

Application for Annulment – Appointment of Ursula von der Leyen as President of the European Commission

To: The Court of Justice of the European Union (CJEU)

Address: Rue du Fort Niedergrünwald, L-2925 Luxembourg

Date: 1 March 2025

Applicant: Youri Hazeleger

Address: Stationsstraat 27C, 6741 DH Lunteren, The Netherlands

E-mail: joet@joet.nl

Tel: 0031628428852

Defendant: The European Council and the European Parliament

I. Introduction

Honourable Members of the Court of Justice of the European Union,

The undersigned, Youri Hazeleger, hereby submits this application for annulment of the appointment of Ursula von der Leyen as President of the European Commission, as decided by the European Council and endorsed by the European Parliament on [date of appointment]. This application is based on the incompatibility of said appointment with fundamental European Union treaties, as well as the general principles of democratic legitimacy and good governance.

It is the primary duty of this Court to uphold the rule of law within the European Union, ensuring that fundamental rights and democratic principles supersede mere procedural formalities. The appointment in question fails to meet the standard of democratic legitimacy that the EU professes to uphold, prioritising political expediency over electoral integrity. This case, therefore, requests the Court to exercise its jurisdiction in its highest function: to guarantee the supremacy of democratic and legal principles over institutional convenience.

II. Legal Grounds for the Application

1. Violation of Article 17(7) TEU – Unlawful Circumvention of the Spitzenkandidaten Process

Article 17(7) of the Treaty on European Union (TEU) requires the European Council, in proposing a candidate for President of the Commission, to take into account the results of the European Parliament elections.

The European Council manifestly disregarded this provision by proposing Ursula von der Leyen, who was not a Spitzenkandidat and whose candidacy did not emerge from the electoral process of 2019. This constitutes a direct infringement of the democratic principles embedded in Article 17(7) TEU and undermines the very legitimacy of the EU's electoral system.

2. Violation of Article 10(3) TEU and Article 39 of the Charter – Undermining Democratic Participation

- Article 10(3) TEU states: “Every citizen shall have the right to participate in the democratic life of the Union.”
- Article 39 of the Charter of Fundamental Rights of the European Union guarantees the right to free and fair elections.

By installing a candidate who neither stood for election nor was nominated by the European Parliament based on the electoral outcome, the appointment of von der Leyen effectively nullifies political participation of European citizens. This systematic disregard for the electorate undermines the fundamental democratic legitimacy of the EU institutions.

3. Violation of Article 47 of the Charter – Right to an Effective Remedy

Article 47 of the Charter of Fundamental Rights of the EU guarantees the right to an effective remedy before a tribunal for anyone whose rights under Union law have been violated.

If an individual EU citizen is denied standing to challenge a fundamental democratic breach, this would constitute an unlawful restriction of judicial protection, violating both Article 47 of the Charter and Article 6 ECHR (European Convention on Human Rights). The Court must therefore recognise standing for this action, as the legitimacy of EU governance is at stake.

4. Violation of Article 15 TFEU – Lack of Transparency in Decision-Making

Article 15 of the Treaty on the Functioning of the European Union (TFEU) requires EU institutions to ensure transparency in their decision-making processes.

Von der Leyen’s appointment was orchestrated behind closed doors, through negotiations among heads of state, without public justification or parliamentary oversight. This lack of transparency directly contravenes the principles of good governance and democratic accountability that the EU proclaims to uphold.

III. Relief Sought from the Court

Based on the foregoing, the undersigned respectfully requests that the Court of Justice of the European Union:

1. Annul the appointment of Ursula von der Leyen as President of the European Commission, on the grounds of violations of fundamental EU treaties and democratic legitimacy principles.
2. Declare that EU citizens have a direct and individual interest in ensuring the democratic integrity of the appointment process for the Commission President and therefore possess standing to bring this case.

3. Mandate the European Council and the European Parliament to reform the appointment process in alignment with democratic principles, ensuring that future appointments reflect the actual electoral will of EU citizens.

IV. Submission of Evidence

To support this application, the following documents are submitted as production evidence:

1. 2024-12-03 A Review of the Von der Leyen I Commission (2019-2024)
 - Source: Robert Schuman Foundation
 - URL: www.robert-schuman.eu/en/european-issues/771-a-review-of-the-von-der-leyen-i-commission-2019-2024 **Production 001**
2. 2019-07-12 The Nomination of von der Leyen
 - Source: Centre for European Policy Studies (CEPS)
 - URL: www.ceps.eu/the-nomination-of-von-der-leyen **Production 002**

V. Final Statement

This case strikes at the core of European democracy. The role of the Court of Justice is not merely to validate procedural compliance but to uphold the supremacy of fundamental rights and democratic principles. The European Union claims to be a community governed by law, not by technocratic bargains and political expediency. The Court must not abdicate its duty to correct a process that violates the very essence of democratic governance.

If this appointment is allowed to stand without judicial review, it establishes a dangerous precedent in which European citizens' democratic participation is rendered meaningless. This cannot be tolerated in a Union that purports to uphold democracy and the rule of law.

The undersigned therefore urges the Court to exercise its jurisdiction to uphold the fundamental principles of democracy, the rule of law, and good governance, and to rectify this severe breach of EU law.

