

**QUESTIONS ON THE APPOINTMENT OF
MR MARTIN SELMAYR
AS THE NEW SECRETARY - GENERAL
OF THE EUROPEAN COMMISSION**

I. Access to the file

1. Please provide all documents relating to the selection process of Mr. Selmayr as Deputy Secretary-General:
 - a. Vacancy notice, including considerations for choosing an internal advertisement, information on how the vacancy was brought to the attention of staff, and contents relating to job requirements/sought for qualifications of candidates;
 - b. Applications, including letters of interest and CVs;
 - c. Withdrawal of Applications, including letters of motivation;
 - d. Assessments and Interviews of candidate(s); composition of the Consultative Committee on Appointment (CCA)
 - e. Documents relating to the decision to nominate Mr. Selmayr.
2. Please provide all documents relating to the resignation of Mr. Italianer as Secretary-General:
 - a. Letter of resignation;
 - b. Any minutes of 'silent' agreement about date of resignation;
 - c. Any documents relating to the appointment of Mr. Italianer as Advisor Hors Class, specifically devoted to the Multi-Annual Financial Framework.
3. Please provide all documents relating to the preparation of the meeting of the College of 21 February, during which Mr. Selmayr was appointed as Secretary-General:
 - a. Minutes of the meeting of Heads of Cabinet of 19 February and, in particular, any information relating to the question who chaired the meeting when the appointment of Mr. Selmayr was discussed;
 - b. Documents provided to the Commissioners for the relevant agenda item;
 - c. Agenda of the College meeting of 21 February (OJ 2018 2244 final, SEC 2018 2244 final);

- d. Compilation of reactions of Commissioners, both on the procedure followed and on the decision taken.
 - e. Opinions of the Consultative Committee on Appointments of 14 and 16 February 2018 (PERS 2018 16/2 and 3), as referred to, page 24 (paragraph 10.11) of the abovementioned minutes? if needed under the relevant confidentiality rules?
4. Please provide the exhaustive minute (PV Special) of the 2244th meeting of the Commission if needed under the relevant confidentiality rules (in accordance with the relevant provisions of the framework agreement between the Commission and the European Parliament)?
 5. Please provide all documents relating to the Communication Strategy of the Commission in relation to the appointment of Mr. Selmayr:
 - a. Instructions to the spokespersons before each of the briefing sessions with the media, during which the appointment came up;
 - b. Reports back to the Commission of the spokespersons about the questions asked by journalists and the increasing unrest during the briefing sessions;
 - c. Any information on how the Commission could underestimate the turmoil its communication strategy caused and on any ideas on how to approach the interested journalist in order to de-escalate the situation.
 6. Please provide the exhaustive minutes (PV SPECIAL) of all the meetings where the proposal of a new Code of conduct for the Commissioners was discussed, if needed under the relevant confidentiality rules?

II. 2244th Meeting of the Commission held in Brussels on Wednesday, 21 February 2018, from 9.35am to 10.09

Procedure of appointment

7. What, according to the staff regulation, are the preconditions for being appointed as Secretary-General? Were these preconditions fulfilled?
8. What, according to the staff regulation, is the procedure for appointing the Secretary-General? Was this procedure followed?
9. Who personally initiated the process of appointment?
10. Did somebody within the Commission oppose it?
11. According to the minutes, the 2244th College meeting started at 9.35 am; can the Commission confirm that at 9.39 the accredited press was informed that president Juncker and Günther Oettinger would held a press conference on 10.30?

12. How was Article 29 of the Staff Regulations interpreted in relation to the preference for a direct transfer of Mr. Selmayr from Deputy SG to SG? Considering that this procedure can only be applied in 'exceptional circumstances', which were these?

Paragraphs 10.11 of the Minutes of the 2244th Commission meeting - Appointment of AD 15/16 Deputy Secretary-General

13. What recruitment procedures are followed for Deputy Secretary Generals?
14. Can the Commission confirm that the post of Deputy Secretary General is the one of Mrs Paraskevi Michou? If not which one was it? If it was the post of Mrs Michou, is it correct that she remained Deputy Secretary General until the 1st of March, date at which her nomination as Director General of DG HOME took effect? If so, how could Mr Selmayr be nominated on a post of Deputy General Secretary on 21 February 2018, which was not yet vacant? What was the reason for removing Mr Matthias Ruete from his post (Director General DG HOME)?
15. Can the Commission confirm that regular procedures (publications of posts, call of interest, etc.) can be followed in a case where the post is not yet vacant? If so, how?
16. Does the Commission consider it normal to arrange in advance (i.e. 31 January, 21 February) the promotion, nomination and mutation into three management posts for the 1st of March? (Nomination of Michou DG HOME 1st March on 31st of January, and promotion of Selmayr to Deputy Secretary General on 1st March on 21st February, and mutation of Selmayr to the post of Secretary General 1st March on 21st February?)
17. How many minutes did the College reflect on these nominations?
18. How many applications had the Commission before it? How many applications were initially introduced? If some application had been withdrawn when did it take place? For which reason? When did the exchange of views between the candidate(s) and Commissioner Oettinger and President Juncker take place? How long did that interview last? And what was the result? Please provide the CONT Committee with the Minutes of the interviews.
19. If there were only one candidate on 21 February, it would have been necessary to proceed to a new call for applications so that the College would be offered a sufficient choice. How does the Commission justify that it did not respect its internal rule according to which "The lists adopted by the CCA should in any event offer the Commissioners a satisfactory choice of candidates ..."
20. When did the other candidate apply for the function of deputy Secretary-General? Was it on the same date as Mr Selmayr? Did she

applied on the request of her chief? Did she also had a job interview with Commissioner Oettinger? If not, why? When did she decided to withdraw from the application procedure? What where the reasons for her to withdraw?

21. Mme Alberola ignorait-elle les intentions du Président de nommer Selmayr SG ? Était-elle au courant du fait qu'elle aurait eu le poste de Chef de Cabinet suite à la nomination de Selmayr comme SG ?
22. Why was the selection procedure for the post of Deputy Secretary General not reopened when Ms Martinez Alberola withdrew her candidacy? Can Ms Martinez explain why she withdrew her candidacy? In the previous selection procedures for deputy secretary-generals, how many candidates did apply for each of the posts advertised? Please give an answer for each of the deputy secretary-generals appointed since 2004.

