotion within the sense of the Staff Regulations, since they all happened at the same grade already held by the

officials involved (AD15). Promotions involve an official moving up from one grade to the next in accordance with article 45 of the Staff Regulations.

Question of the European Parliament:

17. How many minutes did the College reflect on these nominations?

Commission answer:

The duration of individual agenda items is not recorded in the minutes. The meeting lasted from 9h35 to 10h19. The decision of the College of Commissioners was unanimous.

Question of the European Parliament:

18. How many applications had the Commission before it? How many applications were initially introduced? If some application had been withdrawn when did it take place? For which reason? When did the exchange of views between the candidate(s) and Commissioner Oettinger and President Juncker take place? How long did that interview last? And what was the result? Please provide the CONT Committee with the Minutes of the interviews.

Commission answer:

Following the appointment of Ms Michou as Director-General for Migration and Home Affairs on 31 January, the post of Deputy Secretary-General was published with the standard deadline of ten working days for applications (i.e. 13 February) and two candidates applied. Mr Selmayr was one of the applicants for the post. The second candidate applied for the vacancy on 8 February 2018, went through the full day Assessment Centre on 12 February 2018 and withdrew the application prior to the interview with the Consultative Committee on Appointments (CCA) scheduled for 20 February 2018.

Mr Selmayr underwent the procedure foreseen under Article 29 of the Staff Regulations. This procedure included:

- a) a full day Assessment Centre (15 February);
- b) an interview (16 February), assessment and opinion (20 February) by the Consultative Committee on Appointments (CCA);
- c) an interview with Commissioner Oettinger in charge of Budget and Human Resources and President Juncker (20 February). No minutes are required from these interviews and the length of the interview is not recorded.

The College – by unanimous decision – appointed Mr Selmayr as Deputy Secretary-

General on 21 February.

Question of the European Parliament:

19. If there were only one candidate on 21 February, it would have been necessary to proceed to a new call for applications so that the College would be offered a sufficient choice. How does the Commission justify that it did not respect its internal rule according to which "The lists adopted by the CCA should in any event offer the Commissioners a satisfactory choice of candidates ..."

Commission answer:

There is no legal obligation to close the procedure because there is only one candidate if the Consultative Committee on Appointments (CCA) considers that this candidate meets the necessary qualifications. Even though it is an objective of the Commission to have lists adopted by the Consultative Committee on Appointments (CCA) which offer a satisfactory choice of candidates, it happens that there is only one candidate who applies for a senior management vacancy or that there is only one qualified candidate left by the end of the procedure when the proposal is made to the College.

Question of the European Parliament:

20. When did the other candidate apply for the function of deputy Secretary-General? Was it on the same date as Mr Selmayr? Did she applied on the request of her chief? Did she also had a job interview with Commissioner Oettinger? If not, why? When did she decided to withdraw from the application procedure? What where the reasons for her to withdraw?

Commission answer:

The second candidate applied for the vacancy on 8 February 2018, went through the full day Assessment Centre on 12 February 2018 and withdrew the application prior to the interview with the Consultative Committee on Appointments (CCA) scheduled for 20 February 2018. Candidates are not required to give any reasons or justification for withdrawing their application.

Question of the European Parliament:

21. Mme Alberola ignorait-elle les intentions du Président de nommer Selmayr SG ? Était-elle au courant du fait qu'elle aurait eu le poste de Chef de Cabinet suite à la nomination de Selmayr comme SG ?

Commission answer:

Ms Martinez Alberola was informed on 20 February 2018.

Question of the European Parliament:

22. Why was the selection procedure for the post of Deputy Secretary General not reopened when Ms Martinez Alberola withdrew her candidacy? Can Ms Martinez explain why she withdrew her candidacy? In the previous selection procedures for deputy secretary-generals, how many candidates did apply for each of the posts advertised? Please give an answer for each of the deputy secretary-generals appointed since 2004.

Commission answer:

Please see answer to question 19. There is no legal obligation to close the procedure if one or more candidates withdraw their application at any stage of a selection procedure if the Consultative Committee on Appointments (CCA) considers that the only candidate remaining is suitably qualified for appointment. This does not lead to reopening the procedure. Once the deadline for applications has expired, the procedure cannot be reopened for new applications. The procedure continues as normal with the remaining candidates. When candidates withdraw their application, they are not required to give any reason or justification for their withdrawals.

Since 2004, a total of 146 candidates applied for a Deputy Secretary-General post in previous selection procedures, one of which was published externally:

Year	Selection procedure	Nr. of applications
2005	COM/2005/3857	4
2009	COM/2009/1847	3
2010	COM/2010/1337	2
2010	COM/2010/1338	3
2015	COM/2015/10361 (external)	120
2015	COM/2015/1447	6
2015	COM/2015/1448	8

Other candidates

Question of the European Parliament:

23. Does the Commission confirm that there was only one other candidate for the position of Deputy Secretary-General? And do you confirm that she retrieved her application shortly after the vacancy was closed? Finally, does the Commission confirm that in consequence only Mr Selmayr passed the assessment test and was interviewed by Mr Oettinger and Mr Juncker to fill the position of Deputy Secretary- General?

Commission answer:

Both candidates went through the Assessment Centre. The second candidate withdrew the application prior to the interview with the Consultative Committee on Appointments (CCA) scheduled for 20 February 2018. Please see answers to questions 18 to 20.

Question of the European Parliament:

24. How often during the current legislature did candidates of the underrepresented gender retrieve their candidature once a vacancy is closed? If this happened not only exceptionally, how can it be prevented that the underrepresented gender retrieve their candidature to make sure that the Commission complies with its claims on equal opportunities and transparency?

Commission answer:

In senior management selection procedures, it happens that candidates withdraw their applications, but there is no specific pattern in terms of gender. Withdrawals are unpredictable events, which do not undermine the equal opportunities and transparency policy of the Commission but which result from a personal decision for which no justification is required. We would like to recall that this Commission has increased the number of female Directors-General and Deputy Directors-General from 11% to 36%.

Question of the European Parliament:

25. Did the CCA not insist on a sufficient number of candidates, according to the internal Rules of the COM?

Commission answer:

Please see answer to question 19.

Question of the European Parliament:

26. Please explain how the procedure abided to required conditions of openness and transparency.

By adopting its internal guidelines, the Commission has clearly set itself the following rule: “The lists adopted by the CCA should in any event offer the Commissioners a satisfactory choice of candidates. The responsible Commissioners need on the one hand to have the widest choice of suitably qualified candidates and on the other to have a list of candidates for interview which does not impose on them a major burden of comparative assessment of a large number of candidates” (point 5.2.6 of the Compilation Document). When this is not the case, according to the CCA rules of procedure (Article 1(2) (2) of Decision C (2007)380), “at the request of one of its members, after hearing the Director-General concerned and, if required, the Rapporteur appointed to follow the specific selection procedure, the CCA may suggest that a wider choice of candidates should be proposed to the Appointing Authority.” A vacancy notice must be published and it must give potential candidates enough time to decide whether or not they wish to apply (this reflects a general principle: cf. C-566/10 P, Italy/ Commission, point 90).

Commission answer:

Article 1(2) of Commission Decision C(2007) 380 of 7 February 2007 laying down the Rules of Procedure for the Consultative Committee on Appointments (CCA) (see list of annexes) relates to selection procedures having the purpose of filling a vacant post of Head of Unit or Adviser. It does therefore not apply to senior management selection procedures. Moreover, even at middle management level, the "wider choice of candidates" can only concern candidates who applied for the respective position; the Consultative Committee on Appointments (CCA) cannot propose for interview candidates who did not submit a formal application.

Article 1(1) of the same decision relates to selection procedures having the purpose of filling a vacant post of Directors-General or their equivalent in grade AD15 or AD16 and of Director or equivalent in grade AD14 or AD15 and states that, “*the CCA shall examine all applications for a vacancy; it shall assess candidates as to their aptitude to exercise senior management function and propose to the Appointing Authority a list of those candidates it considers most suitably qualifies for appointment.*” The vacancy notice for the post of Deputy Secretary-General was published with the standard deadline of ten working days, which gave potential candidates sufficient time for deliberation.

Question of the European Parliament:

27. Following the withdrawal of Ms Alberola's application even before the CCA was able to examine it - Shouldn't the selection procedure have been repeated to ensure the participation of a sufficient number of candidates?

Commission answer:

Please see answer to question 19.

Question of the European Parliament:

28. Can the Commission explain its view on how the conditions repeated below were met?

- *fair and effective competition for the vacant post in the meaning of Article 29 of the Staff Regulations;*
- *non-discrimination of potential candidates in the meaning of Article 1 of the Staff Regulations; and*
- *“a satisfactory choice of candidates” in accordance with the rules adopted by the College.*

Commission answer:

First, the Commission notes that the terms cited in the third indent of the question relate to the Consultative Committee on Appointments stage of a selection procedure and do therefore not concern the choice between the organisation of a selection procedure pursuant to Article 29 of the Staff Regulations and the transfer in the interest of the service pursuant to Article 7 of the Staff Regulations. In any event, where a post needs to be filled, the Staff Regulations allow the Appointing Authority, in this case the College, to choose between the organisation of a selection procedure pursuant to Article 29.1 of the Staff Regulations, and a transfer in the interest of the service pursuant to Article 7 of the Staff Regulations. Article 1d of the Staff Regulations, which refers to the principle of non-discrimination, needs to be respected in both procedures. It depends on the specific circumstances of the case at stake whether a selection procedure or a transfer is considered to best correspond to the interest of the institution.

Question of the European Parliament:

29. Can Mr Oettinger in his capacity as Commissioner in charge of this procedure explain his reasons for not persisting to ensure the participation of an adequate number of candidates in accordance with the Staff Regulations and the guidelines of the College on these matters?

Commission answer:

Please see answer to question 19.

Question of the European Parliament:

30. Both decisions of appointment of AD 15/16 Deputy Secretary-General and Secretary General of the Commission will take effect on 1 March 2018. Is it normal procedure to adopt two staff decisions concerning the same servant with simultaneous effect whilst logically the appointment to the post of Deputy-Secretary General should have preceded the transfer to the post of Secretary-General?

Commission answer:

The decisions were taken by the College consecutively. First, the appointment of Deputy Secretary-General was decided, then Alexander Italianer announced his retirement and only thereafter the transfer to the post of Secretary-General was decided. The first decision took effect in time before the second one even if on the same day.

In the interest of the institution, situations where important functions of this level become vacant are to be avoided. The approach followed by the College guaranteed the seamless exercise of these functions. None of these appointments or transfers led to a promotion within the sense of the Staff Regulations, since they all happened at the same grade already held by the officials involved (AD15). Promotions involve an official moving up from one grade to the next in accordance with article 45 of the Staff Regulations.

Question of the European Parliament:

31. Retirement of Mr Italianer Page 30 4th alinea of the Minutes of the 2244th Commission meeting.

Mr Italianer announced that he would take retirement on 1 April 2018 and that he was prepared to leave the post on 1 March to ensure an orderly transition.

To which extend the fact of leaving the post 7 days after the decision would ensure a better transition than managing a transitory period of one month and 7 days?

Commission answer:

Mr Italianer was transferred to a function of Hors Classe Adviser in the Secretariat-General for the period 1 March 2018 to 31 March 2018 notably in view of facilitating the transition to his successor during this period.

Question of the European Parliament:

32. During the press conference held on Wednesday February 21th, Jean-Claude Juncker mentioned that the outgoing Secretary-General, Alexander Italianer, informed him two years ago of his decision to retire as of 1 March. According to the Commission's minutes, it was during the Commission's meeting of February 21th that Mr Alexander Italianer, Secretary-General of the Commission, informed the Commission of his intention to retire with effect as of 1 April 2018. What is the correct version?

Commission answer:

President Juncker explained during his press conference on 21 February that when agreeing to become Secretary-General in 2015, Mr Italianer had told the President that he intended to retire soon after 1 March 2018. The President discussed this information with his Head of Cabinet, like all important senior management matters.

The President did not share this information further in order not to undermine Mr Italianer's authority while he was in office. The President and his Head of Cabinet also kept the hope to be able to convince Mr Italianer to stay on as Secretary-General beyond 1 March 2018. However, in early 2018, Mr Italianer confirmed that he would stick to his decision. Mr Italianer sent the President a formal letter stating his intention to retire on 31 March 2018 in the morning of 21 February 2018.

After having sent his letter, he subsequently informed the College of Commissioners during their meeting on 21 February. The letter was the first formal step taken by Mr Italianer in order to inform the President and subsequently the College of his intention to retire.

Question of the European Parliament:

33. Does the Commission insist that the resignation of DG Italianer, which happened just a few minutes after Mr. Selmayr had been appointed his Deputy, was coincidental?

Commission answer:

Please see answer to question 32.

Question of the European Parliament:

34. Page 30 last sentence and page 31 of the Minutes of the 2244th Commission meeting

“The President then presented to the College his proposal to appoint his current head of Cabinet, Mr Martin Selmayr, a German national who has recently been appointed Deputy-Secretary general, to the post of

Secretary-General with effect from 1 March 2018, ”

Why do the minutes mention the nationality of Mr Selmayr whilst under article 7 of the Staff regulation foresees as to the transfers that: “the Appointing Authority shall, acting solely in the interest of the service and without regard to nationality”

Commission answer:

There is no specific reason. Nationality does not play a role with regard to appointments or transfers under the Staff Regulations.

Question of the European Parliament:

35. Is it well obvious that at the moment of his presentation by President Juncker on 21 February 2018 Mr Selmayr was presented in his capacity/function of “current head of Cabinet of the President”?

Commission answer:

On 21 February 2018, Mr Selmayr was, in his "basic career" a Commission official in grade AD15, Principal Adviser in the Directorate-General for Economic and Financial Affairs and, in his career as seconded official, Head of the Cabinet of the President at grade AD15.