Respectfully submitted,



Name: Yuri Hazeleger

Address: Stationsstraat 27C, 6741 DH Lunteren, The Netherlands

E-mail: joet@joet.nl

Tel: 0031628428852

Production 001



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A review of the Von der Leyen I Commission (2019-2024)

Member states

[Elise Bernard](#) - 3 December 2024



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[Elise Bernard](#)

Doctor of Law, Head of Studies at the Robert Schuman Foundation



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Now that the von der Leyen II Commission has taken office, a quick retrospective of the events that marked the end of its term of office seem to explain the configuration envisaged for 2024-2029.

In the summer of 2019, the appointment of Ursula von der Leyen as President of the European Commission marked a turning point in the role that the Member States wanted to play in the selection process[1]. [In 2019, the EPP again won](#) the most seats in the European elections, but the EPP's official candidate, Manfred Weber, lacked support within the European Council. Faced with the inability to reach agreement around the official candidates[2], Ursula von der Leyen, then German Defence Minister and like Manfred Weber, an EPP member, was recommended by the European Council. Despite the criticism that she was not a candidate (*Spitzenkandidatin*) and of the process initiated in 2014, her candidacy was finally approved by the European Parliament, albeit by a narrow majority (383 votes, compared to an absolute majority of 374). This narrow approval clearly highlighted the divisions within the European Parliament, and in particular within the EPP, illustrating a certain mistrust of the Council.

This was reflected in the formation of the College of Commissioners in autumn 2019. Three of the candidates put forward by their respective governments did not win the confidence of the MEPs: Sylvie Goulard (FR, RE), former minister, nominated for the Internal Market portfolio[3], László Trócsányi, (HU, EPP), former minister, proposed as Commissioner for Neighbourhood and Enlargement[4] and Rovana Plumb (RO, S&D), former minister, prospective Transport Minister[5]. These rejections, which concerned each of the three political groups making up the new majority, underlined increasingly stringent requirements in terms of transparency and ethics.

Between 2019 and 2024, the European Commission, [which promised to be geopolitical](#), was marked by major crises that have shaped European policies in areas such as Brexit, the fight against climate change, the Covid-19 pandemic, digital competition with the GAFAMs, Russia's aggression against Ukraine, the migration situation and the renewed question of enlargement. Like the ["sofagate" in Ankara](#), in every situation during this term of office, the question of the place to be found - quickly - for the European Commission has arisen and has attracted hitherto unprecedented media coverage.

Standing firm at the Brexit negotiating table

Above all, history will remember the central role played by Michel Barnier, who was no longer Commissioner at the time, in the settlement of the United Kingdom's exit from the European Union. Appointed as [chief negotiator](#) by Jean-Claude Juncker in the wake of the UK referendum in 2016 to ensure the implementation of Article 50 of the TEU[6], he was reappointed by Ursula von der Leyen at the end of 2019. In this capacity, he supervised the drafting of the withdrawal agreement between the United Kingdom and the European Union[7]. His personification - of what can be called - the united European position towards Brexit - seems to have overshadowed the fact that negotiations were still ongoing and were supervised by Maroš Šefčovič from 2021 onwards.

Responsible for implementing the withdrawal agreement[8], particularly as co-chair of the joint committee responsible for monitoring the Brexit agreement, Šefčovič was much less visible and his more technical role attracted less attention. This was regrettable, since the return of a closed border in Ireland would have represented a significant and potentially destabilising event for

peace on the continent. The issue of the border between the Republic of Ireland (a Member State of the European Union) and Northern Ireland (a constituent entity of the United Kingdom) posed a direct threat to peace on the island. [The Good Friday Agreement signed in 1998](#), brought an end to several decades of conflict as it removed a visible border and allowed the free movement of goods and people. The United Kingdom's exit from the united European legal area therefore meant the return of an external border to the Union, on the island between Eire and Ulster. Hence the [Northern Ireland Protocol](#) was included in the UK's Withdrawal Agreement but maintained Northern Ireland in the European Single Market for goods, while leaving the rest of the UK out. In practice, this means customs controls between Northern Ireland and the rest of the UK, mainly in the Irish Sea. These controls have also been a [source of tension](#) for the Northern Irish Unionists (DUP) and the Protocol met with strong objections from Brexit supporters.

In this context, Maroš Šefčovič was responsible for discussions regarding the Protocol to find solutions that respected both the integrity of the single market and the political sensitivities of the United Kingdom and Ireland. His role was kept more discreet because of these sensitive but technical and diplomatic issues, which have been essential for stability in Northern Ireland and to avoid a return to the tensions of the past. At present, it can be deduced that he is fulfilling his mission correctly, not because criticism of him is more than rare, but because in the mission statement, renewing his place in the von der Leyen II Commission, he will still be responsible for relations between the European Union and the United Kingdom^[9].

Ensuring that Europe is the world leader in the fight against global warming

One of the flagship projects of the von der Leyen I Commission has been the *Green Deal for Europe*, launched in December 2019. This ambitious plan aims to make Europe the first climate-neutral continent by 2050. To this end, it has provided for major reforms in a number of sectors, including energy, transport, industry and agriculture^[10].