Other candidates

23. Does the Commission confirm that there was only one other candidate for the position of Deputy Secretary-General? And do you confirm that she retrieved her application shortly after the vacancy was closed? Finally, does the Commission confirm that in consequence only Mr Selmayr passed the assessment test and was interviewed by Mr Oettinger and Mr Juncker to fill the position of Deputy Secretary-General?
24. How often during the current legislature did candidates of the underrepresented gender retrieve their candidature once a vacancy is closed? If this happened not only exceptionally, how can it be prevented that the underrepresented gender retrieve their candidature to make sure that the Commission complies with its claims on equal opportunities and transparency?
25. Did the CCA not insist on a sufficient number of candidates, according to the internal Rules of the COM?
26. Please explain how the procedure abided to required conditions of openness and transparency.

By adopting its internal guidelines, the Commission has clearly set itself the following rule: *“The lists adopted by the CCA should in any event offer the Commissioners a satisfactory choice of candidates. The responsible Commissioners need on the one hand to have the widest choice of suitably qualified candidates and on the other to have a list of candidates for interview which does not impose on them a major burden of comparative assessment of a large number of candidates”* (point 5.2.6 of the Compilation Document). When this is not the case, according to the CCA rules of procedure (Article 1(2) (2) of Decision C (2007)380), *“at the request of one of its members, after hearing the Director-General concerned and, if required, the Rapporteur appointed to follow the specific*

selection procedure, the CCA may suggest that a wider choice of candidates should be proposed to the Appointing Authority." A vacancy notice must be published and it must give potential candidates enough time to decide whether or not they wish to apply (this reflects a general principle: cf. C-566/10 P, Italy/ Commission, point 90).

27. Following the withdrawal of Ms Alberola's application even before the CCA was able to examine it – Shouldn't the selection procedure have been repeated to ensure the participation of a sufficient number of candidates?

28. Can the Commission explain its view on how the conditions repeated below were met?

- fair and effective competition for the vacant post in the meaning of Article 29 of the Staff Regulations;
- non-discrimination of potential candidates in the meaning of Article 1 of the Staff Regulations; and
- "a satisfactory choice of candidates" in accordance with the rules adopted by the College.

29. Can Mr Oettinger in his capacity as Commissioner in charge of this procedure explain his reasons for not persisting to ensure the participation of an adequate number of candidates in accordance with the Staff Regulations and the guidelines of the College on these matters?

30. Both decisions of appointment of AD 15/16 Deputy Secretary-General and Secretary General of the Commission will take effect on 1 March 2018.

Is it normal procedure to adopt two staff decisions concerning the same servant with simultaneous effect whilst logically the appointment to the post of Deputy-Secretary General should have preceded the transfer to the post of Secretary-General?

31. Retirement of Mr Italianer Page 30 4th alinea of the Minutes of the 2244th Commission meeting

Mr Italianer announced that he would take retirement on 1 April 2018 and that he was prepared to leave the post on 1 March to ensure an orderly transition.

To which extend the fact of leaving the post 7 days after the decision would ensure a better transition than managing a transitory period of one month and 7 days?

32. During the press conference held on Wednesday February 21th, Jean-Claude Juncker mentioned that the outgoing Secretary-General, Alexander Italianer, informed him two years ago of his decision to

retire as of 1 March. According to the Commission's minutes, it was during the Commission's meeting of February 21st that Mr Alexander Italianer, Secretary-General of the Commission, informed the Commission of his intention to retire with effect as of 1 April 2018. What is the correct version?

33. Does the Commission insist that the resignation of DG Italianer, which happened just a few minutes after Mr. Selmayr had been appointed his Deputy, was coincidental?

34. *Page 30 last sentence and page 31 of the Minutes of the 2244th Commission meeting*

“The President then presented to the College his proposal to appoint his current head of Cabinet, Mr Martin Selmayr, a German national who has recently been appointed Deputy-Secretary general, to the post of Secretary-General with effect from 1 March 2018,”

Why do the minutes mention the nationality of Mr Selmayr whilst under article 7 of the Staff regulation foresees as to the transfers that: “the Appointing Authority shall, acting solely in the interest of the service and without regard to nationality”

35. Is it well obvious that at the moment of his presentation by President Juncker on 21 February 2018 Mr Selmayr was presented in his capacity/function of “current head of Cabinet of the President”?

36. To which extend article 4 of the Staff regulation has been respected that foresees in particular that

“No appointment or promotion shall be made for any purpose other than that of filling a vacant post as provided in these Staff Regulations.

Vacant posts in an institution shall be notified to the staff of that institution once the appointing authority decides that the vacancy is to be filled.....”

37. How often has this procedure been used in the ongoing legislature to fill AD15/AD16 position without publishing a vacancy as required in Article 4?

38. How can the Commission make sure that the best candidates are selected without complying with the requirements laid down in Article 4?

39. Paragraph 10.22: appointment of AD15/16 Secretary-General of the Commission

“On a proposal from the President, in agreement with Mr Oettinger, the Commission decided to transfer in the interest of the service, under Article 7 of the Staff regulations, Mr Martin Selmayr, Deputy Secretary-General responsible for Directorates B and E to the post of Secretary-general of the Commission”

Why do the minutes present Mr Martin Selmayr as Deputy Secretary - General responsible for Directorates B and E whilst at that very moment his appointment of Deputy Secretary- General has not taken effect yet?

