

Termination of service of a Member of the European Commission

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Termination of service of a Member of the European Commission

The Treaties establishing the European Community (EC) and the European Atomic Energy Community (EAEC or Euratom) set out the arrangements for the termination of a Commissioner's service (Articles 215 and 216 of the EC Treaty, Articles 128 and 129 of the Euratom Treaty; see also Articles 12 and 12a of the ECSC Treaty, which expired on 23 July 2002).

Apart from regular replacement, or death, the duties of a Member of the Commission end when he resigns or is compulsorily retired.

If any Member of the Commission no longer fulfils the conditions required for the performance of his duties, or if he has been guilty of serious misconduct, the Court of Justice may compulsorily retire him, on application by the Council or the Commission.

Save in the case of compulsory retirement, the Member remains in office until he is replaced. The Member will be replaced for the remainder of his term of office by a new Member appointed by common accord of the governments of the Member States. The Council may decide that the post need not be filled.

In the event of resignation, compulsory retirement or death, the President is replaced for the remainder of his term of office.

The Treaty of Amsterdam lays down rules for the ordinary appointment procedure in the event of resignation or death of the President.

The Treaty of Nice provides for a partial adaptation of the replacement procedures for commissioners to the new appointment procedures for the Commission. In fact, whilst the Council must decide on the appointment of a new Member by qualified majority, the Treaty does not envisage that Parliament should approve it.

Since the Commission acts as a body, the individual behaviour of a Commissioner in the performance of his duties may commit the responsibility of the entire Commission. Consequently, following the report by a Committee of Independent Experts on allegations of fraud, mismanagement and nepotism within the Commission, all the Members of the Commission decided to resign on 15 March 1999.

By the same token, the Members of the Commission must collectively relinquish their duties in the event of a motion of censure on the management of the Commission being adopted by the European Parliament by a two-thirds majority of votes cast representing a majority of the Members of the European Parliament (Article 201 of the EC Treaty, Article 114 of the Euratom Treaty; see also Article 24 of the ECSC Treaty).

A refusal on the part of the European Parliament to grant a discharge to the Commission in respect of the implementation of the budget does not bring into play an obligation for the Commission to resign.