Frans Timmermans, First Vice-President, was instrumental in the design and implementation of the European Commission's [Green Deal](#), its initial priority, as stated [in his mission letter](#). He was not only responsible for overseeing environmental and climate policies, but above all held a cross-cutting role involving the coordination of different policies and initiatives within the Commission to ensure the coherence of the Green Deal. Indeed, the Deal was presented as a plan for the radical transformation of the European economy, aimed at reconciling economic growth with a drastic reduction in greenhouse gas emissions, while ensuring a fair transition for citizens and industries.

And so, in 2021, the Commission adopted the [Climate Law](#) setting the objective of carbon neutrality by 2050 and the ["Fit for 55" package](#), aimed at reducing greenhouse gas emissions by 55% by 2030 compared to 1990 levels. Reforms to the Emissions Trading Scheme (ETS) to strengthen carbon pricing, the promotion of renewable energies and energy efficiency, hydrogen strategies and green technologies to decarbonise difficult sectors such as heavy industry and aviation were all adopted within this framework. The stated aim was to ensure that the European Union is at the forefront of the fight against climate change. Frans Timmermans showed strong

determination in his actions, playing a leading role in climate diplomacy. He represented the European Union at international climate negotiations, notably at the UN Conferences on the Climate (COP), in which he stated that he wanted to position Europe as a world leader in the fight against climate change.

Despite its stated intention to leave no one behind in this green transformation, the main difficulty has been to deal with resistance. First of all, Poland, despite the [Just Transition Mechanism](#), which aims to support the regions most affected by the energy transition, particularly those dependent on coal. The so-called [nitrogen crisis](#) in his home country during 2023, is a prime example of the global challenge that has undermined Frans Timmermans' ambitions, at both European and national level, and who left the European Commission in 2023[11]. His portfolio was then divided between Maroš [Šefčovič](#) and Wopke [Hoekstra](#), and, with one year to go before the end of the mandate, the [Green Deal hit stumbling blocks](#) and the Commissioner-designate [Teresa Ribera paid for this during her hearing](#).

Responding to the pandemic crisis

The Covid-19 pandemic proved to be an unprecedented test for the European Commission. Throughout the crisis, Ursula von der Leyen, who is a doctor, acted as the public face of the European response, stepping up her efforts to communicate on the management of the pandemic, promote public health measures and defend the initiatives taken by the Commission. Admittedly, public health remains primarily a national competence, but the urgency of the situation required the mobilisation of the European institutions and the coordination of the efforts made by the Member States in the face of a situation in which initially fragmented responses threatened the Union[12].

More discreet but no less effective, Stella Kyriakides, Commissioner for Health and Food Safety, led the EU Health Security Committee from the start of the pandemic in 2020, to exchange information on the progression of the pandemic and to harmonise the measures taken to protect public health. One of the most notable achievements was [the Union's vaccination strategy](#), launched in June 2020, to ensure equal access to vaccines for all Member States[13]. Stella Kyriakides is credited with overseeing centralised negotiations with the major pharmaceutical companies to pool vaccine purchases, in the [Advance Purchase Agreements](#), which allowed the European Union to guarantee hundreds of millions of doses of vaccines at negotiated prices and to secure supplies for all Member States. This then led it to consider the COVAX initiative, an international platform aimed at guaranteeing equal access to vaccines for low- and middle-income countries, since it insisted on demonstrating global solidarity by contributing financially and supplying these countries with doses of vaccine.

It also played a role in monitoring virus variants and setting up testing capabilities, in collaboration with [the European Medicines Agency](#) (EMA) and the European Centre for Disease Prevention and Control (ECDC), to monitor the emergence of new variants and adjust the European response accordingly. It also worked to launch a programme to accelerate genomic research to detect and monitor variants, while coordinating the distribution of test kits and medical equipment across Europe through the civil protection mechanism. More broadly, the fight against misinformation about vaccines and confidence in vaccination was an essential part of its mission, based on scientific data and rigorous assessments carried out by the European

Medicines Agency, publishing the results of clinical trials, and so on[14].

Finally [additional financing was planned](#) for Member States' healthcare systems thanks to programmes such as [REACT-EU](#), which provided funding to countries to support their health and economic responses to the pandemic and measures to better prepare for future crises. With the creation of the European Health Emergency Response and Preparedness Authority (HERA), the aim was to ensure that Europe could anticipate, respond rapidly and coordinate responses to future health crises, in particular by ensuring that supplies of vaccines, medicines and medical equipment were more rapid and effective in the event of an emergency.

The creation of a European loan

Despite these major advances in [building the European health system](#), observers concentrate on the historical recovery plan totalling 750 billion €, in [July 2020](#), financed by joint borrowing on behalf of the European Union, to support economic players in their recovery from the crisis caused by the pandemic. This [plan](#) marks an important step towards greater budgetary solidarity within the European Union. Exceptional measures were taken to deal with the huge economic impact of the pandemic, notably the [clause to derogate from the Stability and Growth Pact](#), which allowed Member States to go beyond the strict rules on budget deficits to invest massively in supporting their economies[15]. Something unimaginable in normal times, especially for Germans. This suspension gave Member States the budgetary flexibility they needed to support businesses and workers hit hard by the lockdowns and economic restrictions, while at the same time launching national economic aid programmes. Margrethe Vestager, Vice-President in charge of competition, ensured that legislation remained strict during this period, by controlling mergers and acquisitions that could put the European market at a disadvantage. Thierry Breton, in charge of the internal market, was always present on all fronts. He supervised the acceleration of the adoption of remote working, distance learning and digital public services, in addition to the strengthening of industrial vaccine production. But none of this would have been possible without European excellence in research[16].