40. Which was the latest grade of Martin Selmayr before having been seconded to the Cabinet of the President of the European Commission and when did he become an official of the European Commission under the terms of the Staff regulation? Which was the grade of Mr Selmayr on 20 February 2018? What has been his career path? Did his appointment as Secretary-General have any effect on his emoluments? Which grade does he have now? Is it right that Martin Selmayr has held an AD15 position as the head of Juncker's cabinet since 2017 – but please provide CONT Committee with the full record of his career within the EU institutions:- for each position - status (official, seconded official, temporary), grade, date of promotion, what concours, besides that of DSG, did he pass? When did he pass those concours? What was his entry grade when starting the service? Can the Commission confirm that Mr Selmayr was an AD 14 official before the 9 minutes during which he was appointed Deputy Secretary General and then Secretary General?
41. Who was already, before the date of the “flash” promotion of Mr Selmayr, informed that M. Selmayr will be the new Secretary-General? When was Juncker informed? When was Frans Timmermans informed? When was Mr Oettinger informed?
42. Where there any other Commissioners informed that Mr. Selmayr will be the new Secretary-General before the date of this “flash” promotion?
43. Are there government leaders who have spoken about the appointment of M. Selmayr? If so, which? If not, does the appointment come up during the summit of 23 of March, whether formal or informally;
44. To which extend the conditions required to decide on a transfer in the interest of the service (under article 7 of the Staff regulations¹....) of Mr Martin Selmayr were met as on 21 February 2018 the decision of appointing Mr Martin Selmayr to the post of Deputy Secretary-General had not taken effect?
45. Is it well confirmed that on 21 February Mr Selmayr was still Head of Cabinet and did not perform the tasks of a Deputy-Secretary General?
46. How were the qualifications of Mr. Selmayr as potential SG assessed, including his managerial skills and experience? Were considerations of gender and nationality taken into account?
47. Is management experience required to be secretary general? If no, why? If yes, what is the management experience of Mr Selmayr?

¹ The Appointing Authority shall, acting solely in the interest of the service and without regard to nationality, assign each official by appointment or transfer to a post in his function group which corresponds to his grade. An official may apply for a transfer within his institution

48. Does the Commission consider that managing a cabinet and managing a directorate-general of the Commission is the same?
49. Could Mr. Selmayr have been appointed to the position of Secretary-General without having been appointed to the position of Deputy Secretary-General? What different procedure would have had to be applied?
50. Why-and on which legal basis, did Mr Oettinger affirm on 12 March 2018 in plenary meeting of the European Parliament that the transfer of Mr Martin Selmayr was only possible due to the fact that his function of Head of Cabinet of the President of the Commission was equivalent the one of a Director- General?
51. Has the Head of the European Commission legal Service (who as mentioned page 7 of the Minutes attended the meeting) been consulted during the meeting on the procedure to be followed? Has the legal service been consulted ion the procedure to be followed before the meeting?
52. Has it ever happened before under the current term of office of this Commission that the College of Commissioners decided on a staff matter (promotion/transfer) which has not been put previously on the agenda of the meeting of the college and the weekly meeting of the chefs de cabinet?

Paragraph 10.20 of the Minutes of the 2244th Commission meeting Secretariat- General- amendment of organisation chart and appointment of AD 16 Adviser hors classe

53. Why did the Commission decide that by derogation from the Commission decision of 26 May 2004 (C 2004 1891/2) Mr Alexander Italianer would retain his right to the management step until his retirement whilst he has not to assume any management tasks?

Changes in the Organisational Chart of the Commission

54. In PV (2018)2244 final the Commission explains that 1 additional deputy director-general post and 4 additional Advisers Hors Class were created. What are the additional costs in 2018 for these additional posts? Why did the Commission augment these senior posts up to 104 despite staff cuts?

55. *Derogation from the statutory retirement age for officials:*

Current Director Generals are prolonged by the Commission beyond the statutory retirement age till 2019 or even 2020.

- a. Is the Commission of the opinion that no appropriate candidates could be available amongst the EU staff for those posts?

- b. Why did the Commission not publish those posts in time? Which steps does the Commission intend to take to ensure that suitable candidates will be found in 2019 and 2020?

56. Appointment of Advisers Hors Class:

The Commission decided to side-line three Director Generals as „Advisers Hors Class “and to entrust them with doubtful new duties in the European Political Strategy Centre. Apart from the fact that human resources are wasted the Commission demonstrates a surprising indifference towards this senior staff. Which kind of message is the Commission giving to its senior staff when the ones are even prolonged beyond the retirement age and the second are humiliated?

One-month-Hors-class-adviser

57. Why Secretary General Italianer was prolonged as a one-month-hors-class-adviser despite his wish to retire?
58. Was the one-month-hors-class-adviser-post relevant for a management step?

Promotion and appointment of Ms. Christophidou as Director General Education, Youth, Sport and Culture.

59. Following the CV published by the Commission Ms. Christophidou served since 2010 as Head of Unit and was not appointed Director. Why was she promoted and appointed as DG?

III. Comparison with preceding appointment procedures

60. Which procedure was followed for the appointment of former Secretary Generals?

David O ‘Sullivan, Cathérine Day, Alexander Italianer

- a. When were the vacant posts for those nominations published?
- b. What was their career path from the grade of director on to the SG?
- c. How many candidates applied for the SG post respectively?
- d. When did the Assessment Centre take Place?
- e. Who took the Decision?
- f. When was the College informed?
- g. What was the role of the College?
- h. How much time took the nominations of these SGs?

61. As to the appointment of Martin Selmayr.
 - a. When and where was the vacant post published?
 - b. What was the career path from the Grade of director on to the SG? Was he eligible?
 - c. How many candidates applied for the SG?
 - d. Why did Mr Selmayr pass a one-day assessment centre before his appointment? Does such a procedure exist in other EU institutions as well? When did the Assessment Centre take Place?
 - e. Who took the Decision?
 - f. When was the College informed?
 - g. What was the role of the College?
 - h. How much time took the nominations of the SG?
62. Which were the differences in the nomination procedures of SGs O'Sullivan, Day and Italianer and of Mr Selmayr? Why did the procedure differ?
63. How much time did it take to nominate Mr. Selmayr as Deputy Sec-Gen.?
64. How much time passed between the appointment as Deputy Sec - Gen to Sec - Gen?
65. What is the average term of office duration for Director level positions and above, if not from Head of Unit level, as well as which were the - perhaps 10 - shortest terms of office on record.
66. If no such length of office records are available, should they not be seen as valuable information in terms of human resources administration, even if not necessarily linked to individual officials?
67. Why was the promotion of the new SG taken in such a non-transparent manner and is surrounded by secrecy?
68. Why was the promotion executed in such a speedy manner that did not give enough time to those concerned to react?
69. Does the President acknowledge that such decisions are becoming a fuel for euro scepticism?
70. Does the President realise that his step has decreased the credibility not only of the European Commission and the position of the President, but the trustworthiness of the EU as a whole?