Question of the European Parliament:

36. To which extend article 4 of the Staff regulation has been respected that foresees in particular that

“No appointment or promotion shall be made for any purpose other than that of filling a vacant post as provided in these Staff Regulations.

Vacant posts in an institution shall be notified to the staff of that institution once the appointing authority decides that the vacancy is to be filled.....”

Commission answer:

Articles 4 and 29 of the Staff Regulations were followed for the procedure for appointment of Mr Selmayr as Deputy Secretary-General. Article 7 of the Staff Regulations was followed for the procedure for the transfer to the post of Secretary General. As this post was not vacant, the case law of the EU courts allows for transfers to be carried out without publication.¹¹

¹¹ Case F-24/12, BN v PE, points 46-48; Case T-339/03, Clotuche v Commission, point 31.

Article 4 of the Staff Regulations does not mean that posts can only be filled via a publication and formal selection procedure. The two procedures as described in the answer to question 8 (appointment under Article 29 of the Staff Regulations or transfer in the interest of the service under Article 7 of the Staff Regulations) are alternatives and the College can decide which procedure to be used. EU institutions may make use of the possibility to transfer officials of the same function group in the interest of the service in accordance with Article 7, without a formal publication. Please see answer to question 8.

Finally, the Court of Justice has consistently held that the EU institutions have a broad discretion to organise their departments to suit the tasks entrusted to them and to assign staff available to them in the light of such tasks, on condition however that the staff are assigned in the interests of the service and in conformity with the principle of assignment to an equivalent post.¹² The Court of Justice has also confirmed that re-assignments of this type are in line with the Staff Regulations, which allow both procedures to be used.¹³

Question of the European Parliament:

37. How often has this procedure been used in the ongoing legislature to fill AD15/AD16 position without publishing a vacancy as required in Article 4?

Commission answer:

During this mandate, the Commission has made 32 transfers in the interest of the service under Article 7 of the Staff Regulations of Directors-General/Deputy Directors-General to another function of Director-General/Deputy Director-General. In addition, 13 officials in grades AD15/AD16 who had previously occupied a function of Director-General or Deputy Director-General have been moved to Hors Class Adviser functions. All these transfers have been decided by the College of Commissioners in full compliance with the provisions of the Staff Regulations. Please also see answer to question 36.

Under the previous Commission, 60 officials holding functions of Director-General/Deputy Director-General/Hors Classe Adviser were transferred to other functions at this level under Article 7 of the Staff Regulations. Six of these transfers were of Directors-General/Deputy Directors-General to Hors Classe Adviser functions.

¹² Case F-73/07, Doktor/Conseil, point 39; see also Case 69/83, Lux v. Court of Auditors, point 38.

¹³ Case C-174/99P, European Parliament v Pierre Richard, points 38-39.

Question of the European Parliament:

38. How can the Commission make sure that the best candidates are selected without complying with the requirements laid down in Article 4?

Commission answer:

Please see answers to questions 28 and 36.

Question of the European Parliament:

39. Paragraph 10.22: appointment of AD15/16 Secretary-General of the Commission

“On a proposal from the President, in agreement with Mr Oettinger, the Commission decided to transfer in the interest of the service, under Article 7 of the Staff regulations, Mr Martin Selmayr, Deputy Secretary-General responsible for Directorates B and E to the post of Secretary-general of the Commission”

Why do the minutes present Mr Martin Selmayr as Deputy Secretary - General responsible for Directorates B and E whilst at that very moment his appointment of Deputy Secretary- General has not taken effect yet?

Commission answer:

Please see answer to question 16. Given the sequence of events, first the appointment of Deputy Secretary-General was decided, then Alexander Italianer announced his retirement and only thereafter the transfer to the post of Secretary-General was decided. The first decision took effect in time before the second one even if they were adopted on the same day.

Question of the European Parliament:

40. Which was the latest grade of Martin Selmayr before having been seconded to the Cabinet of the President of the European Commission and when did he become an official of the European Commission under the terms of the Staff regulation? Which was the grade of Mr Selmayr on 20 February 2018? What has been his career path? Did his appointment as Secretary-General have any effect on his emoluments? Which grade does he have now? Is it right that Martin Selmayr has held an AD15 position as the head of Juncker’s cabinet since 2017 - but please provide CONT Committee with the full record of his career within the EU institutions:- for each position - status (official, seconded official, temporary), grade, date of promotion, what concurs, besides

that of DSG, did he pass? When did he pass those concours? What was his entry grade when starting the service? Can the Commission confirm that Mr Selmayr was an AD 14 official before the 9 minutes during which he was appointed Deputy Secretary General and then Secretary General?

Commission answer:

Mr Selmayr was a grade AD14 official at the time that he was seconded as Head of the President's Cabinet.

Mr Selmayr joined the Commission as a grade AD6 official in November 2004, having passed the open AD competition COM/A/10/01 under the Prodi Commission. He was one of the 4,557 eligible candidates in this open competition in the field of Law. 156 candidates (3,4% rate) passed the competition, including Mr Selmayr. He was chosen from the 156 laureates reserve list published in the Official Journal (OJ 8.3.2003 C 54/5). Prior to joining the Commission, Mr Selmayr had seven years of professional experience, including working within the Bavarian administrative and court system, lecturing at the University of Passau and assignments at the European Monetary Institute, later the European Central Bank, in addition to work experience as an attorney and manager in the private sector.

In his Commission career, Mr Selmayr, was promoted to grade AD7 in 2007, to grade AD8 in 2009, to grade AD9 in 2011 and to grade AD10 in 2013.

From 10 February 2010, Mr Selmayr was seconded as Head of Vice-President Reding's Cabinet. In this position he occupied a function of Head of Cabinet at grade AD14, at Director level in accordance with the Rules on the Composition of Cabinets in force at the time (SEC(2010)104).

In 2014, Mr Selmayr was one of 91 candidates for the post of Principal Adviser to the European Bank for Reconstruction and Development (a position at the level of a Director in DG ECFIN) and successfully went through the entire selection procedure (Article 29 of the Staff Regulations) including a full day Assessment Centre, interview by the Consultative Committee on Appointments and interview by Olli Rehn, the Vice-President for Economic and Monetary Affairs and the Euro. Subsequently, he was appointed Principal Adviser (a post at Director level) by the College of Commissioners under the Barroso Commission at the request of Vice-President Rehn with effect of 1 June 2014. With this appointment he became a grade AD14 official.

Mr Selmayr took leave on personal grounds (CCP) from 1 April 2014 to 31 May 2014 in order to act as campaign manager for Jean-Claude Juncker, lead candidate for President of the Commission. Following his reintegration on 1 June 2014, Mr Selmayr was assigned as an AD14 official as Principal Adviser in the Directorate-General for Economic and Financial Affairs.

From 1 July 2014 to 31 October 2014, Mr Selmayr was seconded at grade AD14 as Head of the Transition Team of President-elect Jean-Claude Juncker.

On 1 November 2014, Mr Selmayr was seconded as Head of the President's Cabinet

at grade AD15 in accordance with the Rules on the Composition of Cabinets in force since 2004 (see decisions SEC(2004)185, SEC(2010)104 and C(2014)9002), (see list of annexes).

On 1 January 2017, Mr Selmayr was promoted by the College to grade AD15 in his basic (non-secondment) career as an official in the framework of the 10th Senior Officials Promotion Exercise, a decision taken by the College of Commissioners (PV(2017)2221).

Mr Selmayr was an AD15 official before the Commission meeting of 21 February 2018, and he is still grade AD15 today. There was no promotion in the sense of the Staff Regulations. His appointment as Secretary-General had a negative effect on his salary and emoluments since he was in step 2 of grade AD15 as a seconded official but in step 1 of grade AD15 in his basic career as a Commission official.

Question of the European Parliament:

41. Who was already, before the date of the “flash” promotion of Mr Selmayr, informed that M. Selmayr will be the new Secretary-General? When was Juncker informed? When was Frans Timmermans informed? When was Mr Oettinger informed?

Commission answer:

There was no promotion in the sense of the Staff Regulations. Mr Selmayr was an AD15 official before the Commission meeting of 21 February 2018, and he is still grade AD15 today. His appointment as Secretary-General had a negative effect on his salary and emoluments since he was in step 2 of grade AD15 as a seconded official but in step 1 of grade AD15 in his basic career as a Commission official.

In accordance with normal practice, and in order to safeguard the necessary degree of confidentiality, senior management appointments at Director-General or Deputy Director-General level are presented directly to the College on the same day that the College decides on them. The Commissioner responsible for Budget and Human Resources presents the proposals in agreement with the President and after consulting the recruiting Commissioner and the relevant Vice-President(s). This was the procedure applied for all the appointments and transfers in the senior management appointments and transfers decided by the College of Commissioners on 21 February 2018.

On 20 February, Commissioner Oettinger was informed by President Juncker about the decision of Mr Italianer to submit his retirement letter the next morning (21 February) and that consequently he would propose that Mr Selmayr be transferred to the post of Secretary-General. Commissioner Oettinger expressed his full agreement and the proposal was then unanimously agreed by the College on 21 February.

The President had also consulted First Vice-President Timmermans on this proposal on 20 February who had given his agreement. The President consulted the First Vice-

President, as he consults him on all important decisions of the Commission, in view of the special role he plays in the set-up of the Juncker Commission. The First Vice-President also has a special relationship with the Secretary-General in view of his responsibility notably for institutional matters, Better Regulation and the Commission Work Programme.

When President Juncker during the College meeting on 21 February proposed to appoint Mr Selmayr Secretary-General, all Members of the Commission agreed unanimously.

Question of the European Parliament:

42. Where there any other Commissioners informed that Mr. Selmayr will be the new Secretary-General before the date of this “flash” promotion?

Commission answer:

Please see answer to question 41. There was no promotion in the sense of the Staff Regulations. Mr Selmayr was not promoted but transferred and this transfer did not entail any change in grade or promotion. Promotions involve an official moving up from one grade to the next in accordance with article 45 of the Staff Regulations¹⁴. This was not the case.

Question of the European Parliament:

43. Are there government leaders who have spoken about the appointment of M. Selmayr? If so, which? If not, does the appointment come up during the summit of 23 of March, whether formal or informally;

Commission answer:

The Juncker Commission never discusses senior management appointments in advance with national governments and/or other outside parties, as this would be incompatible with the supranational spirit of the European Public Administration and with the independence of the Commission and its staff, which is chosen by the College of Commissioners on the basis of qualifications, skills, experience and trust, as required by the Staff Regulations. In line with these principles, the appointment of Mr Selmayr as Secretary-General was not discussed in advance with any national government or outside party, but reserved for the College of Commissioners.

The appointment of Mr Selmayr was not on the agenda of the European Council of 22/23 March 2018.

¹⁴ Promotion shall be effected by appointment of the official to the next higher grade in the function group to which he belongs.

Question of the European Parliament:

44. To which extend the conditions required to decide on a transfer in the interest of the service (under article 7 of the Staff regulations* ...) of Mr Martin Selmayr were met as on 21 February 2018 the decision of appointing Mr Martin Selmayr to the post of Deputy Secretary-General had not taken effect?

Commission answer:

On 21 February, the College decided on a series of senior management appointments, including appointing Mr Selmayr as Deputy Secretary-General.

Thereafter, Mr Italianer took the floor to inform the College that he intended to retire as of 31 March 2018. In order to ensure that the key position of Secretary-General would not be vacant, and in accordance with Article 7 of the Staff Regulations, the College, on the proposal of President Juncker and in agreement with the Commissioner for Budget and Human Resources and after consulting the First Vice-President, unanimously decided to appoint Mr Selmayr Secretary-General.

As an AD15 official, Mr Selmayr was eligible for this transfer in the interest of the service to the post of Secretary-General, which was decided unanimously by the College. The College considered that Mr Selmayr, an AD15 official with eight years of senior management experience, brings all the necessary qualifications to this important position.

Question of the European Parliament:

45. Is it well confirmed that on 21 February Mr Selmayr was still Head of Cabinet and did not perform the tasks of a Deputy-Secretary General?

Commission answer:

Yes. On 21 February 2018 Mr Selmayr was carrying out the functions of Head of the President's Cabinet and he continued to do so until 28 February 2018. The date of effect of the decisions taken on 21 February 2018 concerning his appointment in accordance with Article 29 of the Staff Regulations to the function of Deputy Secretary-General and his transfer in the interest of the service in accordance with Article 7 of the Staff Regulations to the function of Secretary-General was 1 March 2018.

*The Appointing Authority shall, acting solely in the interest of the service and without regard to nationality, assign each official by appointment or transfer to a post in his function group which corresponds to his grade. An official may apply for a transfer within his institution

Question of the European Parliament:

46. How were the qualifications of Mr. Selmayr as potential SG assessed, including his managerial skills and experience? Were considerations of gender and nationality taken into account?

Commission answer:

Managerial skills and experience are assessed when officials are appointed to a senior management function via a procedure in accordance with Article 29 of the Staff Regulations. Since 2015 (PV(2015)2132), this has also included a full-day Assessment Centre run by an external consultant for all internally published procedures at Director-General/Deputy Director-General level. Assessment Centres were introduced in 2006 (PV(2006)1767) for internally published procedures at Director/Principal Adviser level. Mr Selmayr was assessed in the context of his application for the function of Deputy Secretary-General. Transfers in the interest of the service under Article 7 of the Staff Regulations do not require a further formal assessment of managerial skills and experience.

Question of the European Parliament:

47. Is management experience required to be secretary general? If no, why? If yes, what is the management experience of Mr Selmayr?

Commission answer:

The formal requirement is to have at least two years of senior management experience. In addition to having been appointed Principal Adviser in Directorate-General Economic and Financial Affairs, Mr Selmayr has been, since February 2014, Head of Cabinet, which is considered, under Commission rules, a senior management function in accordance with the rules on the Composition of Cabinets in force since 2004 (see decisions SEC(2004)185, SEC(2010)104 and C(2014)9002), (see list of annexes). He was Head of Cabinet firstly for Vice-President Reding (2010 - 2014) and then for President Juncker (2014 - February 2018).