Demand digital sovereignty

The 2019-2024 term of office was marked by Europe's digital transformation, with the adoption of several initiatives under the 2021 [strategy for the "Digital Decade"](#). The goal was to strengthen Europe's [digital sovereignty](#), in particular in terms of data protection with the General Data Protection Regulation and by developing a European digital infrastructure, including 5G technology and semiconductors[17].

Margrethe Vestager and Thierry Breton played a central role in this objective, which was to make Europe a world leader in digital transformation by 2030. Their action focused on four areas. Firstly, developing digital skills among citizens and workers: 80% of the European population must have basic skills by 2030. Secondly, developing robust digital connectivity, with a focus on 5G coverage for all European citizens, as well as expanding cloud capacities[18] and data processing, including next-generation infrastructures such as supercomputers. Secondly, to encourage the adoption of digital technologies by businesses, including small and medium-sized enterprises, with the aim of making 75% of European businesses users of technologies such as artificial intelligence, blockchain and massive data. Finally, promoting the digitisation of public

services to ensure that all European citizens have access to online public services by 2030. All of this, while ensuring the protection of citizens' rights, equal access to technology, and what we might call [digital sovereignty](#). In other words, the need for Europeans to have the final say, where it concerns them, in the digital field.

As Competition Commissioner, Margrethe Vestager adopted a proactive approach to regulating the major technology platforms. Her enforcement actions sought to ensure a competitive digital environment, preventing tech giants from over-dominating the market and undermining European innovation. It is in this capacity that she oversaw a number of antitrust investigations and imposed substantial fines on some of these companies for abuse of dominant position. She appears to be the big winner in the disputes she has had with American companies. This strategy is part of the drive to create a fairer framework for European market players, particularly small businesses and start-ups. Legislative initiatives, known as [DMA](#), [DSA](#), [AI Act](#), [Data governance Act](#), cybersecurity and Internet of Things (IoT)[19], mean that these technologies are not just for large companies; they benefit the entire European economic fabric. Her specific responsibilities were particularly well interconnected with those of Thierry Breton and reflected their complementary approach to digital transformation.

The end of the mandate was marked by the [departure of Thierry Breton in September 2024 and his open defiance of President von der Leyen](#) but we should not forget that the partnership he formed with Margrethe Vestager proved effective in developing the tools for European digital sovereignty. As Internal Market Commissioner, Thierry Breton was responsible for Europe's technological sovereignty, critical digital infrastructures, digital industrial policy and the implementation of new technologies (artificial intelligence, cloud, 5G, cybersecurity). His role focused on infrastructures, the digitalisation of businesses, technological value chains and support for industrial innovation, to ensure strategic autonomy in key technologies. His work focused on the construction of a [technologically independent Europe](#) in the fields of artificial intelligence, cloud computing and digital infrastructure.

In terms of legislative production, he launched the [Chips Act](#) aimed at strengthening European production and reducing the Union's dependence on non-European manufacturers. He supervised the allocation of stimulus funds to support the digital transformation of businesses, particularly small and medium-sized enterprises, and to finance digital infrastructure projects, as part of the [NextGenerationEU](#). Lastly he spoke [in support of a strong defence industry](#).

In fact, the two Commissioners held several press conferences together throughout their term of office. While Thierry Breton communicated on the creation of an environment favourable to innovation, investment in infrastructures and the reduction of Europe's dependence on non-European technologies, Margrethe Vestager ensured that the digital environment remained fair and competitive, by regulating the excessive power of the major non-European technology platforms and promoting a more transparent and fair market. Above all, they spoke with one voice when it came to the need for cyber protection, in this term of office, marked by the emergence of enemies who are ramping up their violations of international law.

Countering Russia's breach of the peace in Ukraine

The first sign of an intent to cause harm came from Russia in February 2020, when a cyber-attack paralysed the emergency department of a clinic in Düsseldorf[20]. Russian cyber-attacks in NATO

countries then increased, [topping 300%](#) between 2020 and 2022, and by 250% in Ukraine. Kremlin-backed operations escalated in 2021. Ilya Vitiuk, Head of the Cybersecurity Department of the Ukrainian Security Service, [explains](#) that they targeted in particular the energy sector, logistics, military installations, as well as government databases and information resources in the months preceding the Russian invasion of Ukraine.

As Russian troops took control of the Chernobyl power station, a military airport 25 kilometres from Kyiv and began bombing urban centres on the morning of 24 February 2022, the European Commission immediately adopted a [firm, united position](#), to support Ukraine financially, militarily and politically, but also to impose massive economic sanctions, in coordination with non-European allies. Despite the EU budget's contribution to the financing of defence industries - a measure that was already set in motion under Jean-Claude Juncker - and the adoption of the [14 rounds of sanctions](#), the absence of a long-term strategic vision seems to have deprived the European Union, which is not a State, of a strong voice in the face of the conflict that has erupted on its doorstep[21].

Josep Borrell, High Representative for Foreign Affairs and Security Policy and Vice-President of the European Commission, devoted himself to developing the European Union's diplomatic and security response to the Russian invasion of Ukraine. From the very first days of the invasion, he strongly condemned the Russian attack and called for a united, forceful European response. He worked with the representatives of the Member States to coordinate the application of sanctions, to implement and to take urgent action in the field of defence.