71. How is the President of the Commission going to win back the trust of public?

IV. Misuse of powers

On the facts:

72. *On 21 February the Commission's College, at the President's proposal, contextually adopted the following decisions:*

-to accept Mr Italianer's request for early retirement starting on 1 April, as well as his request to resign from the post of Secretary-General (SG) as of 1 March;

-to appoint M. Selmayr to the post of Deputy Secretary-General (DSG) through a promotion procedure, with internal publication of the appointment, on the basis of Article 29 of the Staff Regulations;

-to appoint M. Selmayr to the post of SG, which had fallen "vacant" only a few minutes earlier, through a transfer procedure, on the basis of Article 7 of the Staff Regulations.

Can the President of the Commission confirm each of these facts? If not could he please explain what the correct order of the College's decisions was?

73. *At his press conference of 21 February, Mr Juncker stated that he had been aware of Mr Italianer's intention to resign on 1 March for the past two years. Nevertheless, in his letter of 6 March, addressed to the French Socialist Delegation, the President stated in writing that he had "learnt of" said intention from the letter he received from Italianer in the morning of 21 February 2018.*

Can the Commission confirm that Alexander Italianer informed the President on his will to leave his functions (as Secretary-General) before 1st January 2018? Please provide evidence.

74. Since when exactly was Mr Juncker aware of the Mr Italianer's intention to resign on 1 March? (Weeks/months before 21 February 2018? On 20 February 2018? On 21 February 2018?)

75. *According to the same letter of 6 March, addressed to the French Socialist Delegation, in the evening of 20 February, the President informed First Vice-President (FVP) Timmermans of his intention to appoint M. Selmayr to the post of Deputy Secretary General (DSG).*

Why did Mr Juncker the day before the actual appointment of Head of his cabinet as the new Dep Sec Gen of the Commission inform the FVP of his intention and not also all other members of the Commission's College given that the FVP plays no formal role in the procedure?

76. Did Mr Juncker in the evening of 20 February inform the FVP of his intention to replace a Dutch SG (Italianer) with M. Selmayr already on 21 February?
77. If this is the case, what can the President of the Commission say in defence of the statement that M. Selmayr's appointment to the post of DSG was, from the outset, only a means to his appointment as the new SG of the Commission?
78. On 20th February, the President informed the First VP Timmermans about the appointment of Selmayr to the position of SGA, but the reasons behind this decision are not clear, since for that procedure VP Timmermans plays no formal role. Did the President inform the Vice-president of his intention to replace a Dutch Secretary General by Selmayr? If so, can it be said that Selmayr's appointment to the SGA position was only a means, from the beginning, to appoint him to SG?
79. Mr Selmayr had an interview with Oettinger on February 20 afternoon as part of (and as provided by) the appointment procedure of the SGA. Was Mr Oettinger aware that, in fact, the procedure had been put in place solely to ensure Selmayr's eligibility for SG post? In other words, can Oettinger confirm that he was well aware, as early as 20 February, of the President's intention to appoint Selmayr as SG the following day? And can he confirm that Selmayr knew about it too? In addition, would the Commission be able to deny that all the other members of the College were not aware of anything and they were informed only in the morning of 21st February?
80. MM.Timmermans et Oettinger peuvent-ils confirmer qu'ils étaient au courant que la finalité de la procédure était, dès le début, de nommer Selmayr SG ? En outre, la Commission serait-elle en mesure de nier que tous les autres membres du Collège n'étaient au courant de rien et ils ont été mis au courant uniquement le matin du 21 février ?
81. Les commissaires Timmermans et Oettinger ainsi que le Directeur Général du SJ de la Commission sont-ils en mesure de faire une déclaration d'honneur s'agissant de la réponse à la question suivante: "Étiez-vous au courant de l'intention du Président Juncker de nommer M. Selmayr au poste du SG? Étiez-vous donc au courant que la procédure de nomination au poste du SGA servait comme seul but de permettre à M. S. d'être éligible au poste du SG ?
82. According to our information, M. Selmayr had an interview with Mr Oettinger in the afternoon of 20 February as part of (and as required by) the procedure for the appointment of the DSG.
83. Had Mr Oettinger to the point of conducting this interview been aware that, in reality, the procedure had been started for the sole purpose of making M. Selmayr eligible for the post of SG? In other words, can Commissioner Oettinger confirm that he was fully aware, from 20

February, of the President's intention to appoint Selmayr to the post of SG the following day?

On the Legal framework:

84. Both the SG and the DSG are senior officials of the Commission, and therefore their posts are subject to the Staff Regulations (cf. Pappas/Committee of the Regions, T-74/01). If either of these posts falls vacant, the Staff Regulations provides for two ways of filling it:

A) with a candidate from within the Commission, by an open promotion procedure on the basis of Article 29, paragraph 1 of the Staff Regulations or, alternatively, by transfer on the basis of Article 7 of the Staff Regulations; or

B) with a candidate from outside the institution, by an external selection procedure (publication in the OJ) on the basis of Article 29, paragraph 2, of the Staff Regulations.

Is this a correct interpretation of the Staff Regulations? If not, can the Commission specify the exact part where our interpretation of the rules is incorrect and correct the incorrect interpretation?

85. Under both procedures, given that the Secretariat General is a body that depends directly on the President, the appointment is decided by the College based on a proposal by the President.

However, in accordance with the principle of legality (of which, moreover, the Commission is a guarantor within the Union, in its capacity as guardian of the Treaties), both the President and the College, in exercising their discretionary powers, are subject to, and must observe, the Staff Regulations. This is supported by the fact that **the posts of SG and DSG are administrative posts and therefore not comparable with the "political" posts of cabinet members**, which are filled through a simple choice made by the relevant member of the College.

Is this a correct interpretation of the Staff Regulation? If not, can the Commission specify the exact part where our interpretation of the rules is incorrect and correct the incorrect interpretation?

86. The post of the SG falls within the highest grade (AD15/AD16). In order to be "transferred" to the SG post as per Article 7, the official concerned must already occupy a post "in his function group which corresponds to his grade".