Question of the European Parliament:

48. Does the Commission consider that managing a cabinet and managing a directorate-general of the Commission is the same?

Commission answer:

Under the rules on the Composition of Cabinets in force since 2004, managing a normal Commissioner's Cabinet is considered to be equivalent to managing a Directorate, managing the High Representative/Vice-President's Cabinet is considered

equivalent to having a Deputy Director-General function and managing the President's Cabinet, which is specifically complex and implies significant responsibility, is considered to be equivalent to managing a Directorate-General (see decisions SEC(2004)185, SEC(2010)104 and C(2014)9002)). Please see answer to question 7.

Question of the European Parliament:

49. Could Mr. Selmayr have been appointed to the position of Secretary-General without having been appointed to the position of Deputy Secretary-General? What different procedure would have had to be applied?

Commission answer:

As an AD15 official holding a senior management function, Mr Selmayr was eligible for the post of Secretary-General and could have been transferred by a decision of the College using the Article 7 procedure. Article 7 of the Staff Regulations states: “*The Appointing Authority shall, acting solely in the interest of the service and without regard to nationality, assign each official by appointment or transfer to a post in his function group which corresponds to his grade.*” Article 5 of the Staff Regulations defines 3 function groups: Administrators (AD), Assistants (AST) and Secretaries/Clerks (AST/SC). Annex 1 of the Staff Regulations specifies that functions at the level of Director-General can be filled at grade AD15 or grade AD16. Mr Selmayr is an official in the AD function group with the grade AD15. He would, therefore, have been eligible for a transfer to the function of Secretary-General in accordance with Article 7 without having been appointed to the function of Deputy Secretary-General. While it is not the Commission's practice to transfer Directors in grade AD15 to Director General posts under Article 7, legally the College could have decided to do so in view of the specific circumstance of the case, which would have justified such a decision.

Question of the European Parliament:

50. Why-and on which legal basis, did Mr Oettinger affirm on 12 March 2018 in plenary meeting of the European Parliament that the transfer of Mr Martin Selmayr was only possible due to the fact that his function of Head of Cabinet of the President of the Commission was equivalent the one of a Director- General?

Commission answer:

On 12 March 2018, Commissioner Oettinger mentioned the fact that the function of Head of Cabinet of the President is equivalent to a function of Director-General on the basis of the rules on the composition of the Cabinet of Members of the Commission in force since 2004 (see decisions SEC(2004)185, SEC(2010)104 and C(2014)9002), (see list of annexes). The Rules on the Composition of the Cabinets of Members of the

Commission are internal rules, which are necessary to specify, among other things, from an administrative point of view, the functions of the Heads of Cabinet of the Members and President of the Commission. They are legally compatible with the Staff Regulations. Commissioner Oettinger did not say that this equivalence was a formal requirement for the transfer to the post of Secretary-General. The formal requirements are those set out in the answers to questions 7 and 49.

Question of the European Parliament:

51. Has the Head of the European Commission legal Service (who as mentioned page 7 of the Minutes attended the meeting) been consulted during the meeting on the procedure to be followed? Has the legal service been consulted on the procedure to be followed before the meeting?

Commission answer:

The decision was proposed and adopted unanimously at the meeting of the College on 21 February 2018. The Director-General of the Legal Service was present at the meeting. Any Member of the College can request the opinion of the Legal Service during the meeting.

Question of the European Parliament:

52. Has it ever happened before under the current term of office of this Commission that the College of Commissioners decided on a staff matter (promotion/transfer) which has not been put previously on the agenda of the meeting of the college and the weekly meeting of the chefs de cabinet?

Commission answer:

Please see the answers to questions 41 and 3(a). During the mandate of this Commission, this has happened on 16 occasions.

Paragraph 10.20 of the Minutes of the 2244th Commission meeting Secretariat-General- amendment of organisation chart and appointment of AD 16 Adviser hors classe

Question of the European Parliament:

53. Why did the Commission decide that by derogation from the Commission decision of 26 May 2004 (C 2004 1891/2) Mr Alexander

Italianer would retain his right to the management step until his retirement whilst he has not to assume any management tasks?

Commission answer:

As the Union Courts have confirmed on numerous occasions, the institutions are bound by the duty of care, which implies that, when taking a decision under the Staff Regulations, the institution must not only take account of the interest of the service, but also of the interest of the official concerned. In line with this principle, the College decided to maintain the right to the management step for the one month until his date of retirement on 31 March 2018.

Changes in the Organisational Chart of the Commission

Question of the European Parliament:

54. In PV (2018)2244 final the Commission explains that 1 additional deputy director-general post and 4 additional Advisers Hors Class were created. What are the additional costs in 2018 for these additional posts? Why did the Commission augment these senior posts up to 104 despite staff cuts?

Commission answer:

The Commission is operating within the limits of the establishment plan approved by the Budgetary Authority in the Budget 2018.

With respect to the 5% staff cuts decided in the context of the current Multiannual Financial Framework, the Commission has already achieved this target in 2017.

Question of the European Parliament:

55. Derogation from the statutory retirement age for officials:

Current Director Generals are prolonged by the Commission beyond the statutory retirement age till 2019 or even 2020.

- a. Is the Commission of the opinion that no appropriate candidates could be available amongst the EU staff for those posts?***
- b. Why did the Commission not publish those posts in time? Which steps does the Commission intend to take to ensure that suitable candidates will be found in 2019 and 2020?***

Commission answer:

Article 52 of the Staff Regulations allows an official to carry on working until the age of 67 or, exceptionally, until the age of 70, at his own request and where the appointing authority considers it justified in the interests of the service. In the framework of the senior management decisions taken on 21 February 2018, the Commission took note of the fact that this possibility had been granted in the case of three Directors-General, taking account of the interests of the service, the wishes of the portfolio Commissioners, Vice-Presidents and the President, as well as the fact that this contributes to ensuring an appropriate balance overall between renewal and continuity. During the current mandate, 16 senior management officials made requests to continue to work beyond the age of 65; all these requests were granted.

Question of the European Parliament:

56. Appointment of Advisers Hors Class:

The Commission decided to side-line three Director Generals as „Advisers Hors Class “and to entrust them with doubtful new duties in the European Political Strategy Centre. Apart from the fact that human resources are wasted the Commission demonstrates a surprising indifference towards this senior staff. Which kind of message is the Commission giving to its senior staff when the ones are even prolonged beyond the retirement age and the second are humiliated?

Commission answer:

These transfers took place at the request of the respective portfolio Commissioners. They were agreed unanimously by the College. It should be noted that the officials concerned were not sidelined. They were entrusted by the President with specific missions within the European Political Strategy Centre, directly advising him and the College on the following subjects: (1) relations with the Florence European University Institute; (2) Robotics, Artificial Intelligence and the Future of European Labour Law; and (3) Open Access to Publicly Funded Scientific Publications and Research Results.

One-month-Hors-class-adviser

Question of the European Parliament:

57. Why Secretary General Italianer was prolonged as a one-month-hors-class-adviser despite his wish to retire?

Commission answer:

Please see answer to question 53. The transfer of Mr Italianer to the function of Hors

Classe Adviser did not lead to any change of his remuneration.

Question of the European Parliament:

58. Was the one-month-hors-class-adviser-post relevant for a management step?

Commission answer:

Please see answer to question 53.

Promotion and appointment of Ms. Christophidou as Director General Education, Youth, Sport and Culture

Question of the European Parliament:

59. Following the CV published by the Commission Ms. Christophidou served since 2010 as Head of Unit and was not appointed Director. Why was she promoted and appointed as DG?

Commission answer:

Please see answer to question 7. As a grade AD14 official with more than 2 years seniority in the grade and experience as a Head of Cabinet (a function at Director level) since 2011, Ms Christophidou was eligible to apply for the function of Director-General of Directorate-General Education, Youth, Sport and Culture which was published in accordance with Article 29.1.a (i) and (iii) under reference COM/2018/55. She underwent a full selection procedure, including a full day Assessment Centre, interview with the Consultative Committee on Appointments and final interviews with portfolio Commissioner Navracsics, Commissioner Oettinger and the President. The College decided to appoint her Director-General of Directorate-General Education, Youth, Sport and Culture on a proposal of Commissioner Oettinger, the Commissioner responsible for Budget and Human Resources in agreement with the President after consultation of the portfolio Commissioner and Vice-Presidents concerned. The decision of the College was unanimous.

III. Comparison with preceding appointment procedures

Question of the European Parliament:

60. Which procedure was followed for the appointment of former Secretary Generals?

David O 'Sullivan, Catherine Day, Alexander Italianer

- a) When were the vacant posts for those nominations published?***
- b) What was their career path from the grade of director on to the SG?***
- c) How many candidates applied for the SG post respectively?***
- d) When did the Assessment Centre take Place?***
- e) Who took the Decision?***
- f) When was the College informed?***
- g) What was the role of the College?***
- h) How much time took the nominations of these SGs***

Commission answer:

- a) David O'Sullivan, Catherine Day and Alexander Italianer were all transferred to the function of Secretary-General in the interest of the service in accordance with Article 7 of the Staff Regulations. In each case, the decision was taken simultaneously with the decision about the previous Secretary-General (transfer, retirement). The function was therefore not published as it was not vacant.
- b) David O'Sullivan became Director in Directorate-General Employment, then Director-General of Directorate-General Education and Culture before becoming Head of the President's Cabinet and then Secretary-General.
Catherine Day became Director in Directorate-General External Relations, then Deputy Director-General in Directorate-General External Relations, then Director-General of Directorate-General Environment and then Secretary-General.
Alexander Italianer became Director in Directorate-General Economic and Financial Affairs, then (Deputy) Head of Cabinet, then Deputy Secretary-General, then Director-General of Directorate-General Competition and then Secretary-General.
- c) In each case, the function was not published and, as it was not vacant, there were no applications. David O'Sullivan, Catherine Day and Alexander Italianer were all

transferred to the function of Secretary-General in the interest of the service in accordance with Article 7 of the Staff Regulations.

- d) Transfers in accordance with Article 7 do not require the selection procedure followed for Article 29 appointments. None of the three previous Secretaries-General underwent an Assessment Centre before being appointed at Director-General level because these were only introduced by the Commission for internal procedures at this level in 2015 (PV(2015)2132).
- e) Decisions on Article 7 transfers at Director-General level are always taken by the College as Appointing Authority.
- f) The College was informed of the proposal for a transfer in the interest of the service in accordance with Article 7 as follows:
 - David O’Sullivan - during the College meeting (PV(2000)1477)
 - Catherine Day - during the College meeting (PV(2005)1721)
 - Alexander Italianer - during the College meeting (PV(2015)2132)
- g) The College is the Appointing Authority for transfers in the interest of the service in accordance with Article 7 at Director-General level.
- h) The duration of individual agenda items is not recorded in the minutes.

Question of the European Parliament:

61. As to the appointment of Martin Selmayr.

- a) When and where was the vacant post published?***
- b) What was the career path from the Grade of director on to the SG? Was he eligible?***
- c) How many candidates applied for the SG?***
- d) Why did Mr Selmayr pass a one-day assessment centre before his appointment? Does such a procedure exist in other EU institutions as well? When did the Assessment Centre take Place?***
- e) Who took the Decision?***
- f) When was the College informed?***
- g) What was the role of the College?***
- h) How much time took the nominations of the SG?***

Commission answer:

- a) The post of Secretary-General was not vacant and therefore was not published.
- b) Mr Selmayr was eligible for the post of Secretary-General, as an AD15 official with 8 years of senior management experience. As an AD15 official with eight years of senior management experience, Mr Selmayr was eligible for this transfer in the interest of the service to the post of Secretary-General, which was decided unanimously by the Commission. The Commission unanimously considered that Mr Selmayr brings all the necessary qualifications to this important position. Please see answers to questions 40 and 49.
- c) The post of Secretary-General was not published as it was not vacant.
- d) Mr Selmayr underwent a full day Assessment Centre in the context of his application for the function of Deputy Secretary-General (which is equivalent to the function of Director-General), not in the context of his transfer by Article 7 to the post of Secretary-General. The Commission has no comprehensive overview on the use of Assessment Centres in other institutions.
- e) On 21 February, the College took the decision. As an AD15 official with eight years of senior management experience, Mr Selmayr was eligible for this transfer in the interest of the service to the post of Secretary-General, which was decided unanimously by the Commission. The Commission unanimously considered that Mr Selmayr brings all the necessary qualifications to this important position.
- f) The proposal was brought directly to College as is the case with all senior management decisions at this level. Please also see answer to question 3(c).
- g) The role of the College was that of Appointing Authority. The College took the decision unanimously.
- h) Please see answer to question 17.

Question of the European Parliament:

62. Which were the differences in the nomination procedures of SGs O’Sullivan, Day and Italianer and of Mr Selmayr? Why did the procedure differ?

Commission answer:

There are no differences between the four procedures. In all four cases the transfer was decided by reference to Article 7 of the Staff Regulations. In all four cases the decisions were presented directly to College, which agreed to them.

Question of the European Parliament:

63. How much time did it take to nominate Mr. Selmayr as Deputy Sec-Gen.?

Commission answer:

The Commission published the vacancy notice for the function of Deputy Secretary-General on 31 January 2018. Mr Selmayr was appointed to the function of Deputy Secretary-General on 21 February 2018.

Question of the European Parliament:

64. How much time passed between the appointment as Deputy Sec - Gen to Sec - Gen?

Commission answer:

Please see answer to question 17.

Question of the European Parliament:

65. What is the average term of office duration for Director level positions and above, if not from Head of Unit level, as well as which were the - perhaps 10 - shortest terms of office on record.

