

Appointment of Members of the European Commission

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Appointment of Members of the European Commission

Appointments before 1967

Given the significant power of the High Authority, the appointment of its members was the subject of intensive debate during the negotiations that began in Paris on 20 June 1950 with a view to the drafting of the **Treaty establishing the European Coal and Steel Community (ECSC)**. In the end, a specific procedure was adopted whereby members were to be chosen on the grounds of their general competence. This procedure was the result of a compromise between the Member States' desire to control the appointment of members and the necessary independence of those members. The solution adopted in Article 10 of the ECSC Treaty allowed for a gradual progression from government appointment of members to a co-option system for half the members of the High Authority.

For an initial six-year period, from the date on which the common market in coal and steel was established, the six governments would appoint by common accord eight out of the nine members of the High Authority. The ninth member would be co-opted by the eight appointed members, on the basis of a five-vote majority.

Following this initial period, a complete replacement of members was planned. Member State governments were to appoint eight members, if not unanimously then with a five-sixths majority, and the ninth member was to be co-opted. The same procedure was applicable to the complete replacement in the event of a motion of censure being adopted by the Common Assembly.

Partial replacement of the members of the High Authority resulted in one-third of its members being replaced every two years. Regular replacements were based alternately on co-option and governmental appointment on the basis of a five-sixths majority.

So that this system might be established, the governments were given one final concession in the form of a right of veto, subject to certain conditions. When a government had exercised its right of veto against two members, in the event of an individual replacement, or against four members, in the event of a general or biennial replacement, any further veto might be brought before the Court of Justice. The Court could rule the veto null and void if it considered it had been improperly used. In practice, it should however be noted that governments always maintained their influence over the appointment of members of the High Authority.

The term of office of the members of the High Authority was fixed at six years in Article 9 of the ECSC Treaty. That of outgoing members was renewable.

This procedure applied until the Merger Treaty entered into force in 1967.

In 1957, the **Treaty establishing the European Economic Community (EEC)** and the **Treaty establishing the European Atomic Energy Community (EAEC or Euratom)** no longer included the alternative of co-opting members of the Commission. Henceforth, all members were appointed by common accord of the Member State governments (Article 158 of the EEC Treaty and Article 127 of the Euratom Treaty).

Unlike the High Authority, the term of office of members of the EEC and Euratom Commissions was four years, and it was renewable.

Appointments between 1967 and 1993

Article 11 of the **Treaty of 8 April 1965 establishing a Single Commission of the European Communities** standardised the procedure for the appointment of Commission members by taking over the substance of the provisions of the Treaties of Rome. Accordingly, all members were appointed by common accord of the Member State governments to serve a four-year term of office, which was renewable.

Appointments after 1993

The 1992 **Treaty on European Union (TEU)**, which entered into force on 1 November 1993, extended the duration of the Commissioners' term of office from four to five years in order to bring it in line with that of the Members of the European Parliament. It also amended the appointment procedure:

- The governments of Member States were to nominate by common accord, and after consulting the European Parliament, the person they intended to appoint as President of the Commission.
- In consultation with the nominee for President, the governments were to nominate the other persons whom they intended to appoint as Members of the Commission.
- The President and the other members thus nominated were to be subject, as a body, to a vote of approval by the European Parliament.
- After such approval, the President and the other Members of the Commission were to be appointed by common accord by the governments of the Member State.

This new procedure was first applied to the appointment of the Commission installed on 7 January 1995. The President and the Commissioners whose term of office began on 7 January 1993 and expired on 6 January 1995 were appointed by common accord of the Member State governments, in line with the procedure previously set out in the Merger Treaty.

The 1997 **Treaty of Amsterdam** amended the procedure for the investiture of the Commission. The appointment of the President by common accord of the Member State governments now had to be approved by the European Parliament. This reinforced the legitimacy of the President. Moreover, the other Members were to be appointed by common accord of the Member State governments – and no longer only in consultation – with the President-designate (Article 214 of the EC Treaty and Article 127 of the Euratom Treaty; cf. also Article 10 of the ECSC Treaty expired on 23 July 2002), which allowed a greater degree of homogeneity within the body. This procedure first applied to the appointment of the Commission that, following the resignation of the Commission as a body on 15 March 1999, took up office in September 1999.

The **Treaty of Nice of 2001** provided for a new amendment to the appointment procedure of the Commission. Thereafter the Council, meeting at the level of Heads of State or Government and acting by a qualified majority, were to nominate the President. After approval of the President nominated by the European Parliament, the Council, by common accord with the nominated President, was to adopt by qualified majority the list of the Commissioners that it intended to appoint, a list drawn up in accordance with the proposals made by each Member State. After approval by Parliament, the President and the other Members of the Commission were to be formally appointed by the Council, acting by a qualified majority.