The [Strategic Compass](#) was adopted in March 2022. It uses the [European Peace Facility](#) initiated in March 2021, to finance the dispatch of military equipment to Ukraine. An [ammunition production support action](#) (ASAP): designed to stimulate the production of munitions and missiles in the EU was introduced in July 2023 and rules to encourage [joint procurement in the defence](#) industry (EDIRPA) were approved in October 2023. After two years war in Ukraine, the European Commission unveiled the first [European Defence Industrial Strategy](#) (EDIS) and a new [Defence Industry Programme](#) (EDIP). In July 2024, the European Union decided to use the interest on [Russian assets frozen](#) in Europe to help Ukraine. The European Union set up a mission to train the Ukrainian armed forces, ([EUMAM](#)), to strengthen their ability to face up to Russian aggression,

Finally, he supported European efforts to welcome the millions of Ukrainian refugees fleeing the fighting. He called for solidarity between Member States to share the burden of hosting refugees, while ensuring that the European Union makes funds available to support them. The return of the directive [2001/55/CE](#), on 2nd March 2022, dramatically - put the debate [regarding the issue of migration in Europe](#) back in centre stage. Indeed, the European Union rapidly and directly faced an unprecedented challenge, namely the reception of a large number of displaced persons from Ukraine, in a very short space of time.

Rethinking migration and asylum

Three months before the start of the Russian offensive, Poland and Lithuania faced an unusual flow of migrants from Belarus on their common border. The representatives of these countries, responsible for the EU's external border, [claimed it was](#) an attempt to destabilise them. This instrumentalisation in the run-up to winter - prompted the Commission to put forward a

proposal for a [regulation](#), containing measures to prevent and restrict the activities of transport operators engaged in or facilitating the smuggling of migrants or trafficking in human beings into the European Union. Awareness of the instrumentalisation of migratory flows[22], combined with the need to strengthen the Common European Asylum System, was a key factor in the adoption of the new [Pact on Migration and Asylum](#) in April 2024. Although announced as a priority in July 2019, the objective was made explicit in [the mission letter](#) addressed to Ylva Johansson, with internal security through the prevention of terrorism; this was one of the last texts to be adopted during the 9th legislative term.

The ten texts aimed at reforming the rules on asylum were examined by the Council, culminating in December 2021 with the adoption of the regulation on [the European Union Agency for Asylum](#)[23]. In April 2024, the European Parliament voted in favour of the legislative package on migration and asylum and, on 14 May, the [Council](#) adopted it. The aim is to make the right of asylum in Europe 'fairer and more robust' in the light of the challenges posed by the increase in migratory flows and asylum applications. The pact proposes to strengthen the EU's external borders and improve the return of illegal immigrants. It also aims to strengthen cooperation between Member States while guaranteeing fair and efficient asylum procedures. It includes mechanisms for a better distribution of asylum seekers within the EU and increased support for the so-called front-line countries around the Mediterranean Sea. However, the Regulation on asylum and migration management does not provide for an overhaul of the rules of the Dublin system [as it was initially intended](#)[24], but it introduces a fair sharing of responsibilities between Member States. This is where disagreements remain.

The [regulation](#) on the necessary conditions for asylum seekers establishes the rules for the provision of international protection in the Union. The [regulation](#) on the procedure for the return of people to the border sets out the conditions for the return of people whose asylum applications have been rejected. The [directive](#) lays down the rules on reception conditions for asylum seekers. Questions relating to reception conditions and humanitarian admission are not excluded, yet they are invisible because of the fear of uncontrolled migratory flows, be they the result of a hybrid attack[25] or not. In fact, migration and border management is a priority area of expenditure; in 2023 the budget dedicated to migration management increased by €2 billion, in particular due to the intensity of migratory flows from Ukraine.

The 2019-2024 term began and ended with a particular focus on [Frontex](#). The Agency, [that has been challenged on several occasions](#), was [strengthened](#) by a regulation in November 2019[26] and in the autumn of 2024, there was discussion of a further reform.

Hence in October 2023 the Council deemed that '[the grounds for temporary protection persist](#)' and decided to extend its application by one year, until 4 March 2025, and then by a further year [until 4th March 2026](#). Temporary protection is therefore being maintained for displaced persons from Ukraine, and could be further extended if the Council deems it necessary.

Guaranteeing the supremacy of the rule of law

In 2019, enlargement was at a standstill. At the Council meeting on 15th October 2019, France, the Netherlands, Denmark and Spain voted against opening negotiations with Albania, thereby raising questions surrounding this issue. At France's request, the [Commission adopted a new methodology](#) regarding enlargement in a bid to reinvigorate the process. To compensate for a

lack of strategic vision, the new methodology provides for the grouping and prioritisation of chapters; the 35 existing negotiation chapters are combined into 6 groups. The group of so-called 'fundamental' chapters, on the judiciary and fundamental rights (Chapter 23), justice, freedom and security (Chapter 24), public procurement (Chapter 5), statistics (Chapter 18) and financial control (Chapter 32), must be opened as a priority and only closed at the very end of the negotiations, with progress in the chapters in this group conditioning the opening of the other groups.