Commission answer:

The average duration of the term of office for a Director is three years and four months, for a Deputy Director-General it is three years and one month and for a Director-General it is four years. There have been a number of instances of appointment and immediate transfer in the past ten years with at least ten Directors and six Deputy Directors-General having moved directly to another function on the day they were initially supposed to take up duties elsewhere.

Question of the European Parliament:

66. If no such length of office records are available, should they not be seen as valuable information in terms of human resources administration, even if not necessarily linked to individual officials?

Commission answer:

Please see answer to question 65.

Question of the European Parliament:

67. Why was the promotion of the new SG taken in such a non-transparent manner and is surrounded by secrecy?

Commission answer:

Firstly, there was no promotion, as the grade of the jobholder has been AD15 before and after the appointment. Please see answer to question 40. Secondly, the appointment of the new Secretary-General took place in full accordance with the Staff Regulations and the Rules of Procedure of the Commission. The fact that senior management decisions at this level are kept confidential is to preserve the autonomy of the Commission in senior management decisions and to protect them from undue external influence in view of the independence of personnel decisions. The College took this decision unanimously on the proposal of the President, in agreement with Commissioner Oettinger and after consultation of First Vice-President Timmermans.

Question of the European Parliament:

68. Why was the promotion executed in such a speedy manner that did not give enough time to those concerned to react?

Commission answer:

Firstly, there was no promotion as the grade of the jobholder has been AD15 before and after the appointment. Please see answer to question 40. In order to ensure that the key position of Secretary-General would not be vacant, given its importance for the smooth functioning of the institution, the Commission, on the proposal of President Juncker and in agreement with the Commissioner the Budget and Human Resources and after consultation of First Vice-President Timmermans, decided to appoint Mr Selmayr Secretary-General by transferring him in the interest of the service in accordance with Article 7 of the Staff Regulations. The College decided unanimously.

Question of the European Parliament:

69. Does the President acknowledge that such decisions are becoming a fuel for euro scepticism?

Commission answer:

The Commission does not agree with the premise underlying this question. The decision of the College was taken unanimously, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission.

Question of the European Parliament:

70. Does the President realise that his step has decreased the credibility not only of the European Commission and the position of the President, but the trustworthiness of the EU as a whole?

Commission answer:

The Commission does not agree with the premise underlying this question. The decision of the College was taken unanimously, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission.

Question of the European Parliament:

71. How is the President of the Commission going to win back the trust of public?

Commission answer:

The Commission does not agree with the premise underlying this question. The decision of the College was taken unanimously, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission.

IV. Misuse of powers

On the facts:

Question of the European Parliament:

72. On 21 February the Commission's College, at the President's proposal, contextually adopted the following decisions:

- to accept Mr Italianer's request for early retirement starting on 1 April, as well as his request to resign from the post of Secretary-General (SG) as of 1 March;**
- to appoint M. Selmayr to the post of Deputy Secretary-General (DSG) through a promotion procedure, with internal publication of the appointment, on the basis of Article 29 of the Staff Regulations;**
- to appoint M. Selmayr to the post of SG, which had fallen "vacant" only a few minutes earlier, through a transfer procedure, on the basis of Article 7 of the Staff Regulations.**

Can the President of the Commission confirm each of these facts? If not could he please explain what the correct order of the College's decisions was?

Commission answer:

As set out in the minutes of the College meeting of 21 February 2018 (PV(2018) 2244), the order of the College decisions was the following: first, the College decided on a series of senior management appointments, including appointing Mr Selmayr as Deputy Secretary-General. Thereafter, Mr Italianer took the floor to inform the College that he intended to retire as of 1 April 2018. In order to ensure that the key position of Secretary-General would not be vacant, and in accordance with Article 7 of the Staff Regulations, the College, on the proposal of President Juncker and in agreement with the Commissioner for Budget and Human Resources and after consulting the First Vice-President, unanimously decided to appoint Mr Selmayr Secretary-General.

Question of the European Parliament:

73. At his press conference of 21 February, Mr Juncker stated that he had been aware of Mr Italianer's intention to resign on 1 March for the past two years. Nevertheless, in his letter of 6 March, addressed to the French Socialist Delegation, the President stated in writing that he had "learnt of" said intention from the letter he received from Italianer in the morning of 21 February 2018.

Can the Commission confirm that Alexander Italianer informed the President on his will to leave his functions (as Secretary-General) before 1st January 2018? Please provide evidence.

Commission answer:

President Juncker explained during his press conference on 21 February that when agreeing to become Secretary-General in 2015, Mr Italianer had told the President that he intended to retire soon after 1 March 2018. The President discussed this information with his Head of Cabinet, like all important senior management matters.

The President did not share this information further in order not to undermine Mr Italianer's authority while he was in office. The President and his Head of Cabinet also kept the hope to be able to convince Mr Italianer to stay on as Secretary-General beyond 1 March 2018. However, in early 2018, Mr Italianer confirmed that he would stick to his decision. Mr Italianer sent the President a formal letter stating his intention to retire on 31 March 2018 in the morning of 21 February 2018.

After having sent his letter, Mr Italianer subsequently informed the College of Commissioners during their meeting on 21 February. The letter was the first formal step taken by Mr Italianer in order to inform the President and subsequently the College of his intention to retire.

Question of the European Parliament:

74. Since when exactly was Mr Juncker aware of the Mr Italianer's intention to resign on 1 March? (Weeks/months before 21 February 2018? On 20 February 2018? On 21 February 2018?)

Commission answer:

Please see answer to question 32 and 73.

Question of the European Parliament:

75. According to the same letter of 6 March, addressed to the French Socialist Delegation, in the evening of 20 February, the President informed First Vice-President (FVP) Timmermans of his intention to appoint M. Selmayr to the post of Deputy Secretary General (DSG).

Why did Mr Juncker the day before the actual appointment of Head of his cabinet as the new Dep Sec Gen of the Commission inform the FVP of his intention and not also all other members of the Commission's College given that the FVP plays no formal role in the procedure?

Commission answer:

Please see answer to question 41. The President consulted the First Vice-President, as he consults him on all important decisions of the Commission, in view of the special role he plays in the set-up of the Juncker Commission. The First Vice-President also has a special relationship with the Secretary-General in view of his responsibility notably for institutional matters, Better Regulation and the Commission Work Programme.

Question of the European Parliament:

76. Did Mr Juncker in the evening of 20 February inform the FVP of his intention to replace a Dutch SG (Italianer) with M. Selmayr already on 21 February?

Commission answer:

Please see answers to question 41 and 75.

Question of the European Parliament:

77. If this is the case, what can the President of the Commission say in defence of the statement that M. Selmayr's appointment to the post of DSG was, from the outset, only a means to his appointment as the new SG of the Commission?

Commission answer:

Please see answers to questions 7, 44 and 49. It would have been possible to appoint Mr Selmayr directly to the position of Secretary-General (on the basis of a selection procedure under Article 29 of the Staff Regulations) or to transfer him directly to this position in the interest of the service (under Article 7 of the Staff Regulations).

Question of the European Parliament:

78. On 20th February, the President informed the First VP Timmermans about the appointment of Selmayr to the position of SGA, but the reasons behind this decision are not clear, since for that procedure VP Timmermans plays no formal role. Did the President inform the Vice-president of his intention to replace a Dutch Secretary General by Selmayr? If so, can it be said that Selmayr's appointment to the SGA position was only a means, from the beginning, to appoint him to SG?

Commission answer:

Please see answers to questions 41, 75 and 77.

Question of the European Parliament:

79. Mr Selmayr had an interview with Oettinger on February 20 afternoon as part of (and as provided by) the appointment procedure of the SGA. Was Mr Oettinger aware that, in fact, the procedure had been put in place solely to ensure Selmayr's eligibility for SG post? In other words, can Oettinger confirm that he was well aware, as early as 20 February, of the President's intention to appoint Selmayr as SG the following day? And can he confirm that Selmayr knew about it too? In addition, would the Commission be able to deny that all the other members of the College were not aware of anything and they were informed only in the morning of 21st February?

Commission answer:

Commissioner Oettinger does not agree with the premise underlying this question. Mr Selmayr, an AD15 officials with eight years of senior management experience, was eligible, and it would have been possible to appoint him directly to the position of Secretary-General (on the basis of a selection procedure under Article 29 of the Staff Regulations) or to transfer him directly to this position in the interest of the service (under Article 7 of the Staff Regulations).

This decision was fully in line with the provisions of the Staff Regulations. On 20 February, Commissioner Oettinger was informed by President Juncker about the decision of Mr Italianer to submit his retirement letter the next morning (21 February) and that consequently, he would propose that Mr Selmayr be transferred to the post of Secretary-General. Commissioner Oettinger expressed his full agreement, and the proposal was then unanimously agreed by the College on 21 February.

Please see also answer to question 49.

In accordance with normal practice, and in order to safeguard the necessary degree of confidentiality, senior management appointments at Director-General or Deputy Director-General level are presented directly to the College on the same day that the College decides on them.

Question of the European Parliament:

80. MM.Timmermans et Oettinger peuvent-ils confirmer qu'ils étaient au courant que la finalité de la procédure était, dès le début, de nommer Selmayr SG ? En outre, la Commission serait-elle en mesure de nier que tous les autres membres du Collège n'étaient au courant de rien et ils ont été mis au courant uniquement le matin du 21 février ?

Commission answer:

The Commission does not agree with the premise underlying this question. The decision was taken unanimously, by the College of Commissioners, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission. Please see answer to question 79.

Question of the European Parliament:

81. Les commissaires Timmermans et Oettinger ainsi que le Directeur Général du SJ de la Commission sont-ils en mesure de faire une déclaration d'honneur s'agissant de la réponse à la question suivante: "Étiez-vous au courant de l'intention du Président Juncker de nommer M. Selmayr au poste du SG? Étiez-vous donc au courant que la procédure de nomination au poste du SGA servait comme seul but de permettre à M. S. d'être éligible au poste du SG ?

Commission answer:

The Commission does not agree with the premise underlying this question. The decision was taken by the College of Commissioners in full compliance with the Staff Regulations and the Rules of Procedure of the Commission. It was taken on 21 February 2018 on the proposal of the President in agreement with the Commissioner for Budget and Human Resources and after consultation of the First Vice-President. Please see answer to question 41.

Question of the European Parliament:

82. According to our information, M. Selmayr had an interview with Mr Oettinger in the afternoon of 20 February as part of (and as required by) the procedure for the appointment of the DSG.

Commission answer:

This is correct. Please see answer to question 18.

Question of the European Parliament:

83. Had Mr Oettinger to the point of conducting this interview been aware that, in reality, the procedure had been started for the sole purpose of making M. Selmayr eligible for the post of SG? In other words, can Commissioner Oettinger confirm that he was fully aware, from 20 February, of the President's intention to appoint Selmayr to the post of SG the following day?

Commission answer:

The Commission does not agree with the premise underlying this question. The decision was taken by the College of Commissioners unanimously, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission. It was taken on 21 February 2018 on the proposal of the President in agreement with the Commissioner for Budget and Human Resources and after consultation of the First Vice-President. Please see answer to question 41.

On the Legal framework:

Question of the European Parliament:

84. Both the SG and the DSG are senior officials of the Commission, and therefore their posts are subject to the Staff Regulations (cf. Pappas/Committee of the Regions, T-74/01). If either of these posts falls vacant, the Staff Regulations provides for two ways of filling it:

- a) with a candidate from within the Commission, by an open promotion procedure on the basis of Article 29, paragraph 1 of the Staff Regulations or, alternatively, by transfer on the basis of Article 7 of the Staff Regulations; or***
- b) with a candidate from outside the institution, by an external selection procedure (publication in the OJ) on the basis of Article 29, paragraph 2, of the Staff Regulations.***

Is this a correct interpretation of the Staff Regulations? If not, can the Commission specify the exact part where our interpretation of the rules is incorrect and correct the incorrect interpretation?

Commission answer:

Please see the explanation of the procedures that apply under the Staff Regulations in the answer to question 8.

Question of the European Parliament:

85. Under both procedures, given that the Secretariat General is a body that depends directly on the President, the appointment is decided by the College based on a proposal by the President.

However, in accordance with the principle of legality (of which, moreover, the Commission is a guarantor within the Union, in its capacity as guardian of the Treaties), both the President and the College, in exercising their discretionary powers, are subject to, and must observe, the Staff Regulations. This is supported by the fact that the

posts of SG and DSG are administrative posts and therefore not comparable with the “political” posts of cabinet members, which are filled through a simple choice made by the relevant member of the College.

Is this a correct interpretation of the Staff Regulation? If not, can the Commission specify the exact part where our interpretation of the rules is incorrect and correct the incorrect interpretation?

Commission answer:

The decisions to appoint the Secretary-General and the Deputy Secretary-General were taken by the College of Commissioners unanimously, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission. For a full description of the procedures, please see answer to question 8.

Question of the European Parliament:

86. *The post of the SG falls within the highest grade (AD15/AD16). In order to be “transferred” to the SG post as per Article 7, the official concerned must already occupy a post “in his function group which corresponds to his grade”.*

All Directors-General of the Commission were therefore eligible for the post in question and could have, at least, expressed an interest in applying for it. Conversely, M. Selmayr, who had held a grade AD15 position since 2017, but whose role within the administration was that of Special Adviser, which does not correspond to the same functions, had to be promoted to the post of DSG first in order to then be appointed by transfer to the post of SG. In fact, a post occupied solely as a result of being employed as a member of a cabinet, even when said post is equivalent in grade or in functions, cannot be taken into consideration for a promotion or transfer within the administrative departments. Contrary to what was stated by the Commission’s Spokesperson’s Service, M. Selmayr undoubtedly had to be promoted to the post of DSG in order to be transferred to the post of SG.

Can the Commission confirm this interpretation of the Staff Regulation? If not, can it specify the exact part where our interpretation of the rules is incorrect and correct such an incorrect interpretation?

