

ASSESSING CONFLICTS OF INTEREST IN THE VDL COMMISSION: A FAULTY PROCESS

Lack of transparency a major problem in the EU: Citizens and civil society organisations demand improved democratic control over EU decision-making in order to rebuild trust in its institutions.

The appointment of the College of Commissioners ought to be an exemplary process: as the Treaty on European Union states “the members of the Commission shall be chosen [...] from persons whose independence is beyond doubt.”¹ However, the current process of examination of their financial and other interests, entrusted to the Committee on Legal Affairs (JURI), is deeply flawed and politicised.

1 LIMITED SCOPE EXAMINATION

Ignoring reality: three Commissioner-designates are currently under investigation by European or national judicial authorities. Some candidates are facing scrutiny in the press over their activities. Others have been implicated in corruption and other criminal activities in the past. However, these alarming facts were left out of the discussion and not addressed in the Legal Affairs Committee’s assessment.

Insufficient information: questionnaires sent to Commissioner-designates request very limited information. For instance, bank accounts and revenues are not included in the declaration of financial interests, although they are crucial for this exercise.

2 IMPOSSIBLE TO VERIFY

No mandate to investigate: members of the JURI Committee have to assess whether the declarations of interests of Commissioner-designates are **complete and accurate**². The assessment of the actual financial and other interests of the candidates, their spouses and families rely only on self-declarations by the candidates and therefore depend on their own assessment of potential conflicts of interest. Deprived of investigative powers and expertise, the Committee is bound to take the candidates’ words for granted and has no mean to verify the information.



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¹ Treaty on European Union, Article 17

² Rules of Procedure of the European Parliament, Annex VII, Article 2

Lack of time: the Code of Conduct of members of the Commission requires Commissioner-designates to “submit the declaration to the European Parliament in due time in order to allow the Parliament to examine the declarations.”³ In practice, some declarations were received only two days before the Committee examination. It is impossible to conduct a thorough examination under these conditions while carrying out other responsibilities as MEPs.

Little debate: only two hours were assigned to the primary assessment for the 26 declarations, which equals to about four minutes of Committee discussion for each declaration. These conditions prevented a serious debate and equality of treatment for both the members of the Committee and the Commissioner-designates.

3 A POLITICISED OUTCOME

Entrusting the examination of potential conflicts of interests to politicians creates, in itself, conflicts of interests. Major political groups have instrumentalised the process to defend Commissioner-designates from their group and attack political opponents. The lack of guidelines in discerning potential conflicts of interests allowed for the scandalously unequal treatment of the candidates.

THE WAY FORWARD

The European Parliament and civil society organisations have repeatedly asked for reform of this process⁴. **However, some key recommendations were not followed and our experience shows that we need to ensure much greater transparency and rigour.**

Most member states set up permanent and independent administrations with investigative powers to scrutinize their public officers. Entrusting this task to MEPs without providing sufficient means, time and expertise illustrates the lack of transparency and accountability in this European Union.

- In line with Commissioner-designate Jourova’s mission letter, **an independent ethical body should be set and tasked with the examination of declarations of financial interests.** The existing “Independent Ethical Committee” does not provide sufficient guarantees of independence and is not involved in this exercise.
- The appointment of members of the independent ethical body should provide sufficient guarantees of independence. Sufficient time and resources should be allocated to the exercise of this scrutiny, drawing on best practices in member states.
- The Code of Conduct for the members of the European Commission should be broadened up to include all other aspects over which they influence decisions and that are beyond their current portfolios.

³ Code of Conduct of the Members of the European Commission, Article 3

⁴ Including through a 2016 report from the AFCCO Committee and a 2017 report from the JURI Committee