The communication of 5th February 2020 "[Strengthening the accession process - A credible European perspective for the Western Balkans](#)", approved by the Council in March 2020, only a two-state enlargement could be envisaged. The Russian offensive in Ukraine changed all of this. On 28th February 2022, Kyiv applied to join the European Union. On 3rd March, Moldova and Georgia followed suit. Following the Commission's positive opinion, Ukraine and Moldova were granted candidate status in June 2022. [Georgia was not accepted](#) because additional efforts were required[27]. To mark the occasion, the President of the European Commission pledged to make the accession of Ukraine, in particular, a success. The Commissioner for Enlargement, Oliver Varhélyi[28], has hardly said a word however, and indeed is conspicuous by his absence. The year 2022 brought enlargement back into the spotlight with the application of three former states of the former Soviet Union (USSR), followed by Kosovo. Four new states were added to the 'old' applicants: Turkey, North Macedonia, Montenegro, Serbia and Albania. Bosnia and Herzegovina was granted candidate status at the end of 2022. At the end of this term of office, the Commission delivered a [report](#) on ten States which would like to join the Union and their state of progress[29].

The "[Western Balkan candidates](#)" no longer really seemed to be in vogue at the end of this mandate. The Commission is particularly firm on respect for the rule of law[30]. This goes hand in hand with the new methodology and the unpleasant feeling that the Member States, once in the Union, might adopt contrary measures. In this respect, the Commission is displaying a certain amount of consistency. While it assesses the candidates' failings in terms of the rule of law at the time of the negotiations, it is doing the same with its Member States. Since 2020, it has presented its [annual report on the Rule of Law](#) and in 2022, it [decided to condition the recovery funds](#) according to the respect of these rules[31], in line with the decisions taken by the Juncker Commission in the name of Article 7 of the TEU, concerning Poland and Hungary. Hungary is thus playing a game of checks and balances to shape its veto of decisions in support of Ukraine. At the same time, the Commissioner for Justice, Didier Reynders, took action in 2020 in response to legislative reforms and government decisions perceived as undermining the independence of the judiciary, media freedom and fundamental rights. Following an examination of these judicial reforms, he notified Hungary of his concerns regarding the appointment of judges, restrictions on the possibility of challenging the legality of judicial decisions and measures that have allowed political interference in the judicial system. A [new dispute started](#) regarding a legislative package that was supposed to protect Hungary from foreign interference as this term of office was drawing to a close.

In 2019, following the hearings procedure, the European Parliament approved by 461 votes to 157 with 89 abstentions on 27 November 2019 the [college of commissioners](#) - then comprising 12

women and 15 men. In 2024, what is striking, apart from the fact that there is one less woman, is the small majority obtained during the vote, the smallest since 1995[32]. At the end of the hearings, no commissioner candidate was disavowed by the deputies this time; on 27 November 2024, the [von der Leyen II Commission](#) was approved by 370 votes to 282, with 36 abstentions. The question therefore remains as to whether the votes cast against the new college are a sign of disagreement over the achievements of the 2019-2024 term of office or whether they reflect concerns regarding the [priorities](#) announced for the new mandate (2024-2029).

*With Juliette Bachschmidt Research Officer,
and Marie Cohignac, Lilian Lallemand, Maxime Painot, Fabio Tomasic, Research Assistants,
as well as Constance Bonny.*

[1] In 2014, for the first time, the European Parliament succeeded in imposing the Spitzenkandidat (head of list) principle, under which the candidate from the political family that won the most seats in the European elections would be appointed President of the Commission. This process led to the appointment of Jean-Claude Juncker, who was the candidate of the European People's Party (EPP), which came out on top in the 2014 European elections.

[2] Manfred Weber (EPP), Frans Timmermans (S&D) and Margrethe Vestager (ALDE).

[3] Sylvie Goulard's candidacy was rejected because of concerns linked to a judicial enquiry into her use of parliamentary assistants when she was an MEP. In addition, her past involvement in paid activities for an American think-tank also raised ethical questions among some MEPs. Emmanuel Macron then proposed Thierry Breton to replace her, who was confirmed by the Parliament.

[4] László Trócsányi was rejected mainly because of his links with Viktor Orbán's government and concerns about the rule of law in Hungary. The European Parliament considered that his past as Minister of Justice raised potential conflicts of interest. He was replaced by Olivér Várhelyi, Hungary's permanent representative to the European Union, who obtained confirmation of his appointment from the European Parliament.

[5] Members of the Legal Affairs Committee confirmed the rejection of her candidacy before her hearing. Suspected of corruption, they considered that Rovana Plumb was 'not in a position to perform her duties in accordance with the Treaties and the codes of good conduct'.

[6] As a reminder, on 29 March 2017, the United Kingdom, represented by its Prime Minister, officially activated Article 50 of the TEU.

[7] [The withdrawal agreement was ratified on 23rd January 2020](#) by the British and European

parliaments. There was then a transitional period until 31 December 2020 before it came into force.

[8] He was therefore responsible for ensuring compliance with the Trade and Cooperation Agreement, signed at the last minute by Mr Barnier and Mr Frost, the UK's chief negotiator, on 24 December 2020, which came into force on 1 May 2021 to maintain cooperation in parallel with the implementation of the withdrawal agreement. He was also responsible for developing an ambitious partnership strategy, hence the Trade and Cooperation Agreement.