All Directors-General of the Commission were therefore eligible for the post in question and could have, at least, expressed an interest in applying for it. Conversely, **M. Selmayr**, who had held a grade AD15 position since 2017, but **whose role within the administration was that of Special Adviser, which does not correspond to the same functions, had to be promoted to the post of DSG first in order to**

then be appointed by transfer to the post of SG. In fact, a post occupied solely as a result of being employed as a member of a cabinet, even when said post is equivalent in grade or in functions, cannot be taken into consideration for a promotion or transfer within the administrative departments. Contrary to what was stated by the Commission's Spokesperson's Service, M. Selmayr undoubtedly had to be promoted to the post of DSG in order to be transferred to the post of SG.

Can the Commission confirm this interpretation of the Staff Regulation? If not, can it specify the exact part where our interpretation of the rules is incorrect and correct such an incorrect interpretation?

87. Is the position of the President's Chief of Staff at the same level that the Director General?
88. Could a communication from the President of the Commission amend the Staff Regulation and the Rules of Procedure of the Parliament and the Council?

On possible Legal irregularities:

A) *Procedure for the appointment of the DSG*

89. Misuse of powers:

It's hard to believe that right from the outset, the sole purpose of the procedure for the appointment of the DSG was not only to ensure M. Selmayr's eligibility for his contextual transfer to the post of the SG. By virtue of Article 29 of the Staff Regulations, the College has considerable discretionary powers when it comes to appointing the DSG. However, the appointment procedure may not be used with the obvious intention of achieving a different aim from that for which it was launched. The facts as well as the statements to the press show that, from the start, the aim of the procedure for the appointment of the DSG was to appoint the new SG by transfer, rather than to appoint by promotion a Deputy Secretary-General who could truly take office. The decision relating to the appointment of the DSG was therefore not sincere since it only used as means to occupy the position of the SG and is therefore marred by a misuse of powers. This is especially true as M. Selmayr has never served as the DSG of the Commission (or if he did, then only for a period of few minutes ...).

The procedure for the publication of a vacancy notice must be effectively followed and should not be implemented in such a way as to be stripped of its substance, given that the aim of this procedure is to ensure equality of treatment for all candidates for the post of DSG, rather than ensure the eligibility of an individual candidate for the post of SG.

Can the Commission confirm the preceding paragraph?

B) Procedure for the appointment of the DG

90. Violation of the principles of transparency and non-discrimination, including indirect discrimination, as provided for in Articles 1 and 4 of the Staff Regulations.

Under Article 7 of the Staff Regulations, the College may – acting solely in the interest of the service – transfer a DSG to the post of SG. Nevertheless, this power is subject to the principles established in Article 4 of the Staff Regulations, according to which “no appointment [...] shall be made for any purpose other than that of filling a vacant post as provided in these Staff Regulations” and, furthermore, “vacant posts in an institution shall be notified to the staff of that institution once [the College] decides that the vacancy is to be filled”. This means that, for the purpose of appointing the SG:

I) the Staff Regulations apply and may not be derogated from, given that the post of SG is administrative rather than “political” in nature;

II) the post must first be vacant and the staff must be informed of this vacancy, i.e. when a rotation of directors-general is planned, this must be brought to the attention of at least those members of staff who, occupying a post in the same function group, might in principle express some interest in applying for the post.

Can the Commission confirm this interpretation of the existing rules? If not, can it correct the incorrect part?

91. In the case under consideration, the request for early retirement and M. Selmayr’s appointment to the posts of DSG and SG took place at the same time. Furthermore no other members of the Commission’s College was said to be informed of these intentions until the meeting of the College of 21 February, with the exception of Mr. Oettinger and Mr. Timmermans. In case the statement above is not true – **Could the Commission present signed statements of the individual members of the College that they were informed about the planned appointment of M. Selmayr before the exact day of his appointment and present the mails informing them on the issue?**

92. Was the issue discussed on beforehand in the preparatory meeting of Heads of Cabinets of all Commissioners? If not, why?

93. Can the Commission ensure CONT Committee that the post did not fall vacant, and that staff was notified of the vacancy in accordance with Article 4? What was done in due time to make the call for applicants transparent and made it possible to other eligible persons/potential candidates to run for the post on an equal footing?

94. Can Mr Oettinger explain whether – and in what ways – he ensured compliance with the essential conditions laid down in Article 4 with regard to filling a vacant post (which also apply to the position of SG).
95. Could Mr Oettinger explain in what sense did the appointment of M. Selmayr differ from process of choosing a member of a private office (as appointments to the highest administrative post should follow the Staff Regulations to the last letter)?
96. Could Mr Juncker explain if he considers it a usual decision making procedure, when these kind of important decisions pass the College without any debate?

V. Good administration and collegiality

97. La presse affirme que M. Selmayr. aurait "finalement lui-même reconnu que le Président Juncker lui avait proposé le poste en novembre dernier". Le SG et le Président de la COM peuvent-ils confirmer la véracité de cette affirmation?
98. Does the COM consider that deciding on the appointment of the SG at a meeting of the college without this point having figured on the agenda is an expression of the principle of good administration?
99. How does the Commission define "collegiality"? How many times has the Commission adopted decisions that were not on the agenda of its meeting? At what exact time of the College meeting of 21 February was the point "appointment of a Secretary General" added to the agenda of the College meeting? What is the evidence that the point was actually on the agenda? Is it the standard practice of the Commission to adopt decisions for which commissioners are totally unprepared?
100. How can the COM explain that the 25 Commissioners who were not even aware that the procedure of appointment of the SGA would be on the agenda of the meeting of 21 February 2018, did not object to the procedure of appointment of the SG, but voted unanimously in favour?
101. Under the current Commission term, what has been the length of procedure for the appointment of DGs when the post was published?
102. Given the enormous damage caused to the reputation of the Commission by this appointment, and given that Mr Italianer is still working for the Commission, would the Commission accept that the appointment of Mr Selmayr should be suspended until the completion of the investigation by the COCOBU, or the investigation by the European Ombudsman? Does the Commission intend to submit proposals for amending or clarifying the rules contained in the Staff Regulations for such appointments?

