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| From: | General Secretariat of the Council |
| date of receipt: | 13 June 2019 |
| To: | Delegations |
| Subject: | Letter from President of the European Commission Jean-Claude Juncker to Prime Minister of Romania Viorica Dăncilă concerning five Members of the Commission elected to the European Parliament |

Delegations will find attached the abovementioned letter as received from the Commission.

Encl.: IM 6612 2019

E-MAIL / ~~FAX~~

IM 006612 2019
13.06.2019



Jean-Claude JUNCKER
President of the European Commission

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Brussels, 12 June 2019

Dear Prime Minister,

I would like to inform you that five Members of the Commission have been elected to the European Parliament. Vice-President Dombrovskis and Commissioner Gabriel have indicated to me their intention to remain in their posts as Members of the Commission until the end of the mandate and not to take up their seat in the European Parliament. Vice-President Ansip and Commissioner Creţu have indicated to me their intention to take up their seat in the European Parliament. First Vice-President Timmermans is still reflecting and will inform me in due time about his intentions in this regard.

In light of the fact that the office of Member of the European Parliament is incompatible with that of Member of the Commission¹, and since the newly elected European Parliament will take office on 2 July 2019, Members of the Commission who take up their seat in the European Parliament are legally obliged to resign as Members of the Commission at the latest by 1 July 2019.

The second and third paragraphs of Article 246 of the Treaty on the Functioning of the European Union (TFEU) provide as follows for this situation:

"A vacancy caused by resignation (...) shall be filled for the remainder of the Member's term of office by a new Member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament (...).

The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not to be filled, in particular when the remainder of the Member's term of office is short."

J.

¹ Article 245, second paragraph, of the Treaty on the Functioning of the European Union and Article 7(1) of the Act concerning the election of the members of the European Parliament by direct universal suffrage.

Ms Viorica DĂNCILĂ
Prime Minister of Romania
Presidency of the Council of the European Union



As I mentioned to the Heads of State or Government during our informal dinner on 28 May 2019, I consider that – as it has already happened in the past² – use should be made of the possibility provided in the second paragraph of Article 246 TFEU, meaning that resigning Commissioners will not be replaced. The term of the current Commission ends on 31 October 2019 according to the Treaties. This means that the scheduled remaining term of office after the constitution of the new Parliament amounts to only four months. Moreover, this Commission's well-established practice of work in Project Teams ensures that several Members of the Commission are involved in all files. This means that under my guidance, Members of the Commission are well placed and fully capable of stepping in for departing colleagues. I also note that the Commission's focus in these last months is on the adoption by the co-legislators of pending proposals, rather than on new policy initiatives.

I therefore do not consider it necessary for the remaining months that the few departing Members of the Commission are replaced. This is particularly so in light of the disproportionate financial burden entailed by such short-term appointments, to which public opinion – understandably – will be particularly sensitive.

I would be grateful if you could inform the Council that I will present, in due course, the necessary formal proposal under Article 246, third paragraph, TFEU, for the Council to decide, acting unanimously, that the vacancies do not need to be filled for the remainder of the mandate. I would like to underline that this is without prejudice to the composition of the Commission as of the beginning of the new mandate, which will continue to include one national per Member State unless the European Council, acting unanimously, decides otherwise.

I look forward to a swift reaction from the Council, so that this important matter is clarified as fast as possible.

Yours sincerely,



² Council Decision 1999/493 on the composition of the Commission (not to replace MM. Santer and Bangemann and Ms Bonino), OJ 24.7.1999, L 192/53.