[9] We note that in his [mission letter](#) regarding the strengthening of relations on issues of common interest, he remains in charge of the customs system (reform package concerning it) and trade defence instruments

[10] These are on display in the [speech on the state of the Union in November 2023](#).

[11] Frans Timmermans left the European Commission in August 2023, following the resignation of the Rutte government, to run for Prime Minister. His list came in 2nd (25 seats), behind that of Geert Wilders (37 seats) in the [November 2023 election](#).

[12] She supported the creation of a crisis management mechanism to facilitate coordination between countries, share information and best practice, and avoid inconsistent responses between Member States, particularly with regard to border closures, travel restrictions and the management of stocks of medical equipment.

[13] Distribution of vaccines to Member States once doses are available, ensuring that vaccines are allocated in proportion to the population of each country and taking account of specific health requirements.

[14] Stella Kyriakides, "The future of an even stronger European Health Union", [Schuman Report on Europe - State of the Union](#), éditions Marie B, 2024.

[15] It is still costing [Germany](#) a lot of money.

[16] Jean-Pierre-Bourguignon, "European excellence: the role of the European Research Council", *Schuman Report on Europe - State of the Union*, éditions Marie B, 2024.

[17] Eric Peters, "For a Europe fit for the digital age", *Schuman Report on Europe - State of the Union*, éditions Marie B, 2024.

[18] The development of European sovereign cloud technologies, with projects such as GAIA-X,

which aims to create a pan-European cloud infrastructure independent of foreign suppliers.

[19] *Internet of Things* (IoT) describes the network of objects that are also physical terminals, integrating sensors and any technology that allows them to connect to other terminals and systems on the Internet and exchange data with them. These connected objects are part of our daily lives and have become indispensable even though they are worrying.

[20] This blockage prevented ambulance drivers dropping off a patient who died while being transferred to another establishment. This was not [the first attack](#) but in this case, an investigation for manslaughter was launched.

[21] The differences in the positions taken by the members of the European Commission on the attack of 7th October 2023 also illustrate the tensions within the Union over foreign policy. The study focuses on the Ukrainian situation but does not imply that this breach of the peace is without interest.

[22] Berta Alvarez-Miranda, "Europe and its South. The challenge of organised migratory pressure: lessons learned from the Ceuta / Sahara affair", *Schuman Report on Europe - State of the Union*, éditions Marie B, 2024

[23] Nina Gregori, "Europe and asylum, new paradigms", *Schuman Report on Europe - State of the Union*, éditions Marie B, 2024

[24] The principle remains the same: regardless of the country in which the asylum seeker is located, their application is processed by the country that registered their arrival on European soil.

[25] As an example for over a year [Finland](#) has been suffering attempts to destabilise its border with Russia, [Lithuania](#) and [Poland](#) for three years.

[26] This regulation provides for integrated border management, an enhanced role for the agency in the administration of Europeans, and the ability to intervene in the event of a control failure at the external borders, even when a State does not request it to do so. It also increases the agency's physical capacity, with the creation of a permanent contingent of 6,500 people in 2021 and 10,000 people by 2027, and sets a target of a €900 million budget per year by 2027.

[27] Candidate status was obtained at the end of 2023, but the opening of negotiations [do not seem to have been planned](#).

[28] His reappointment as Commissioner, this time for Health, [does not raise enthusiasms](#)

[enthusiasm](#) at the time of writing.

[29] It should be noted that Turkey has been at a standstill since 2019 after 14 years of negotiations, and that Northern Macedonia, a candidate since 2005, did not see its negotiations open until July 2022 and it [still seems to be in stalemate](#) at the end of this term in office.

[30] Which [Ukraine seems to have understood](#) and is [communicating widely](#) on its need and desire for a demanding rule of law.

[31] On 29 February 2024, the European Commission approved the release of €137 billion for Poland, following the change of government and the efforts made by the new government team.

[32] 2014 Juncker / 423 - 209 - 67 out of 751 ; 2010 Barroso II / 488 - 137 - 72 out of :736) ; 2004 Barroso I / 478 - 84 - 98 out of 732 ; 1999 Prodi / 510 - 51 - 28 out of 626 ; 1995 Santer / 417 - 104 - 59 out of 567.

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The nomination of von der Leyen

Towards institutional balance in a reformed lead candidate process



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There has been much criticism of the European Council's nomination of German Defence Minister Ursula von der Leyen as the new European Commission President, due to both her personal competence and the procedure itself.

Starting with the latter: it would be wrong to fault the European Council for not sticking with one of the 'lead candidates'. But the real reason the European Council did not select one of them was that there was no clear majority in the European Parliament for any of the declared *Spitzenkandidaten*. The EPP (narrowly) obtained the most votes, but the other parties did not agree to back Weber. The major political groups in the EP were (and remain) simply unwilling to rally behind one common candidate. In this situation, the European Council naturally chose to propose someone else who better reflected the political equilibrium among EU governments (which are also democratically legitimised).