VI. Plenary session of the European Parliament, 21 February 2018- Strasbourg

103. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Die Kommission hat am 21. Februar eine Reihe von Entscheidungen betreffend ihres Senior Managements getroffen, in einem sogenannten Paket".*

Question: During the plenary debate on Monday March 12 on the integrity policy of the Commission and in particular the appointment of the Secretary-General of the European Commission Commissioner Oettinger mentioned the existence of a 'Package' that was composed for Mr. Selmayr. Please provide the European Parliament with the full details of the Package: what appointments, promotions, demotions and/or mobility decisions were part of the Package? Who has been involved in composing the Package? Were the other Commissioners aware of the composition of the Package? When was the Package composed? Is it common for such a Package to be assembled for the appointment of senior management positions and in particular the appointment of the Secretary-General of the European Commission?

Why the reshuffling of DGs has been done at the same time with the appointment of the new Secretary-General? How did this happen during former procedures?

Please give examples of other Packages that have been proposed to senior management staff members? Please give dates for each of the steps that has been taken in composing the package (talks with staff members, consultation with portfolio Commissioners, College decisions, decision of retirement of Mr. Italianer, etc.). Have these steps been taken in accordance with the internal rules for appointments?

104. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Warum machen wir das überhaupt? Bei einer größeren Zahl von Generaldirektionen, die wir in unseren Diensten wissen, bei einer Vielzahl von „Senior-Management“-Positionen haben wir nahezu wöchentlich eine Entscheidung. Dies würde aber in unseren Diensten Unruhe bedeuten. Deswegen machen wir dies regelmäßig im Paket. Nur so erreichen wir im Interesse unserer Institution eine ausgewogene Gesamtentwicklung, zum Beispiel betreffend die unterschiedlichen Nationalitäten. Dienstalder, Lebensalter, Pensionsreife beziehen wir dabei ein, und auch das Ziel, den Frauenanteil wirkungsvoll zu steigern, ist dabei eine Priorität"..*

Question: Please explain how each staff decision in the Package contributed to attaining each of these objectives. Please explain why some staff members have been allowed to stay on after retirement age unlike other staff members and how that relates to the above mentioned objectives.

105. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Das letzte Paket hat meine Vorgängerin vorbereitet. Es wurde Ende Juni 2015 im Kollegium beraten und auch*

verabschiedet. Übrigens war damals ein Teil des Pakets neben zahlreichen Posten von Generaldirektoren und Direktorinnen, von deputies in der Kommission, die Entscheidung, dass Catherine Day ihren Dienst beendete und dass Herr Italianer neuer Generalsekretär geworden ist. Eigentlich war Ende Juni ein genau vergleichbares Paket zur Entscheidung anstehend wie vor wenigen Wochen die Entscheidung zum jetzigen Paket”.

Question: If the position of the Secretary-General was part of the Package, then the nomination of Mr. Selmayr for that position must have been included in the Package, and therefore decided before the 21st of February. If the position of Secretary-General was not part of the Package, then the relevance of the Package argument for the case at hand is unclear. Please further elaborate on the inclusion of the nomination of Mr. Selmayr in the Package?

106. Since Commissioner Oettinger seems to have been informed about the proposal of President Juncker to nominate Mr Selmayr as Secretary-General at a very late stage, it appears to be a proposal that has been prepared by President Juncker himself. As the President is advised by staff people in the Commission on all matters, please indicate who advised President Juncker on this particular proposal? Who were involved in drafting the proposal on his request? Please make available to Parliament any memo's or email exchanges on this matter between President Juncker and staff people within the Commission? Has Mr Selmayr, as chef de Cabinet of President Juncker in any way been involved in this advice to the President? If so, can you please make any relevant document available?

107. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Wir haben dafür ein eingeführtes Verfahren. Gestatten Sie mir, drei Punkte zu unterstreichen: Wir treffen diese Entscheidungen auf dem Boden des Statuts der Europäischen Union. Das ist unser Recht und unsere Pflicht. Und genauso gingen wir auch diesmal wieder vor. Wir haben diese Entscheidung getroffen im Einvernehmen und unter Mitwirkung der Portfolio-Kommissare, der koordinierenden Vizepräsidenten, meiner Person und auch des Präsidenten”.*

Question: Please explain in detail which Portfolio Commissioners were involved in drawing up the Package, and how and when they were involved. Please explain on the basis of which criteria some Commissioners were involved, while others were not. In addition, please explain why the other Commissioners were not informed before February 21st. Please explain why some Commissioners stated in the media they were unaware, and “surprised” when the Package was presented for decision on February 21st.

108. On March 18, the French news platform *Libération* claimed that the effect of surprise among the Commissioners about Mr. Selmayr's nomination, was one of the reasons no critical questions were asked

about the procedure. Is it not of great importance that when appointing their highest official, the Commissioners have sufficient time to reflect upon that appointment? In this light, please explain for what reason(s) both the resignation of Mr. Italianer, as well as the nomination of Mr. Selmayr could not have been communicated before the meeting that took place on February 21 in order to enable an open discussion among the Commissioners about the nomination of Mr. Selmayr?

109. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Alle Entscheidungen des Kollegiums vom 21. Februar erfolgten auf meinen Vorschlag, und die Entscheidung über den Generalsekretär auf direkten Vorschlag unseres Präsidenten – genauso wie es auch in der Verantwortung innerhalb der Kommission vorgesehen ist. Alle Entscheidungen – einschließlich der Entscheidung über den neuen Generalsekretär – wurden von allen Mitgliedern der Kommission einvernehmlich gebilligt. Ich darf auf das Sitzungsprotokoll der Kommissionssitzung vom 21. Februar verweisen, das wir – wie nach jeder Sitzung – im Einklang mit unseren Transparenzregeln auch öffentlich gemacht haben”.*

Question: At what point in time did Commissioner Oettinger learn of the intention of Mr. Juncker to nominate Mr. Selmayr as Secretary-General? Furthermore, the presence of a Package seems to imply that the resignation of Mr. Italianer was previously known by several other staff members. Please explain when you became aware of the resignation of Mr. Italianer. Were the other Commissioners aware of his resignation before the nomination of Mr. Selmayr? If not, why not? Can you please indicate who was aware of the resignation? Please clarify when former Secretary-General Italianer decided to retire as of 1 March 2018. President Juncker made public that he was informed by Mr. Italianer already more than 2 years ago, but in his letter to all Commission civil servants, Mr. Selmayr wrote, that Italianer, “*who decided last week to retire after 32 years of dedicated service ...*”. Please explain that difference?

110. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: “Zweitens: Für mich steht außer Zweifel – und es wurde auch bisher nicht in Frage gestellt –, dass der Beamte Martin Selmayr über alle notwendigen Qualifikationen für die Aufgabe des Generalsekretärs der Europäischen Kommission verfügt. Er hat langjährige Erfahrung in Schlüsselfunktionen in der Kommission, er ist ein hervorragender Jurist, er besitzt hohe kommunikative Fähigkeiten. Er ist mit Sicherheit uneingeschränkt für die Aufgabe geeignet. Fleiß, Begabung, Qualifikation, proeuropäische Einstellung und auch politisches Gespür sind ihm zu eigen. Hinzu kommt: Er hat das Vertrauen unseres Kommissionspräsidenten, auch mein Vertrauen und das des gesamten Kollegiums”.*

Question: Please elaborate on the relevant work experience that Mr. Selmayr has in senior management. Please name the necessary criteria that have to be met to qualify for the position of Secretary-General and explain how these criteria have been set up? Please explain in detail by using examples why Mr.

Selmayr's experience makes him suitable to manage a large administration with 33.000 staff?

111. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Was die verfahrensrechtlichen Fragen betrifft, die in den letzten Tagen öffentlich aufgeworfen wurden, kann man sagen, dass auch im Rahmen dieses Pakets und anschließend bei der Versetzung Martin Selmayrs auf den Posten des Generalsekretärs im Einklang mit Artikel 7 des Statuts das Verfahren in allen Einzelheiten und im Zeitablauf beachtet wurde. Erst die Ausschreibung des Deputy Secretary General, dann ein Assessment Center, eine externe Bewertung von Kandidaten, das Interview mit dem Beratenden Ausschuss innerhalb der Kommission und dann das Interview mit dem Präsidenten und mit mir selbst einen Tag vor der Entscheidung".*

Question: Where you aware at the time of your interview with Mr. Selmayr that Mr. Italianer would retire and that Mr. Juncker would nominate Mr Selmayr not just as Deputy Secretary General, but as the successor of Mr Italianer within one and the same meeting? If you knew this, did you consider that a proper and transparent procedure? If you did not know this, do you consider you have been taken by surprise bypassed as responsible Commissioner?

112. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Es handelte sich um eine korrekte Auswahl nach den Regeln des Statuts, die ich auch als für Personalangelegenheiten verantwortlicher Kommissar sicherzustellen hatte und sichergestellt habe".*

Question:

Please explain why there seems to be a stricter procedure for the selection of a Deputy Secretary General than for the nomination of the Secretary-General?

113. In addition, how do you view the remark by Commissioner Marianne Thyssen in the Flemish media that it concerns "*Not a typical job, where the typical rules apply*" [<https://www.vrt.be/vrtnws/nl/2018/03/13/verhofstadt-over-zaak-selmayr---jean-claude--je-moet-dit-oplossen/>]? Does this reflect the views of the College, of Mr. Juncker, and yourself? If other 'special' rules should apply, which rules should be followed? On the basis of which criteria are these 'special' rules defined? Do you agree that the procedure to nominate and appoint the highest ranking staff member of the European Commission should be more transparent? Do you think the highest possible transparency has been pursued during the nomination and appointment of Mr. Selmayr? How could this transparency level be improved? Furthermore, do you believe that all possible candidates have had the opportunity to apply for the position of Secretary-General? Should there not be an open application procedure, as is the case for appointments of staff members of the European Commission? Has, due to a lack of such an open procedure

and a blurring between the political and administrative level, the status of other officials been violated?

114. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Bei der Auswahl eines Generalsekretärs spielen weder Nationalität noch Zugehörigkeit zu einer Partei – sofern gegeben – eine Rolle".*

Question: Please explain how this statement relates to the above mentioned objective of the Package - of which the position of Secretary General is part - to achieve a national balance? If the nationality of the Secretary General plays no role, should it then be concluded that the Secretary General was not a part of the Package?

115. *During the plenary debate in Strasbourg on March 12, Commissioner Oettinger stated: "Einzig und allein die Befähigung für dieses Amt, um das Funktionieren unserer Behörde bestmöglich sicherzustellen und im Sinne der Leitlinien des Präsidenten der Kommission die Arbeit zu garantieren, darf im Mittelpunkt stehen. Und dafür halten wir den Kandidaten, den gewählten Beamten Martin Selmayr, für uneingeschränkt geeignet".*

Question: Assuming that the nomination of Mr. Selmayr as Secretary General was not part of the Package, and therefore had not been considered before his appointment as Deputy Secretary-General, how did you establish his qualifications for the position of Secretary-General within the alleged 9 minutes between the two appointments? Could the minutes of that meeting be shared with the European Parliament? Furthermore, the meeting on February 21, where the minutes were adopted, was chaired by Mr. Selmayr. Does the Commission consider this to be ethical, given that an important item in those minutes concerns the appointment of the chair of the meeting?

During the last weeks, the case aroused outrage in public opinion, among MEPs, but also within the European public service. Wouldn't you say the response to the appointment of Mr. Selmayr was an accurate assessment and are you willing to take appropriate steps in response? Please explain why yes/no. Given the outrage the case has caused, why was it not raised during one of the meetings of the College following February 21?

116. *During the Parliament's plenary session of 12 March 2018, Mr Oettinger stated that the College could have appointed Mr Selmayr to the post of Secretary General, on the basis of Article 7 of the EU Staff Regulations, by direct transfer, simply because of his function as Chief of Staff of the President. This line was already exposed by the Commission's Spokesperson in the press room, in the weeks following the appointment of the SG, where it was clarified that, by applying for the post of SGA Selmayr would have "chosen" the most difficult internal procedure to be appointed SG while he could be appointed directly from the post of Head of Cabinet. This statement is not in accordance with the rules of the Statute.*

Mr. Oettinger should explain the legal reasons supporting his statement.

