

(Non-)replacement of Commissioners elected to EP

Having been elected to the European Parliament, two current members of the College of Commissioners have resigned as Commissioners in order to take up their seats. As a general rule, a vacancy caused in this way needs to be filled by a new Commissioner of the same nationality – unless the Council unanimously decides otherwise. On 16 June 2019, given the short duration of the remainder of the current Commission's mandate, the Commission President, Jean-Claude Juncker, proposed not to replace the departing Commissioners.

European Commission proposal

The College of Commissioners currently consists of one national per Member State. Any Commissioner elected to the European Parliament who decides to take up their seat is required to resign, as the two offices are incompatible (Article 245 TFEU and Article 7(1) of the [Electoral Act](#)). This is the case for two Commissioners (Andrus Ansip, Estonia, and Corina Crețu, Romania) following their election to Parliament in May 2019. The EU Treaties require, as a general rule, that a vacancy caused by such resignation is filled for the remainder of the Commission's term of office by a new member, of the same nationality, appointed by the Council. However, the Council may, acting unanimously, on a proposal from the President of the Commission, 'decide that such a vacancy need not be filled, in particular when the remainder of the Member's term of office is short.' Such a Council [decision](#) has been taken once before, in July 1999.

Against this backdrop, on 12 June 2019, Jean-Claude Juncker [announced](#) that he would propose not to replace the departing Commissioners, and later made this [proposal](#) formally. He noted that, as the current Commission's term in office ends on 31 October 2019, during the remaining four months, the Commission's focus will be on completing pending proposals instead of proposing new initiatives. Moreover, pointing to the financial burden entailed by such replacements, Juncker suggested that, given the current practice of working in 'project teams', other Commissioners would be 'fully capable' of stepping in for departing colleagues. The proposal, if adopted, would also entail there being no member of the College of Estonian or Romanian nationality until a new Commission takes office.

Procedure and Parliament's role

The proposal was [considered](#) by Coreper on 3 July. Without unanimous support for the proposal, new Commissioners would need to be appointed by the Council, in common accord with Juncker, and after *consulting* the European Parliament (Article 246 TFEU). Such appointments are different from the 'regular' procedure, due in autumn 2019, in which the Commission is subject as a body to a vote of *consent* by Parliament before being formally appointed by the European Council. Although the 'replacement' procedure only requires Parliament's consultation, the 2010 [Framework Agreement on Relations between Parliament and the Commission](#) (pt. 6) commits the Commission President to '**seriously consider**' the result of Parliament's consultation before giving their accord to the Council's appointment. In July 2014, after the last European elections, Parliament [approved](#) the appointment of five new Commissioners. [Rule 125\(9\)](#) calls for hearings of any replacement Commissioner, or indeed of existing Commissioners taking over a portfolio.

Article 246 TFEU (second and third paragraphs)

A vacancy caused by resignation, compulsory retirement or death [of a Member of the Commission] shall be filled for the remainder of the Member's term of office by a new Member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in the second subparagraph of Article 17(3) of the Treaty on European Union.

The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the Member's term of office is short.