With regard to her competence, von der Leyen made a mixed impression on Wednesday July 10th when she met three of the EP's political groups (S&D, Renew and the Greens), whose support she needs to be confirmed. MEPs understandably tried to pin her down on the upcoming Commission agenda. But this proved futile as von der Leyen kept talking in very broad terms about key issues such as climate change and the rule of law. But this might have been expected of someone who had not run through the *Spitzenkandidaten* procedure. She had allegedly learned about her own nomination only ten days earlier. Clearly, it is impossible to put together a detailed agenda for the upcoming legislative term in such a short period. Moreover, it would take some time to switch from her previous role – which was party political and focused on defence policy from a member state perspective – to the new one of representing a European institution that is the guardian of the EU treaties, and which must work in a complex supra-national setting (the EU bubble).

What can we learn from this experience, for the Commission president appointment procedure in general? Some ground rules need to be agreed for the two institutions with the Treaty mandate to jointly find a president of the Commission: the European Council and the European Parliament. These ground rules must be set down and be legally binding to avoid institutional turf battles next time round, in 2024.

The proper functioning of a revised *Spitzenkandidaten* procedure depends in the first instance on the European Parliament. The process of providing 'political programmes with a face' need not be abandoned. The European political groups should continue to identify their leaders. If one of them can rally a solid EP majority behind this candidate, the Council would have to nominate this person. If Parliament is not able to find such a majority, the European Council should be allowed to propose its own candidate, someone who did not participate in the *Spitzenkandidaten* procedure. This candidate, however, should then be required to undergo a parliamentary hearing, similar to those the Commissioners-designate have to face. Those could be organised either as one plenary session or be split into different committee sessions.

An agreement along these lines would guarantee both institutions a fair share in the decision-making process and eliminate the waste of energy on institutional muscle-flexing.

Such a two-step procedure would require a somewhat different timetable, however: the Commission president-designate coming from outside the lead candidate process should be allowed time after the nomination to properly prepare her/himself for the EP hearing and confirmation. After the election in May and a nomination by the European Council in late June/early July, the candidate should have until early September to prepare the hearing before the EP. The hearings of the Commissioners-designate could then follow later that month. It should then be possible to still have the inauguration of the new Commission in November: the hearings of all Commissioners-designate in 2014 took only seven days in total.

This principle of a 'reflection period' before confirmation hearings in the EP could still be applied to Ursula von der Leyen. Parliament does not need to confirm or reject her next week. Instead of voting on her confirmation now, Parliament could simply ask her to reflect on her programme and come back at a later stage, when she has had enough time to prepare herself properly for the role of Commission president.

ABOUT THE AUTHORS



Advisor

Daniel Gros

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ABOUT THE AUTHORS

Daniel Gros (Advisor) | **Sophia Russack** (Research)

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Afzender Joet <joet@joet.nl>
Ontvanger <ECJ.Registry@curia.europa.eu>
Datum 2025-03-01 23:51



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Honourable Members of the Court of Justice of the European Union,

I, Yuri Hazeleger, hereby submit my Application for Annulment – Appointment of Ursula von der Leyen as President of the European Commission, which is attached to this email.

As a citizen of the European Union, I invoke my fundamental right to judicial recourse to challenge a manifest democratic deficit in the EU's decision-making process. Article 47 of the Charter of Fundamental Rights of the European Union (hereinafter: "the Charter") enshrines the right to an effective remedy and to a fair and impartial tribunal. This right is further safeguarded by Article 6 of the European Convention on Human Rights (ECHR), which guarantees access to justice and due process. Additionally, Article 20 of the Charter affirms the principle of equality before the law, while Article 21 strictly prohibits discrimination on any ground. Judicial access cannot be contingent upon institutional privilege, nor can citizens be subjected to discriminatory restrictions in their pursuit of legal redress for democratic violations. This principle of non-discrimination is equally codified in Article 14 ECHR and Article 26 of the International Covenant on Civil and Political Rights (ICCPR), which establish that all persons are entitled to equal protection before the law.

Furthermore, Article 10(3) of the Treaty on European Union (TEU) guarantees that every citizen has the right to participate in the democratic life of the Union. The appointment of Ursula von der Leyen as President of the Commission—despite her not having been a Spitzenkandidat in the European Parliament elections—constitutes an egregious breach of this democratic participation. The European Council's decision blatantly contravenes Article 17(7) TEU, which mandates that the appointment of the Commission President must reflect the outcome of the European Parliament elections.

Article 15 of the Treaty on the Functioning of the European Union (TFEU) imposes an obligation on EU institutions to ensure transparency in their decision-making processes. However, the process leading to the appointment of Ursula von der Leyen was devoid of transparency and democratic oversight, contravening the fundamental principles of good governance and democratic legitimacy that the Union purports to uphold.

In light of the above legal foundations, I respectfully request that the Court adjudicate this matter and annul the appointment of Ursula von der Leyen as President of the European Commission. It is the solemn duty of this Court to uphold the core constitutional values of the European Union, as enshrined in the Treaties and the Charter, ensuring that fundamental rights and democratic principles are not subordinated to political expediency. A detailed legal argument is set out in the attached application.

Attachment:

- Application for Annulment – Appointment of Ursula von der Leyen as President of the European Commission

I trust that the Court will uphold its obligation to safeguard the rule of law and the democratic integrity of the European Union.

Yours respectfully,

Yuri Hazeleger
Stationsstraat 27C
6741 DH Lunteren
The Netherlands
Email: joet@joet.nl
Tel: +31 6 28428852

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