Commission answer:

This interpretation is not correct. Article 7 of the Staff Regulations provides for the transfer of an official to occupy a post in his function group which corresponds to his grade. The function groups are detailed in Annex I of the Staff Regulation. The Administrators (AD) function group includes the types of posts of Director-General AD15-AD16 and of Director AD14-AD15.

M. Selmayr, having the grade AD15, and belonging to the same function group (AD) as the type of post of Director-General pursuant to Annex I of the Staff Regulation, could have been transferred under Article 7 of the Staff Regulations directly to the post of Deputy Secretary-General or Secretary-General which are equivalent to Director-General. While it is not the Commission's practice to transfer Directors in grade AD15 to Director General posts under Article 7, legally the College could have decided to do so in view of the specific circumstance of the case, which would have justified such a decision. Please see answer to question 49.

In this context, it is important to clarify that Mr Selmayr was appointed by the College of Commissioners in 2014 as a Principal Adviser in Directorate-General for Economic and Financial Affairs, a function at Director level. He is not and has never been a Special Adviser, which is a specific category of staff under Articles 5, 123 and 124 of the Conditions of Employment of Other Servants of the European Union.

Question of the European Parliament:

87. Is the position of the President's Chief of Staff at the same level that the Director General?

Commission answer:

Yes. This is set out in the Commission's rules on the composition of the Cabinets of Members of the Commission in place since 2004 (SEC(2004)1485). The Head of the President's Cabinet is functionally considered as a Director-General, and the Heads of Cabinets of the Commissioners are considered as Directors since that date and by subsequent updates of the rules (SEC(2004)1485, SEC(2010)104 and C(2014)9002). The Rules on the Composition of the Cabinets of Members of the Commission specify, among other things, from an administrative point of view, the functions of the Heads of Cabinet of the Members of the Commission. They are legally compatible with the Staff Regulations.

Question of the European Parliament:

88. Could a communication from the President of the Commission amend the Staff Regulation and the Rules of Procedure of the Parliament and the Council?

Commission answer:

The Rules on the Composition of the Cabinets of Members of the Commission are internal rules, which are necessary to specify, among other things, from an administrative point of view, the functions of the Heads of Cabinet of the Members of the Commission. They are legally compatible with the Staff Regulations.

On possible Legal irregularities:

A) Procedure for the appointment of the DSG

Question of the European Parliament:

89. Misuse of powers:

It's hard to believe that right from the outset, the sole purpose of the procedure for the appointment of the DSG was not only to ensure M. Selmayr's eligibility for his contextual transfer to the post of the SG. By virtue of Article 29 of the Staff Regulations, the College has considerable discretionary powers when it comes to appointing the DSG. However, the appointment procedure may not be used with the obvious intention of achieving a different aim from that for which it was launched. The facts as well as the statements to the press show that, from the start, the aim of the procedure for the appointment of the DSG was to appoint the new SG by transfer, rather than to appoint by promotion a Deputy Secretary-General who could truly take office. The decision relating to the appointment of the DSG was therefore not sincere since it only used as means to occupy the position of the SG and is therefore marred by a misuse of powers. This is especially true as M. Selmayr has never served as the DSG of the Commission (or if he did, then only for a period of few minutes ...).

The procedure for the publication of a vacancy notice must be effectively followed and should not be implemented in such a way as to be stripped of its substance, given that the aim of this procedure is to ensure equality of treatment for all candidates for the post of DSG, rather than ensure the eligibility of an individual candidate for the post of SG.

Can the Commission confirm the preceding paragraph?

Commission answer:

The Commission does not share the premise underlying this question. The decision was taken by the College of Commissioners unanimously, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission. There was no promotion. Mr Selmayr was an AD15 official before the Commission meeting of 21 February 2018, and he is still AD15 today. His appointment as Secretary-General had a negative effect on his salary and emoluments since he was in step 2 of grade AD15 as a seconded official but in step 1 of grade AD15 in his basic career as a Commission official. Please see answers to questions 40, 49 and 77.

B) Procedure for the appointment of the DG

Question of the European Parliament:

90. Violation of the principles of transparency and non-discrimination, including indirect discrimination, as provided for in Articles 1 and 4 of the Staff Regulations.

Under Article 7 of the Staff Regulations, the College may - acting solely in the interest of the service - transfer a DSG to the post of SG.

Nevertheless, this power is subject to the principles established in Article 4 of the Staff Regulations, according to which “no appointment [...] shall be made for any purpose other than that of filling a vacant post as provided in these Staff Regulations” and, furthermore, “vacant posts in an institution shall be notified to the staff of that institution once [the College] decides that the vacancy is to be filled”. This means that, for the purpose of appointing the SG:

I) the Staff Regulations apply and may not be derogated from, given that the post of SG is administrative rather than “political” in nature;

II) the post must first be vacant and the staff must be informed of this vacancy, i.e. when a rotation of directors-general is planned, this must be brought to the attention of at least those members of staff who, occupying a post in the same function group, might in principle express some interest in applying for the post.

Can the Commission confirm this interpretation of the existing rules? If not, can it correct the incorrect part?

Commission answer:

The Commission does not agree with this interpretation.

Articles 4 and 29 of the Staff Regulations were followed for the procedure for appointment of Mr Selmayr as Deputy Secretary-General. Article 7 of the Staff Regulations was respected for the procedure for the transfer to the post of Secretary General. As this post was not vacant, the case-law of the EU courts allows for transfers to be carried out without publication.¹⁶

Article 4 of the Staff Regulations does not mean that posts can only be filled via a publication and formal selection procedure. The two procedures as described in the answer to question 8 (appointment under Article 29 of the Staff Regulations or transfer in the interest of the service under Article 7 of the Staff Regulations) are alternatives and the College can decide which procedure to be used. EU institutions may make use of the possibility to transfer officials of the same function group in the

¹⁶ Case F-24/12, BN v PE, points 46-48; Case T-339/03, Clotuche v Commission, point 31.

interest of the service in accordance with Article 7, without a formal publication (please see answer to question 8).

Finally, the Court of Justice has consistently held that the EU institutions have a broad discretion to organise their departments to suit the tasks entrusted to them and to assign staff available to them in the light of such tasks, on condition however that the staff are assigned in the interests of the service and in conformity with the principle of assignment to an equivalent post.¹⁷ The Court of Justice has also confirmed that re-assignments of this type are in line with the Staff Regulations, which allow both procedures to be used.¹⁸

Also in all other respects, the Commission has acted in full compliance with the Staff Regulations and the Rules of Procedure of the Commission.

Question of the European Parliament:

91. In the case under consideration, the request for early retirement and M. Selmayr's appointment to the posts of DSG and SG took place at the same time. Furthermore no other members of the Commission's College was said to be informed of these intentions until the meeting of the College of 21 February, with the exception of Mr. Oettinger and Mr. Timmermans. In case the statement above is not true - Could the Commission present signed statements of the individual members of the College that they were informed about the planned appointment of M. Selmayr before the exact day of his appointment and present the mails informing them on the issue?

Commission answer:

The decisions were taken by the College consecutively. The College of Commissioners decided unanimously in both procedures and acted in full compliance with the Staff Regulations and the Rules of Procedure. Please see answers to questions 39, 41 and 72.

Question of the European Parliament:

92. Was the issue discussed on beforehand in the preparatory meeting of Heads of Cabinets of all Commissioners? If not, why?

Commission answer:

In accordance with normal practice, and in order to safeguard the necessary degree of confidentiality, senior management appointments at Director-General or Deputy

¹⁷ Case F-73/07, Doktor/Conseil, point 39; see also Case 69/83, Lux v. Court of Auditors, point 38.

¹⁸ Case C-174/99P, European Parliament v Pierre Richard, points 38-39.

Director-General level are presented directly to the College on the same day that the College decides on them. This is why this was not discussed amongst Heads of Cabinet. Please see answer to question 41.

Question of the European Parliament:

93. Can the Commission ensure CONT Committee that the post did not fall vacant, and that staff was notified of the vacancy in accordance with Article 4? What was done in due time to make the call for applicants transparent and made it possible to other eligible persons/potential candidates to run for the post on an equal footing?

Commission answer:

Articles 4 and 29 of the Staff Regulations were followed for the procedure for appointment of Mr Selmayr as Deputy Secretary-General. Article 7 of the Staff Regulations was followed for the procedure for the transfer to the post of Secretary-General. As this post was not vacant, the case-law of the EU courts allows for transfers to be carried out without publication.¹⁹

Article 4 of the Staff Regulations does not mean that posts can only be filled via a publication and formal selection procedure. The two procedures as described in the answer to question 8 (appointment under Article 29 of the Staff Regulations or transfer in the interest of the service under Article 7 of the Staff Regulations) are alternatives and the College can decide which procedure to be used. EU institutions may make use of the possibility to transfer officials of the same function group in the interest of the service in accordance with Article 7, without a formal publication (please see answer to question 8).

Finally, the Court of Justice has consistently held that the EU institutions have a broad discretion to organise their departments to suit the tasks entrusted to them and to assign staff available to them in the light of such tasks, on condition however that the staff are assigned in the interests of the service and in conformity with the principle of assignment to an equivalent post.²⁰ The Court of Justice has also confirmed that re-assignments of this type are in line with the Staff Regulations, which allow both procedures to be used.²¹ Please see answers to questions 36 and 61.a).

Question of the European Parliament:

94. Can Mr Oettinger explain whether - and in what ways - he ensured compliance with the essential conditions laid down in Article 4 with

¹⁹ Case F-24/12, BN v PE, points 46-48; Case T-339/03, Clotuche v Commission, point 31.

²⁰ Case F-73/07, Doktor/Conseil, point 39; see also Case 69/83, Lux v. Court of Auditors, point 38.

²¹ Case C-174/99P, European Parliament v Pierre Richard, points 38-39.

regard to filling a vacant post (which also apply to the position of SG).

Commission answer:

Articles 4 and 29 of the Staff Regulations were followed for the procedure for appointment of Mr Selmayr as Deputy Secretary-General. Article 7 of the Staff Regulations was followed for the procedure for the transfer to the post of Secretary General. As this post was not vacant, the case-law of the EU courts allows for transfers to be carried out without publication.²²

Article 4 of the Staff Regulations does not mean that posts can only be filled via a publication and formal selection procedure. The two procedures as described in the answer to question 8 (appointment under Article 29 of the Staff Regulations or transfer in the interest of the service under Article 7 of the Staff Regulations) are alternatives and the College can decide which procedure to be used. EU institutions may make use of the possibility to transfer officials of the same function group in the interest of the service in accordance with Article 7, without a formal publication (please see answer to question 8).

Finally, the Court of Justice has consistently held that the EU institutions have a broad discretion to organise their departments to suit the tasks entrusted to them and to assign staff available to them in the light of such tasks, on condition however that the staff are assigned in the interests of the service and in conformity with the principle of assignment to an equivalent post.²³ The Court of Justice has also confirmed that re-assignments of this type are in line with the Staff Regulations, which allow both procedures to be used.²⁴ Please see answers to questions 36 and 61.a).

Question of the European Parliament:

95. Could Mr Oettinger explain in what sense did the appointment of M. Selmayr differ from process of choosing a member of a private office (as appointments to the highest administrative post should follow the Staff Regulations to the last letter)?

Commission answer:

There are a number of essential differences between appointments to the private offices of Members of the Commission and appointments to senior management functions in the Commission's services.

Members of the private office (Cabinets) are chosen by the Members of the Commission concerned *intuitu personae* and appointed by the Commissioner for

²² Case F-24/12, BN v PE, points 46-48; Case T-339/03, Clotuche v Commission, point 31.

²³ Case F-73/07, Doktor/Conseil, point 39; see also Case 69/83, Lux v. Court of Auditors, point 38.

²⁴ Case C-174/99P, European Parliament v Pierre Richard, points 38-39.

Budget and Human Resources.

Transfers under Article 7 of the Staff Regulations to positions of Director-General or equivalent are decided by the College as the Appointing Authority in the interest of the service.

Moreover, an official chosen as member of a private office (Cabinet) may benefit from a higher grade during the period of secondment (see Article 38 of the Staff Regulations), whereas a transfer in the interest of the service never implies a change of grade (please also see answer to question 49).

To be appointed via an internally published selection procedure under Article 29 of the Staff Regulations, candidates need to be officials, they need to fulfil the formal eligibility criteria in terms of grade and management experience (please see answer to question 7), and the College is the Appointing Authority.

Question of the European Parliament:

96. Could Mr Juncker explain if he considers it a usual decision making procedure, when these kind of important decisions pass the College without any debate?

Commission answer:

Decisions of the College can be taken with or without debate depending on the wish of Members to take the floor. The decision of the College was taken unanimously.

V. Good administration and collegiality

Question of the European Parliament:

97. La presse affirme que M. Selmayr. aurait "finalement lui-même reconnu que le Président Juncker lui avait proposé le poste en novembre dernier". Le SG et le Président de la COM peuvent-ils confirmer la véracité de cette affirmation?

Commission answer:

It is not true that President Juncker made a proposal to Mr Selmayr to become Secretary-General in November 2017. The option for Mr Selmayr to become Secretary-General only became concrete on 20 February 2018.

President Juncker explained during his press conference on 21 February that when agreeing to become Secretary-General in 2015, Mr Italianer had told the President that he intended to retire soon after 1 March 2018. The President discussed this information with his Head of Cabinet, like all important senior management matters.

The President did not share this information further in order not to undermine Mr Italianer's authority while he was in office. The President and his Head of Cabinet also kept the hope to be able to convince Mr Italianer to stay on as Secretary-General beyond 1 March 2018. However, in early 2018, Mr Italianer confirmed that he would stick to his decision. Mr Italianer sent the President a formal letter stating his intention to retire on 31 March 2018 in the morning of 21 February 2018.

