Vote of investiture for the Commission

On 27 November 2019, the European Parliament is expected to vote on the von der Leyen Commission as a whole. This would be one of the final steps in an investiture process that started in May 2019, following the European elections. If the Commission obtains Parliament’s consent – by a majority of the votes cast by roll call – the European Council will then appoint its members by qualified majority, finally allowing the new Commission to take up its duties, expected to be on 1 December 2019.

The investiture procedure

The EU Treaties set out a complex appointment procedure for the European Commission (Article 17(7) TEU). Once European elections are held, the European Council, acting by qualified majority, proposes a candidate for the Presidency of the Commission, who then needs to be elected by a majority of the members of the European Parliament. The strong link between the European elections, and thus Parliament’s composition, and the appointment of the President of the Commission came with ratification of the Lisbon Treaty, adding to the parliamentaryisation of the relationship between the two institutions and increasing the Commission’s accountability before Parliament.

For the other members of the Commission, the appointment procedure also requires the combination of multiple forces: Commissioners are proposed by the Member States’ governments, and then nominated by the Council, in common accord with the President-elect of the Commission. Each candidate then appears before a single hearing in Parliament, involving the appropriate committee(s) or other bodies relevant to their future responsibilities (Rule 125 of Parliament’s Rules of Procedure, and Annex VII thereto). Each hearing lasts three hours, including an opening statement by the candidate of no more than 15 minutes and a session of questions and answers. Before the hearing can take place, candidates have to answer a written questionnaire and present a declaration of interests. The declarations of financial interests are examined by the Parliament’s Legal Affairs Committee, which needs to confirm the absence of any conflict of interest as a precondition for the committee responsible holding a hearing (Article 2, Annex VII of Parliament’s Rules of Procedure). Hearings are meant to inform Parliament’s decision on the Commission as a whole. Once all the hearings are successfully passed, the Commission as a whole still needs to obtain the consent of Parliament by a majority of the votes cast, by roll call (Rule 125(7)), before being appointed by the European Council, by qualified majority.

The appointment of the von der Leyen Commission: Parliament’s role

The May 2019 European elections launched the procedure leading to the appointment of the von der Leyen Commission, now expected to succeed the Juncker Commission from 1 December 2019. The process has been long and fraught with events that have delayed the initial date for the new Commission taking up its duties, 1 November 2019. Ursula von der Leyen was proposed as Commission President during a special meeting of the European Council on 30 June, after an intense debate surrounded by doubts concerning the future of the Spitzenkandidaten process, for which her election – not having herself been a Spitzenkandidat – is widely seen as a setback. The election of Ursula von der Leyen as President of the Commission during the Parliament’s July II plenary session (383 members voted in favour – just over the absolute majority required, 327 against, and 22 abstained) launched the procedure for the appointment of all the other members of the College.

During the summer, most Member State governments made public their proposed candidates for the future Commission. As a result, on 10 September 2019, the Council nominated, by common accord with President-elect von der Leyen, the candidates proposed as members of the Commission, without a British national. As the UK was due to leave the EU on 31 October, before the new Commission was to take up its duties (initially on 1 November 2019), the UK government communicated its intention not to propose a candidate for the Commission, a decision that has been maintained even following the extension of the
withdrawal date to 31 January 2020. As a consequence and after several letters sent by President-elect von der Leyen recalling the UK’s obligation under the EU Treaties to propose a candidate for the Commission, the Commission recently decided to launch an infringement procedure against the UK.

On the same day the Council nominated the candidates to become members of the Commission, the President-elect also presented the distribution of portfolios and the structure of the future Commission. According to her initial plans, the future Commission would be structured around three Executive Vice-Presidents (Timmermans, Vestager and Dombrovskis), assuming a double role as Commissioners dealing with a specific portfolio and coordinators responsible for one of the core topics of the President-elect’s political agenda, and four further Vice-Presidents (Šefčovič, Jourová, Šuica, Schinas), each with a coordinating role for a specific policy priority. In addition, the High Representative of the Union for Foreign Affairs and Security Policy (Borrell), appointed separately by the Council in accord with von der Leyen, will also be a Vice-President coordinating the external aspects of the work of all Commissioners, in addition to being responsible for the European External Action Service.

Once the President-elect had informed Parliament of the distribution of portfolios and the future structure of the Commission, Parliament started examining the aptitude of the candidates. Two candidates did not advance beyond the first stage of the procedure, the examination of the declarations of financial interests by Parliament’s Legal Affairs Committee. The Legal Affairs Committee found grounds for conflicts of interest in relation to the Hungarian (László Trócsányi) and the Romanian (Rovana Plumb) candidates, and, after the President-elect was informed, their hearings were suspended. Hearings took place between 30 September and 8 October 2019 with all the other Commissioners-designate, with two of them being subject to a resumed hearing (Sylvie Goulard, France, and Janusz Wojciechowski, Poland) due to the dissatisfaction with their performance expressed by the committees responsible for their hearings. Ultimately, the Internal Market and Consumer Protection and the Industry, Research and Energy Committees did not consider Sylvie Goulard to be suitable to become a Commissioner. As a result, the French, Hungarian and Romanian candidates were withdrawn and three substitute candidates were nominated (Thierry Breton, France; Olivér Várhelyi, Hungary; and Adina Vălean, Romania), and the date on which the von der Leyen Commission could take office had to be postponed. Additionally, the titles of several portfolios were modified, including the much-criticised portfolio on ‘Protecting our European way of life’ being changed into ‘Promoting the European way of life’. Furthermore, Paolo Gentiloni was also assigned responsibility for coordinating the implementation of the Sustainable Development Goals in the context of the European Semester. The newly nominated candidates having successfully passed their hearings before Parliament, the Conference of Presidents decided to declare the hearings closed on 21 November 2019, and allowed the publication of the evaluation letters of all Commissioners-designate, paving the way for the final vote of Parliament on the Commission as a whole.

The final steps in the procedure

Parliament’s plenary vote on the Commission as a whole is the next-to-last step in the investiture procedure. According to Parliament’s Rules of Procedure, once the hearings are closed, the President-elect is invited to present the College of Commissioners and their programme in front of Parliament. After a plenary debate, Parliament has to vote to consent (or reject) the Commission as a whole, by a majority of the votes cast by roll call (Rule 125(7)), paving the way for the appointment of the Commission by the European Council, by qualified majority. Parliament is expected to vote on the Commission as a whole on 27 November 2019. However, this very last step in the appointment procedure has been clouded by the UK government’s decision not to propose a British candidate for the Commission, a decision that poses some concerns in relation to the legality of the composition of the future Commission. According to a European Council decision adopted in May 2013 and confirmed in June 2019, the Commission shall be composed of one Commissioner per Member State. However, Article 17(5) of the Treaty on European Union allows the European Council to modify the composition of the Commission through a unanimous decision.