117. *Mr. Oettinger stated that at the present stage there is no plan or intention to change the exit conditions of commissioners at the end of their term of office, to increase compensation or to add an office, additional staff and availability of a car. In addition, according to statements made to the press by the Commission's Spokesperson, there is no plan or intention to reorganize the Commission's Legal Service for submission to the Secretary General.*

Mr Oettinger is called upon to further confirm to the CONT that no plans to reorganize the allowances of the Commissioners and the Legal Service are planned and will therefore be approved by the Commission during this term.

VII. Complaints against distortion of promotion or appointment procedures

118. *What procedures can officials of the EU Commission use to file complaints when promotion or appointment rules are not respected? Have any complaints been submitted regarding the appointment to the position of Secretary-General of Mr. Selmayr? How many complaints using this procedure have been filed during the ongoing legislature and the former one for any position corresponding to the position of director or higher grade?*

119. *What mechanism does the Commission have to manage negative reactions from the DGs affected by the personal changes to avoid any damages of the reputation of the institution?*

VIII. Other questions

120. Please provide CONT Committee with all the documentation related to this case to ensure the procedure was fully in line and explaining why there was an exemption to the rule of an open call for candidates for both positions (DSG and SG)?

121. Press articles suggest that Mr. Selmayr still chairs (while already in his new position as SG) President Juncker's cabinet meetings and that Mrs Martínez, now Head of cabinet of President Juncker, will become the next Commission's DG for the legal service).

Can the Commission confirm or deny these suggestions? How does the Commission plan to exercise its judicial role independently from Commission's political role in case such appointments are made. The Commission argues the decision had to be taken immediately because it is of so overriding importance to have no gap in this top post and to have no undue influence and pressure by external actors, such as the Member States. At the same time- If it is true that Mr Juncker knew already since 2,5 years that SG Italianer would leave the service by 1 March/1 April why did he wait then until 31 January to open a

Vacancy for the post of DSG? We ask for the answer to this question by President Juncker.

122. When and how did Mr Selmayr learn about Mr Italianer leaving his post as SG on 1 March 2018?
123. Can the Commission confirm that the information provided by Jean Quatremer on 3 March “Les Coulisses de Bruxelles” as to the transitional allowances and on in kind advantages that would be granted to the Commissioners when they will leave their post is “fake news”?
124. Reports appeared in various media about commitments to Commissioners who are stepping down in the future. The commitments are described quite precisely in the Dutch media: over the course of three years they have use of an office, two employees and a car with a driver. Have these commitments been discussed? Has the proposal already been submitted specifically for decision-making? If not, will such a proposal be submitted and discussed soon? If not, what is the explanation for such detailed coverage in the media? And: is it ruled out that such a proposal will be submitted for decision-making?
125. There were reports in the press that the Commission intends to put the Legal Service under the authority of the Secretary General. Are these reports founded?
126. As new secretary general, one of the first decisions of Mr Selmayr has been to block the proposals to bring a number of Member States to the European court of Justice for violation of their obligations under the Clean Air directive. Why is this decision justified?
127. Can the Commission confirm that in July this year, the Legal service will be subject to the authority of Mr Selmayr, thereby removing its independence and any possibility for it of expressing an opinion which is frank, objective, comprehensive and, therefore, of use to the Commission for the purpose of assessing the legality of the Commission action? Can the Commission confirm that there is no plan to change the status or working methods of the Commission's Legal Service or any other change to the rules of procedures?
128. Does the Commission consider it appropriate to submit the Legal Service of the Commission to the authority of a man who has possibly breached the staff regulations?
129. Can the Commission confirm that there is no current project, initiative or plan to alter the statute or retirement package, remuneration or emoluments of former Commissioners?
130. Is it correct that, as has been claimed by some media, Commissioners were promised an increase of their pensions if they approved Mr

Selmayr's appointment (even though only the Council is competent to take a decision on pensions)?

131. What nominations and interviews are foreseen for other members of President's cabinet before the end of mandate of present Commission? Which personal issues exactly (promotions of the number of people at top managerial levels, in which DGs) will be (co)decided by Mr. Selmayr in his new position until the end of mandate of this Commission?
132. If the present Commission is a political Commission (which is how you present and lead it), it must also accept political responsibilities that go beyond the legal limitations, including of its ethical aspects. Do you accept this statement? And if so, do you recognize that the nomination process of Mr. Selmayr clearly undermines the role of the Commission as the guardian of Treaties and rule of law?
133. What is the Commission's opinion on the Amendment which will be tabled in the context of the Commission discharge, saying: "in view of European Public Administration of excellence, asks de Commission to come before the end of 2018 with a proposal for the procedure of appointments of high level officials including the Secretary-General of the European Commission, which guarantees the selection of best-qualified-candidate-profiles under the premise of transparency and equal opportunities and which will be sufficiently comprehensive to be implemented in other EU Institutions, such as the European Parliament and the Council."
134. Can the Commission please put forward a proposal for a more transparent procedure for future appointments?

WRITTEN QUESTIONS ON

Ethics and Integrity

Meetings with former Commission President Barroso

1. What are the implications of the promise made in September 2016 by President Juncker to the European Ombudsman that the former Commission President would be “received in the Commission not as a former President but as an interest representative” and would be “submitted to the same rules as all other interest representatives as regards the Transparency Register”? Did this rule out private meetings outside the Commission’s premises?
2. Considering that both Vice-President Katainen and Vice-President Dombrovskis entered their meetings with Mr. Barroso into the transparency register as meetings with Goldman Sachs that during these meetings Mr. Barroso acted as interest representative?
3. If the answer to question 2 is yes, how does this match with Mr. Barroso’s pledge to the Ethics Committee of the Commission that he would not undertake any lobbying activities vis-à-vis the European institutions on behalf of Goldman Sachs and that his position at the bank was of a purely advisory nature?
4. What is the Commission’s reaction to the Recommendations of the European Ombudsman in respect of her joint inquiry into complaints 194/2017/EA, 334/2017/EA, and 543/2017/EA on the European Commission’s handling of post-mandate employment of former Commissioners, a former Commission President and the role of its ‘Ethics Committee’?