After having sent his letter, Mr Italianer subsequently informed the College of Commissioners during their meeting on 21 February. The letter was the first formal step taken by Mr Italianer in order to inform the President and subsequently the College of his intention to retire.

Question of the European Parliament:

98. Does the COM consider that deciding on the appointment of the SG at a meeting of the college without this point having figured on the agenda is an expression of the principle of good administration?

Commission answer:

There was no promotion. Mr Selmayr was an AD15 official before the Commission meeting of 21 February 2018, and he is still grade AD15 today. His appointment as Secretary-General had a negative effect on his salary and emoluments since he was in step 2 of grade AD15 as a seconded official but in step 1 of grade AD15 in his basic career as a Commission official.

In accordance with normal practice, and in order to safeguard the necessary degree of

confidentiality, senior management appointments at Director-General or Deputy Director-General level are presented directly to the College on the same day that the College decides on them. The Commissioner responsible for Budget and Human Resources presents the proposals in agreement with the President and after consulting the recruiting Commissioner and the relevant Vice-President(s). This was the procedure applied for all the senior management appointments and transfers decided by the College on 21 February 2018.

On 20 February, Commissioner Oettinger was informed by President Juncker about the decision of Mr Italianer to submit his retirement letter the next morning (21 February) and that consequently he would propose that Mr Selmayr be transferred to the post of Secretary-General. Commissioner Oettinger expressed his full agreement and the proposal was then unanimously agreed by the College on 21 February.

The President had also consulted First Vice-President Timmermans on this proposal on 20 February who had given his agreement. The President consulted the First Vice-President, as he consults him on all important decisions of the Commission, in view of the special role he plays in the set-up of the Juncker Commission. The First Vice-President of the Commission also has a special relationship with the Secretary-General in view of his responsibility for institutional matters, Better Regulation and the Commission Work Programme.

When President Juncker during the College meeting on 21 February proposed to appoint Mr Selmayr Secretary-General, all Members of the Commission agreed unanimously.

The Commission would also like to recall Article 6(5) of its Rules of Procedure (C(2010)1200), which states that the Commission may, on a proposal from the President, discuss any question which is not on the agenda or for which the necessary documents have been distributed late.

Question of the European Parliament:

99. How does the Commission define "collegiality"? How many times has the Commission adopted decisions that were not on the agenda of its meeting? At what exact time of the College meeting of 21 February was the point "appointment of a Secretary General" added to the agenda of the College meeting? What is the evidence that the point was actually on the agenda? Is it the standard practice of the Commission to adopt decisions for which commissioners are totally unprepared?

Commission answer:

Please see answers to questions 3, 17, 52 and 98.

Question of the European Parliament:

100. How can the COM explain that the 25 Commissioners who were not even aware that the procedure of appointment of the SGA would be on the agenda of the meeting of 21 February 2018, did not object to the procedure of appointment of the SG, but voted unanimously in favour?

Commission answer:

The fact that the decision was taken unanimously shows that all Members of the Commission were in agreement with the proposal of the President presented in agreement with the Commissioner for Budget and Human Resources and after consultation of the First Vice-President.

Question of the European Parliament:

101. Under the current Commission term, what has been the length of procedure for the appointment of DGs when the post was published?

Commission answer:

This Commission has published 47 Director-General/Deputy Director-General functions. Five selection procedures are still ongoing. Selection procedures for these functions have taken between three weeks for internally published procedures to well over a year for external procedures.

Question of the European Parliament:

102. Given the enormous damage caused to the reputation of the Commission by this appointment, and given that Mr Italianer is still working for the Commission, would the Commission accept that the appointment of Mr Selmayr should be suspended until the completion of the investigation by the COCOBU, or the investigation by the European Ombudsman? Does the Commission intend to submit proposals for amending or clarifying the rules contained in the Staff Regulations for such appointments?

Commission answer:

The Commission does not agree with the premise underlying this question. In addition, the College cannot suspend an appointment as there is no legal basis for this. As explained in answers to previous questions (please see in particular answer to question 7), the procedures were carried out in full compliance with the Staff Regulations and the Rules of Procedure of the Commission. The Commission also considers that the rules contained in the Staff Regulations, which were agreed by the European Parliament and Council and apply to all institutions are sufficiently clear and

appropriate and that its procedures allow each institution to appoint the most suitably qualified candidate.

VI. Plenary session of the European Parliament, 21 February 2018 – Strasbourg

Question of the European Parliament:

103. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Die Kommission hat am 21. Februar eine Reihe von Entscheidungen betreffend ihres Senior Managements getroffen, in einem sogenannten Paket”.

Question: During the plenary debate on Monday March 12 on the integrity policy of the Commission and in particular the appointment of the Secretary-General of the European Commission Commissioner Oettinger mentioned the existence of a ‘Package’ that was composed for Mr. Selmayr. Please provide the European Parliament with the full details of the Package: what appointments, promotions, demotions and/or mobility decisions were part of the Package? Who has been involved in composing the Package? Were the other Commissioners aware of the composition of the Package? When was the Package composed? Is it common for such a Package to be assembled for the appointment of senior management positions and in particular the appointment of the Secretary-General of the European Commission?

Why the reshuffling of DGs has been done at the same time with the appointment of the new Secretary-General? How did this happen during former procedures?

Please give examples of other Packages that have been proposed to senior management staff members? Please give dates for each of the steps that has been taken in composing the package (talks with staff members, consultation with portfolio Commissioners, College decisions, decision of retirement of Mr Italianer, etc.). Have these steps been taken in accordance with the internal rules for appointments?

Commission answer:

The decisions taken by the College on 21 February 2018 comprised a series of senior management appointments affecting a number of services. Neither did Commissioner Oettinger speak of a package “composed” for Mr Selmayr, nor was this the case. The decisions respected the proposals and requests of the portfolio Commissioner and relevant Vice-Presidents. Full details of all senior management decisions taken are given in the minutes of the College meeting of 21 February 2018 (PV(2018)2244).

The involvement of the Commissioners depends on their respective portfolios, which are notably defined in the decision of the President of 1 November 2014 on the organisation of responsibilities of the Members of the Commission (C(2014)9000). As the Commission decided on 5 November 2014 (PV(2014)2104, p. 35), all Members of the Commission concerned are consulted on decisions on staff and organisational matters in their respective areas of responsibility before they are submitted to the Commission for approval. Please also see answer to question 41.

The transfers of both Catherine Day and Alexander Italianer to the function of

Secretary-General took place in the context of several other senior management decisions (PV(2005)1721) and (PV(2015)2132) which were proposed during the very same College meeting that took these decisions.

The transfer of Mr Selmayr to the function of Secretary-General was not part of the first series of senior management decisions taken by the College but happened subsequent to the announcement of Mr Italianer's retirement. Please also see answer to question 44.

Question of the European Parliament:

104. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Warum machen wir das überhaupt? Bei einer größeren Zahl von Generaldirektionen, die wir in unseren Diensten wissen, bei einer Vielzahl von „Senior-Management“-Positionen haben wir nahezu wöchentlich eine Entscheidung. Dies würde aber in unseren Diensten Unruhe bedeuten. Deswegen machen wir dies regelmäßig im Paket. Nur so erreichen wir im Interesse unserer Institution eine ausgewogene Gesamtentwicklung, zum Beispiel betreffend die unterschiedlichen Nationalitäten. Dienstalster, Lebensalter, Pensionsreife beziehen wir dabei ein, und auch das Ziel, den Frauenanteil wirkungsvoll zu steigern, ist dabei eine Priorität".

Question: Please explain how each staff decision in the Package contributed to attaining each of these objectives. Please explain why some staff members have been allowed to stay on after retirement age unlike other staff members and how that relates to the above mentioned objectives.

Commission answer:

With the decisions taken on 21 February 2018, the share of women in senior management functions at Director-General level rose to 36% (compared to 11% at the beginning of the mandate). In addition, for the first time, Bulgarian and Cypriot officials were appointed to functions of Director-General. As regards the point on the prolongation of active service beyond the statutory retirement age, Commissioner Oettinger took account of the interests of the service, the wishes of the portfolio Commissioners, Vice-Presidents and the President, as well as the fact that this contributes to ensuring an appropriate balance overall between renewal and continuity. Please see answer to question 55.

Question of the European Parliament:

105. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Das letzte Paket hat meine Vorgängerin vorbereitet. Es wurde Ende Juni 2015 im Kollegium beraten und auch verabschiedet. Übrigens war damals ein Teil des Pakets neben

zahlreichen Posten von Generaldirektoren und Direktorinnen, von deputies in der Kommission, die Entscheidung, dass Catherine Day ihren Dienst beendete und dass Herr Italianer neuer Generalsekretär geworden ist. Eigentlich war Ende Juni ein genau vergleichbares Paket zur Entscheidung anstehend wie vor wenigen Wochen die Entscheidung zum jetzigen Paket ”.

Question: If the position of the Secretary-General was part of the Package, then the nomination of Mr. Selmayr for that position must have been included in the Package, and therefore decided before the 21st of February. If the position of Secretary-General was not part of the Package, then the relevance of the Package argument for the case at hand is unclear. Please further elaborate on the inclusion of the nomination of Mr. Selmayr in the Package?

Commission answer:

All the senior management decisions referred to by Commissioner Oettinger were taken by the College on 21 February 2018 acting unanimously and in full compliance with the Staff Regulations and the Rules of Procedure of the Commission.

The first set of individual appointments and transfers were proposed to the College by Commissioner Oettinger after having consulted the relevant portfolio Commissioners and Vice-Presidents. The decision on the Secretary-General was the last decision to be taken and was proposed by the President in agreement with Commissioner Oettinger and after consultation of First Vice-President Timmermans. All these senior management decisions were taken unanimously by the College. Please see answer to question 103.

Question of the European Parliament:

106. Since Commissioner Oettinger seems to have been informed about the proposal of President Juncker to nominate Mr Selmayr as Secretary-General at a very late stage, it appears to be a proposal that has been prepared by President Juncker himself. As the President is advised by staff people in the Commission on all matters, please indicate who advised President Juncker on this particular proposal? Who were involved in drafting the proposal on his request? Please make available to Parliament any memo's or email exchanges on this matter between President Juncker and staff people within the Commission? Has Mr Selmayr, as chef de Cabinet of President Juncker in any way been involved in this advice to the President? If so, can you please make any relevant document available?

Commission answer:

Commissioner Oettinger had discussed all the senior management decisions to be taken on 21 February 2018 with the President. The President regularly discusses

important senior management decisions with his Head of Cabinet. However, as soon as Mr Selmayr submitted his application for the post of Deputy Secretary-General, DG Human Resources and Security made, at the request of Mr Selmayr and with the agreement of the President, all the necessary arrangements to avoid any conflict of interest. No one from the President's Cabinet was involved in the procedure in any way.

Question of the European Parliament:

107. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Wir haben dafür ein eingeführtes Verfahren. Gestatten Sie mir, drei Punkte zu unterstreichen: Wir treffen diese Entscheidungen auf dem Boden des Statuts der Europäischen Union. Das ist unser Recht und unsere Pflicht. Und genauso gingen wir auch diesmal wieder vor. Wir haben diese Entscheidung getroffen im Einvernehmen und unter Mitwirkung der Portfolio-Kommissare, der koordinierenden Vizepräsidenten, meiner Person und auch des Präsidenten".

Question: Please explain in detail which Portfolio Commissioners were involved in drawing up the Package, and how and when they were involved. Please explain on the basis of which criteria some Commissioners were involved, while others were not. In addition, please explain why the other Commissioners were not informed before February 21st. Please explain why some Commissioners stated in the media they were unaware, and "surprised" when the Package was presented for decision on February 21st.

Commission answer:

The individual appointments and transfers were proposed to the College by Commissioner Oettinger, in agreement with the President, after having consulted the relevant portfolio Commissioners and Vice-Presidents. The decisions respected the proposals and requests of these portfolio Commissioners and Vice-President(s), and each Member of the College was therefore fully aware of the decisions related to their portfolio. On the involvement of the Commissioners, please see the minutes of the College meeting (PV(2018)2244). Please see answer to question 105.

Question of the European Parliament:

108. On March 18, the French news platform Libération claimed that the effect of surprise among the Commissioners about Mr. Selmayr's nomination, was one of the reasons no critical questions were asked about the procedure. Is it not of great importance that when appointing their highest official, the Commissioners have sufficient time to reflect upon that appointment? In this light, please explain for what reason(s) both the resignation of Mr. Italianer, as well as the nomination of Mr.

Selmayr could not have been communicated before the meeting that took place on February 21 in order to enable an open discussion among the Commissioners about the nomination of Mr. Selmayr?

Commission answer:

In accordance with normal practice, and in order to safeguard the necessary degree of confidentiality, senior management appointments at Director-General or Deputy Director-General level are presented directly to the College on the same day that the College decides on them. The Commissioner responsible for Budget and Human Resources presents the proposals in agreement with the President and after consulting the relevant portfolio Commissioner and the relevant Vice-President(s). This was the procedure applied for all the senior management appointments and transfers decided by the College on the 21 February 2018. The College decided unanimously in full compliance with the Staff Regulations and the Rules of Procedure of the Commission.

Please see answers to questions 32, 41, 68 and 96.

Question of the European Parliament:

109. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Alle Entscheidungen des Kollegiums vom 21. Februar erfolgten auf meinen Vorschlag, und die Entscheidung über den Generalsekretär auf direkten Vorschlag unseres Präsidenten - genauso wie es auch in der Verantwortung innerhalb der Kommission vorgesehen ist. Alle Entscheidungen - einschließlich der Entscheidung über den neuen Generalsekretär - wurden von allen Mitgliedern der Kommission einvernehmlich gebilligt. Ich darf auf das Sitzungsprotokoll der Kommissionssitzung vom 21. Februar verweisen, das wir - wie nach jeder Sitzung - im Einklang mit unseren Transparenzregeln auch öffentlich gemacht haben ”.

Question: At what point in time did Commissioner Oettinger learn of the intention of Mr. Juncker to nominate Mr. Selmayr as Secretary-General? Furthermore, the presence of a Package seems to imply that the resignation of Mr. Italianer was previously known by several other staff members. Please explain when you became aware of the resignation of Mr. Italianer. Were the other Commissioners aware of his resignation before the nomination of Mr. Selmayr? If not, why not? Can you please indicate who was aware of the resignation? Please clarify when former Secretary-General Italianer decided to retire as of 1 March 2018. President Juncker made public that he was informed by Mr. Italianer already more than 2 years ago, but in his letter to all Commission civil servants, Mr. Selmayr wrote, that Italianer, “who decided last week to retire after 32 years of dedicated service ...”. Please explain that difference?

Commission answer:

Please see answers to questions 32, 41, 103 and 106.

As regards the last part of the question, there is no contradiction between the statements referred to. Mr Italianer had informed the President in 2015 about his intention to retire soon after 1 March 2018. The President discussed this information with his Head of Cabinet, like all important senior management matters.

The President did not share this information further in order not to undermine Mr Italianer's authority while he was in office. The President and his Head of Cabinet also kept the hope to be able to convince Mr Italianer to stay on as Secretary-General beyond 1 March 2018. However, in early 2018, Mr Italianer confirmed that he would stick to his decision. Mr Italianer sent the President a formal letter stating his intention to retire on 31 March 2018 in the morning of 21 February 2018.

Question of the European Parliament:

110. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Zweitens: Für mich steht außer Zweifel - und es wurde auch bisher nicht in Frage gestellt -, dass der Beamte Martin Selmayr über alle notwendigen Qualifikationen für die Aufgabe des Generalsekretärs der Europäischen Kommission verfügt. Er hat langjährige Erfahrung in Schlüsselfunktionen in der Kommission, er ist ein hervorragender Jurist, er besitzt hohe kommunikative Fähigkeiten. Er ist mit Sicherheit uneingeschränkt für die Aufgabe geeignet. Fleiß, Begabung, Qualifikation, proeuropäische Einstellung und auch politisches Gespür sind ihm zu eigen. Hinzu kommt: Er hat das Vertrauen unseres Kommissionspräsidenten, auch mein Vertrauen und das des gesamten Kollegiums".

Question: Please elaborate on the relevant work experience that Mr. Selmayr has in senior management. Please name the necessary criteria that have to be met to qualify for the position of Secretary-General and explain how these criteria have been set up? Please explain in detail by using examples why Mr.Selmayr's experience makes him suitable to manage a large administration with 33.000 staff?

Commission answer:

Please see answers to questions 7 and 40. Mr Selmayr's career is described in detail in the answer to question 40 and the relevant criteria for the function of Secretary-General are set out in the answer to question 7. In this context, the Commission would also like to refer to Article 20 of its Rules of Procedure (C(2010)1200). This Article notably provides that the Secretary-General shall assist the President so that, in the context of the political guidelines laid down by the President, the Commission achieves the priorities it has set and that the Secretary-General shall help to ensure political consistency by organising the necessary conditions between departments. There is no doubt that Mr Selmayr, an AD15 official with 8 years senior management

experience in the Commission, has outstanding qualifications for the performance of these duties.

Question of the European Parliament:

111. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Was die verfahrensrechtlichen Fragen betrifft, die in den letzten Tagen öffentlich aufgeworfen wurden, kann man sagen, dass auch im Rahmen dieses Pakets und anschließend bei der Versetzung Martin Selmayrs auf den Posten des Generalsekretärs im Einklang mit Artikel 7 des Statuts das Verfahren in allen Einzelheiten und im Zeitablauf beachtet wurde. Erst die Ausschreibung des Deputy Secretary General, dann ein Assessment Center, eine externe Bewertung von Kandidaten, das Interview mit dem Beratenden Ausschuss innerhalb der Kommission und dann das Interview mit dem Präsidenten und mit mir selbst einen Tag vor der Entscheidung”.

Question: Where you aware at the time of your interview with Mr. Selmayr that Mr. Italianer would retire and that Mr. Juncker would nominate Mr Selmayr not just as Deputy Secretary General, but as the successor of Mr Italianer within one and the same meeting? If you knew this, did you consider that a proper and transparent procedure? If you did not know this, do you consider you have been taken by surprise bypassed as responsible Commissioner?

Commission answer:

As responsible Commissioner, Mr Oettinger agreed with the procedure as it was in line with the Staff Regulations. The President presented the next day the proposal for the appointment of Mr Selmayr as Secretary-General in agreement with Commissioner Oettinger. The College decided unanimously with these proposals.

Please see answers to questions 41 and 79.

Question of the European Parliament:

112. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Es handelte sich um eine korrekte Auswahl nach den Regeln des Statuts, die ich auch als für Personalangelegenheiten verantwortlicher Kommissar sicherzustellen hatte und sichergestellt habe ”.

Question: Please explain why there seems to be a stricter procedure for the selection of a Deputy Secretary General than for the nomination of the Secretary-General?

Commission answer:

The procedures set out in the Staff Regulations – selection procedure under Article 29 or transfer in the interest of the service under Article 7 – are applicable, as alternatives, with regard to both positions. In the present case, the first of these procedures was used for the filling of the position of Deputy Secretary-General and the second one with regard to the position of Secretary-General.

Please see answers to questions 8 and 49.

Question of the European Parliament:

113. In addition, how do you view the remark by Commissioner Marianne Thyssen in the Flemish media that it concerns “Not a typical job, where the typical rules apply”

[<https://www.vrt.be/vrtnws/nl/2018/03/13/verhofstadt-over-zaak-selmayr---jean-claude--je-moet-dit-oplossen/>]? Does this reflect the views of the College, of Mr. Juncker, and yourself? If other ‘special’ rules should apply, which rules should be followed? On the basis of which criteria are these ‘special’ rules defined? Do you agree that the procedure to nominate and appoint the highest ranking staff member of the European Commission should be more transparent? Do you think the highest possible transparency has been pursued during the nomination and appointment of Mr. Selmayr? How could this transparency level be improved? Furthermore, do you believe that all possible candidates have had the opportunity to apply for the position of Secretary-General? Should there not be an open application procedure, as is the case for appointments of staff members of the European Commission? Has, due to a lack of such an open procedure and a blurring between the political and administrative level, the status of other officials been violated?

Commission answer:

The transfer in the interest of the service of Mr Selmayr to the post of Secretary-General was carried out in full compliance with the relevant provisions of the Staff Regulations. Please see answer to question 8.

Question of the European Parliament:

114. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Bei der Auswahl eines Generalsekretärs spielen weder Nationalität noch Zugehörigkeit zu einer Partei - sofern gegeben - eine Rolle ”.

Question: Please explain how this statement relates to the above mentioned objective of the Package - of which the position of Secretary General is part - to achieve a national balance? If the nationality of the

Secretary General plays no role, should it then be concluded that the Secretary General was not a part of the Package?

Commission answer:

The first set of individual appointments and transfers were proposed to the College by Commissioner Oettinger after having consulted the relevant portfolio Commissioners and Vice-Presidents. The decision on the Secretary-General was the last decision to be taken and was proposed by the President in agreement with Commissioner Oettinger after consultation of First Vice-President Timmermans. All these senior management decisions were taken unanimously by the College.

Please see the answer to question 72.

Question of the European Parliament:

115. During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Einzig und allein die Befähigung für dieses Amt, um das Funktionieren unserer Behörde bestmöglich sicherzustellen und im Sinne der Leitlinien des Präsidenten der Kommission die Arbeit zu garantieren, darf im Mittelpunkt stehen. Und dafür halten wir den Kandidaten, den gewählten Beamten Martin Selmayr, für uneingeschränkt geeignet”.

Question: Assuming that the nomination of Mr. Selmayr as Secretary General was not part of the Package, and therefore had not been considered before his appointment as Deputy Secretary-General, how did you establish his qualifications for the position of Secretary-General within the alleged 9 minutes between the two appointments? Could the minutes of that meeting be shared with the European Parliament? Furthermore, the meeting on February 21, where the minutes were adopted, was chaired by Mr. Selmayr. Does the Commission consider this to be ethical, given that an important item in those minutes concerns the appointment of the chair of the meeting?

During the last weeks, the case aroused outrage in public opinion, among MEPs, but also within the European public service. Wouldn't you say the response to the appointment of Mr. Selmayr was an accurate assessment and are you willing to take appropriate steps in response? Please explain why yes/no. Given the outrage the case has caused, why was it not raised during one of the meetings of the College following February 21?

Commission answer:

The first set of individual appointments and transfers, including the appointment of Mr Selmayr as Deputy Secretary-General, were proposed to the College by Commissioner Oettinger after having consulted the relevant portfolio Commissioners and Vice-

Presidents. Please see answer to question 105.

The minutes of College meetings are always adopted by the College, which is chaired by the President.

Question of the European Parliament:

116. During the Parliament's plenary session of 12 March 2018, Mr Oettinger stated that the College could have appointed Mr Selmayr to the post of Secretary General, on the basis of Article 7 of the EU Staff Regulations, by direct transfer, simply because of his function as Chief of Staff of the President. This line was already exposed by the Commission's Spokesperson in the press room, in the weeks following the appointment of the SG, where it was clarified that, by applying for the post of SGA Selmayr would have "chosen" the most difficult internal procedure to be appointed SG while he could be appointed directly from the post of Head of Cabinet. This statement is not in accordance with the rules of the Statute. Mr. Oettinger should explain the legal reasons supporting his statement.

Commission answer:

Please see answer to question 49.

Question of the European Parliament:

117. Mr. Oettinger stated that at the present stage there is no plan or intention to change the exit conditions of commissioners at the end of their term of office, to increase compensation or to add an office, additional staff and availability of a car. In addition, according to statements made to the press by the Commission's Spokesperson, there is no plan or intention to reorganize the Commission's Legal Service for submission to the Secretary General.

Mr Oettinger is called upon to further confirm to the CONT that no plans to reorganize the allowances of the Commissioners and the Legal Service are planned and will therefore be approved by the Commission during this term.

Commission answer:

The Commission can confirm the statement of Commissioner Oettinger. There are no such plans.

Allowances for Commissioners fall under Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders. The regulation is based on Articles 243 and 286(7) of the Treaty on the Functioning of

the European Union. Both Articles do not foresee a right of initiative for the Commission. The Commission can consequently confirm that it has no plan or initiative nor a legal possibility to "reorganise" the allowances of Commissioners.

There are no rules regarding facilities for former Commissioners, unlike in other institutions or Member States. Although there have been internal discussions on the status and limited administrative support to the candidates, designated and former Members of the College, the College has not discussed such plans.

There is no plan to reorganise the Legal Service.

VII. Complaints against distortion of promotion or appointment procedures

Question of the European Parliament:

118. What procedures can officials of the EU Commission use to file complaints when promotion or appointment rules are not respected? Have any complaints been submitted regarding the appointment to the position of Secretary-General of Mr. Selmayr? How many complaints using this procedure have been filed during the ongoing legislature and the former one for any position corresponding to the position of director or higher grade?

Commission answer:

Under Article 90(2) of the Staff Regulations, any EU official may submit to the appointing authority a complaint against an act adversely affecting him/her. Only acts which directly and immediately affect his/her legal situation are considered to be acts adversely affecting the official.

No complaints have been submitted regarding the appointment of Mr Selmayr to the position of Secretary-General. During the current Commission mandate and the preceding one, two complaints were lodged with regard to decisions on the appointment to senior management functions at the Commission.

Question of the European Parliament:

119. What mechanism does the Commission have to manage negative reactions from the DGs affected by the personal changes to avoid any damages of the reputation of the institution?

Commission answer:

The Commission does not share the underlying premise of this question. The Commission has acted in full compliance with the Staff Regulations and its Rules of Procedure. On that basis, the Commission counts on its very able senior managers to ensure that their departments run smoothly and that the morale of the staff is high.

VIII. Other questions

Question of the European Parliament:

120. Please provide CONT Committee with all the documentation related to this case to ensure the procedure was fully in line and explaining why there was an exemption to the rule of an open call for candidates for both positions (DSG and SG)?

Commission answer:

Please see answer to question 1. It is the Commission's prerogative, and falls within its margin of discretion, to decide which posts to publish pursuant to Article 29 of the Staff Regulations and which posts to fill by transfer in the interest of the service pursuant to Article 7 of the Staff Regulations thereof in order to ensure that the departments are organised in the best way to suit the tasks entrusted to them.

In the cases where the Commission decides to fill the posts by transfer in the interest of the service before they become vacant (please see answer to question 4, point 2), they are not published. In the history of the Commission, the post of Secretary-General was only published once. Five Secretaries-General were directly appointed by the College on the proposal of the President.

Question of the European Parliament:

121. Press articles suggest that Mr. Selmayr still chairs (while already in his new position as SG) President Juncker's cabinet meetings and that Mrs Martínez, now Head of cabinet of President Juncker, will become the next Commission's DG for the legal service).

Can the Commission confirm or deny these suggestions? How does the Commission plan to exercise its judicial role independently from Commission's political role in case such appointments are made. The Commission argues the decision had to be taken immediately because it is of so overriding importance to have no gap in this top post and to have no undue influence and pressure by external actors, such as the Member States. At the same time- If it is true that Mr Juncker knew already since 2,5 years that SG Italianer would leave the service by 1 March/1 April why did he wait then until 31 January to open a Vacancy for the post of DSG? We ask for the answer to this question by President Juncker.

Commission answer:

As regards meetings of the President's Cabinet, they are chaired by the Head of Cabinet of the President, while the Directors-General of other Presidential services (including the Secretary-General), their Deputies and/or their assistants can be invited

by the Head of Cabinet of the President. Meetings of the President's Cabinet take place several times per week whenever it is considered necessary by the Head of Cabinet of the President.

In addition, there are Management Meetings organised 3 times per week, between the President's Cabinet, the Secretariat-General, the Legal Service, the Directorate-General for Communication and the European Political Strategy Centre (EPSC). These meetings are chaired jointly by the Head of Cabinet of the President and the Secretary-General or their Deputies.

The post of Director-General of the Legal Service of the Commission is not vacant. There is no reason to speculate about a possible successor.

The Commission exercises its competences in line with the Treaties.

The Secretary-General, as foreseen in Article 20 of the Commission Rules of Procedure (C(2010)1200), shall assist the President so that, in the context of the political guidelines laid down by the President, the Commission achieves the priorities that it has set itself. He must therefore have the full trust of the President and of the whole Commission. Given this special role and in view of the particular phase of the mandate where the Commission needs to deliver significant outstanding proposals, conclude important negotiations and present the proposal for the next Multiannual Financial Framework, it is indeed crucial to ensure continuity in the function. In order to ensure this continuity, the relevant procedures are normally launched as soon as it is clear that a post will have to be filled in the foreseeable future, for instance because of the transfer of the jobholder.

It was known on 31 January 2018 that the Deputy Secretary-General position would become vacant when the decision to appoint Ms Michou to the function of Director-General for Home Affairs was taken by the College. The College decided to publish the post of Deputy Secretary-General on the same day.

President Juncker explained during his press conference on 21 February and in his subsequent letters to the European Parliament that when agreeing to become Secretary-General in 2015, Mr Italianer had told the President that he intended to retire soon after 1 March 2018. The President did not share this information in order not to undermine Mr Italianer's authority. The President and his Head of Cabinet also kept the hope to be able to convince Mr Italianer to stay on as Secretary-General beyond 1 March 2018. In early 2018, Mr Italianer confirmed that he would stick to his decision. Mr Italianer sent the President a formal letter in the morning of 21 February 2018, stating his intention to retire on 31 March 2018. Please see answer to Question 41.

Question of the European Parliament:

122. When and how did Mr Selmayr learn about Mr Italianer leaving his post as SG on 1 March 2018?

Commission answer:

The President was informed by Mr Italianer when agreeing to become Secretary-General in 2015 that he intended to retire soon after 1 March 2018. The President discussed this information with his Head of Cabinet, like all important senior management matters.

The President did not share this information further in order not to undermine Mr Italianer's authority while he was in office. The President, as well as his Head of Cabinet, also kept the hope to be able to convince Mr Italianer to stay on as Secretary-General beyond 1 March 2018. However, in early 2018, Mr Italianer confirmed that he would stick to his decision. Mr Italianer sent the President a formal letter stating his intention to retire on 31 March 2018 on the morning of 21 February 2018.

Question of the European Parliament:

- 123. Can the Commission confirm that the information provided by Jean Quatremer on 3 March "Les Coulisses de Bruxelles" as to the transitional allowances and on in kind advantages that would be granted to the Commissioners when they will leave their post is "fake news"?***

Commission answer:

This is indeed incorrect. The Commission has no plan or initiative nor a legal possibility to change the allowances of Commissioners. There is also no plan to give other in-kind advantages to former Commissioners. Please see answer to question 117.

Question of the European Parliament:

- 124. Reports appeared in various media about commitments to Commissioners who are stepping down in the future. The commitments are described quite precisely in the Dutch media: over the course of three years they have use of an office, two employees and a car with a driver. Have these commitments been discussed? Has the proposal already been submitted specifically for decision-making? If not, will such a proposal be submitted and discussed soon? If not, what is the explanation for such detailed coverage in the media? And: is it ruled out that such a proposal will be submitted for decision-making?***

Commission answer:

This is incorrect information. The Commission has no plan or initiative nor a legal possibility to change the allowances of Commissioners. There is also no plan to give other in-kind advantages to former Commissioners. Please see answer to question 117.

Question of the European Parliament:

125. There were reports in the press that the Commission intends to pur the Legal Service under the authority of the Secretary General. Are these reports founded?

Commission answer:

These reports are totally unfounded. There is no plan to reorganise the Legal Service.

Question of the European Parliament:

126. As new secretary general, one of the first decisions of Mr Selmayr has been to block the proposals to bring a number of Member States to the European court of Justice for violation of their obligations under the Clean Air directive. Why is this decision justified?

Commission answer:

This is false. Decisions related to infringement proceedings are taken by the College.

Question of the European Parliament:

127. Can the Commission confirm that in July this year, the Legal service will be subject to the authority of Mr Selmayr, thereby removing its independence and any possibility for it of expressing an opinion which is frank, objective, comprehensive and, therefore, of use to the Commission for the purpose of assessing the legality of the Commission action? Can the Commission confirm that there is no plan to change the status or working methods of the Commission's Legal Service or any other change to the rules of procedures?

Commission answer:

This is false. There is no plan to reorganise the Legal Service or change its status.

Question of the European Parliament:

128. Does the Commission considers it appropriate to submit the Legal Service of the Commission to the authority of a man who has possibly breached the staff regulations?

Commission answer:

The Commission does not share the premise underlying this question. The Commission would recall that the decision concerning the appointment of the Secretary-General was taken by the College acting unanimously in full compliance with the Staff Regulations and the Commission Rules of Procedure. There is no plan to reorganise the Legal Service or change its status.

Question of the European Parliament:

129. Can the Commission confirm that there is no current project, initiative or plan to alter the statute or retirement package, remuneration or emoluments of former Commissioners?

Commission answer:

Yes, the Commission can confirm this. The Commission has no plan or initiative nor a legal possibility to change the retirement package, remuneration or emoluments of Commissioners or former Commissioners. Please see answer to question 117.

Question of the European Parliament:

130. Is it correct that, as has been claimed by some media, Commissioners

were promised an increase of their pensions if they approved Mr Selmayr's appointment (even though only the Council is competent to take a decision on pensions)?

Commission answer:

This is false. The Commission has neither the intention nor the initiative nor the legal possibility to take such a decision. Please see answer to question 117.

Question of the European Parliament:

131. What nominations and interviews are foreseen for other members of President's cabinet before the end of mandate of present Commission? Which personal issues exactly (promotions of the number of people at top managerial levels, in which DGs) will be (co)decided by Mr. Selmayr in his new position until the end of mandate of this Commission?

Commission answer:

At this stage, there are no nominations foreseen for members of the President's Cabinet. It is not excluded that members of the President's Cabinet may decide to apply for vacancies for which they are qualified during the remainder of the mandate. Where senior management posts need to be filled, the appointment and transfer decisions will be taken by the College as Appointing Authority in accordance with the Staff Regulations.

As Secretary-General, like all Directors-General, Mr Selmayr may, in agreement with the President and the Commissioner in charge of Human Resources, decide on transfers of his Deputies, Directors and Principal Advisers within his service. He does not have any decision-making powers concerning other senior management appointments or transfers.

Question of the European Parliament:

132. If the present Commission is a political Commission (which is how you present and lead it), it must also accept political responsibilities that go beyond the legal limitations, including of its ethical aspects. Do you accept this statement? And if so, do you recognize that the nomination process of Mr. Selmayr clearly undermines the role of the Commission as the guardian of Treaties and rule of law?

Commission answer:

The Commission fully assumes its political responsibilities, including the application of the principles of integrity and ethics. The Commission maintains that the procedure

of appointing Mr Selmayr to the post of Deputy Secretary-General and to the post of Secretary-General was decided by the College acting unanimously, in full compliance with the Staff Regulations and the Rules of Procedure of the Commission.

Question of the European Parliament:

133. What is the Commission's opinion on the Amendment which will be tabled in the context of the Commission discharge, saying: "in view of European Public Administration of excellence, asks de Commission to come before the end of 2018 with a proposal for the procedure of appointments of high level officials including the Secretary-General of the European Commission, which guarantees the selection of best-qualified-candidate-profiles under the premise of transparency and equal opportunities and which will be sufficiently comprehensive to be implemented in other EU Institutions, such as the European Parliament and the Council."

Commission answer:

The Commission fully shares the goal of a European Public Administration of excellence. The Commission therefore stands ready to discuss with the other EU institution whether and how the application of the EU Staff Regulations, which apply to all EU institutions, can be further developed and strengthened with this objective in mind. The need to recruit, appoint and promote talented officials on the basis of qualifications, skills and experience has to be as prominent in this discussion as the imperative to preserve the autonomy of each EU institution in its personnel decisions, the independence of decision-making processes from external influences as well as the supranational spirit of the European Public Administration. While enhanced transparency is an important principle, it must not lead to senior management decisions becoming the object of negotiations between Member States and/or political parties, as this could call into question, notably with regard to the Commission, both the supranational spirit of the European Public Administration and the goal of having highly qualified senior managers. The Commission stands ready to pursue a constructive dialogue on these matters with the European Parliament, the Council and other EU institutions. In this dialogue, the Commission will explain that it has made good experience with the use of Assessment Centers and of external experts in its senior management selection procedures; they provide helpful objective input to assess qualifications, skills and experience of senior managers.

Question of the European Parliament:

134. Can the Commission please put forward a proposal for a more transparent procedure for future appointments?

Commission answer:

Please see answer to question 133.

WRITTEN QUESTIONS ON

Ethics and Integrity

Meetings with former Commission President Barroso

Question of the European Parliament:

- 1. What are the implications of the promise made in September 2016 by President Juncker to the European Ombudsman that the former Commission President would be “received in the Commission not as a former President but as an interest representative” and would be “submitted to the same rules as all other interest representatives as regards the Transparency Register”? Did this rule out private meetings outside the Commission’s premises?***

Commission answer:

The commitment taken by President Juncker vis-à-vis the European Ombudsman means that whenever a Commissioner or Director-General receives Mr Barroso, independently of the capacity in which Mr Barroso acts and independently of the possibly private or social character, this fact shall be published as a meeting with an interest representative. This is to ensure greatest possible transparency and avoid any doubt with regard to alleged secret meetings. It does not imply that every meeting with Mr Barroso must have a purpose of lobbying.

Question of the European Parliament:

- 2. Considering that both Vice-President Katainen and Vice-President Dombrovskis entered their meetings with Mr. Barroso into the transparency register as meetings with Goldman Sachs that during these meetings Mr. Barroso acted as interest representative?***

Commission answer:

The publication of such meetings does not imply that Mr Barroso acts as an interest representative of Goldman Sachs in each of these meetings. It has been made clear by Vice-President Katainen in the plenary of the European Parliament on 28 February 2018 that no lobbying of the Commissioners took place.

Question of the European Parliament:

- 3. If the answer to question 2 is yes, how does this match with Mr. Barroso’s pledge to the Ethics Committee of the Commission that he would not undertake any lobbying activities vis-à-vis the European***

institutions on behalf of Goldman Sachs and that his position at the bank was of a purely advisory nature?

Commission answer:

Please see reply to question 2 above.

Question of the European Parliament:

- 4. What is the Commission's reaction to the Recommendations of the European Ombudsman in respect of her joint inquiry into complaints 194/2017/EA, 334/2017/EA, and 543/2017/EA on the European Commission's handling of post-mandate employment of former Commissioners, a former Commission President and the role of its 'Ethics Committee'?***

Commission answer:

The European Ombudsman has given the Commission time until 6 June 2018 to reply. The Commission is in the process of replying to the European Ombudsman and asks for the Parliament's understanding that it cannot make its reaction public before the Ombudsman has received it.

LIST OF ANNEXES

Batch 1

1. OJ(2018)2244 - Agenda of the Commission meeting 21 February 2018
2. PV(2018)2244 – Minutes of the Commission meeting 21 February 2018
3. PV(2017)2224 – Minutes of the Commission meeting 12 September 2017
4. PV(2017)2221 - Minutes of the Commission meeting 19 July 2017
5. PV(2015)2132 - Minutes of the Commission meeting 24 June 2015
6. PV(2014)2104 - Minutes of the Commission meeting 5 November 2014
7. PV(2006)1767 - Minutes of the Commission meeting 29 November 2006
8. PV(2005)1721 - Minutes of the Commission meeting 9 November 2005
9. PV(2000)1477 - Minutes of the Commission meeting 3 May 2000

Batch 2

1. C(2014)9002 – Communication: Rules governing the composition of Cabinets – 1 November 2014
2. SEC(2010)104 – Communication: Rules governing the composition of Cabinets – 3 February 2010
3. SEC(2004)1485 - Rules governing the composition of Cabinets - 2004
4. C(2014)9000 – Decision of the President – Organisation of responsibilities of the Members of the Commission – 1 November 2014
5. C(2010)1200 – Commission Decision amending its Rules of Procedure – 24 February 2010
6. Annex to C(2010)1200 – Commission Decision amending its rules of procedure – 24 February 2010
7. C(2018)700 - Commission Decision on a Code of Conduct for the Members of the European Commission – 31 January 2018
8. Council Regulation (EU) 2016/300 determining the emoluments of EU high-level public office holders – 29 February 2016

Batch 3

1. The Compilation Document on Senior Officials Policy
2. Commission Decision C(2007)380 on the Rules of Procedure of the Consultative Committee on Appointments
3. Vacancy Notice for a Deputy Secretary-General COM/2018/292
4. Mr Italianer's letter concerning his retirement
5. Reserve List COM/A/10/01
6. Vacancy Notice for a Director-General for DG EAC COM/2018/55
7. MEMO handed to Press on Frequently Asked Questions
8. Brief for QABD points for College meeting of 21 February 2018
9. Extension of the use of Assessment Centres to Internal Selection Procedures for Posts of Director or Equivalent (PV(2006)1767
10. Act notifying Mr Selmayr's appointment as Deputy Secretary-General

Batch 4

1. C(2016)1881 – Commission Decision of 4/4/2016 on the exercise of powers conferred by the Staff Regulations on the Appointing Authority
2. Staff Regulations of Officials and Conditions of Employment of Other Servants