

# What if? Some Legal Thoughts on Premature Changes at the EU Commission's Helm, under the Current EU Treaties

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## I. Preliminary Elements

In the end of August 2025, various reports<sup>1</sup> issued by the press indicated that there might be a possibility for Commission president *Ursula von der Leyen* to be nominated as Germany's next federal president, given that the (second and therefore last)<sup>2</sup> five-year office term of *Frank-Walter Steinmeier* expires in early 2027.

The German head of State (*Bundespräsident*) being elected regularly by a special assembly (*Bundesversammlung*)<sup>3</sup> consisting of the members of the lower chamber of parliament (*Bundestag*) as well as representatives of the 16 federal states, relevant nominations have proved to be very much the German executive power's

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<sup>1</sup> Cf. e.g. *Melanie Amann*, "Bundespräsidentin von der Leyen?" on [spiegel.de](https://www.spiegel.de/politik/deutschland/news-ursula-von-der-leyen-bundespraesidentin-friedrich-merz-cdu-libanon-handys-schulen-a-452d60fe-9ae8-443b-97dd-9687c562876f) (25 August 2025), accessed through <https://www.spiegel.de/politik/deutschland/news-ursula-von-der-leyen-bundespraesidentin-friedrich-merz-cdu-libanon-handys-schulen-a-452d60fe-9ae8-443b-97dd-9687c562876f> (last access on 1 September 2025); *Deutsche Wirtschaftsnachrichten* (*without an author's mention*), "Schloss Bellevue: Bekommt Deutschland 2027 eine Bundespräsidentin?" (26 August 2025), accessed through <https://deutsche-wirtschafts-nachrichten.de/716640/schloss-bellevue-bekommt-deutschland-2027-eine-bundespraesidentin> (last access on 1 September 2025).

<sup>2</sup> Cf. Art. 54 Para 2 Grundgesetz (GG).

<sup>3</sup> Cf. already Art. 54 Para 1 GG.

(especially the federal government's) "ballgame", giving a governing majority the possibility to nominate a candidate<sup>4</sup> close to its own political preferences.

Despite the *Bundespräsident* regularly<sup>5</sup> enjoying (mostly) only ceremonial constitutional competences, such a choice and nomination is never indifferent, and is one of potentially serious political implications. It could be further anything but indifferent, if the current head of the EU Commission would be the candidate to be nominated as such, at a certain point in the near future.

Of course, the EU Commission has meanwhile already stated that *von der Leyen* would not be interested in the German head of State job;<sup>6</sup> but yet, under the impression of fastly changing balances within the world's and especially Europe's political realities, even the very thought of an office change might be lasting, "on the table".

The EU faces multiple challenges at almost every level, be it from Energy matters and combating Climate change up to serious topics of its Foreign and Security Policy, just to mention a few. Under this impression, a change at the Commission's helm before the regular end of its current, five year<sup>7</sup> office term (2029) might create political problems for the Union. But what about the Treaties?

## II. EU Primary Law and Premature Changes at the Commission's Helm

As it is already apparent through Art. 17 para 7 TEU,

*Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose*

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<sup>4</sup> Cf. (without an author's mention), "Merz kann sich 2027 Bundespräsidentin sehr gut vorstellen" on handelsblatt.com

(24 August 2025), accessed through <https://www.handelsblatt.com/dpa/staatsoberhaupt-merz-kann-sich-2027>

-bundespraesidentin-sehr-gut-vorstellen/30446164.html (last access on 1 September 2025).

<sup>5</sup> Cf. Art. 54 et seqq. GG.

<sup>6</sup> Cf. *Sandor Zsiros*, "Wahl des Bundespräsidenten: Ursula von der Leyen steht "nicht zur Verfügung" on euronews.com (27 August 2025),

accessed through <https://de.euronews.com/my-europe/2025/08/27/bundesprasident-von-der-leyen-steht-nicht-zur-verfugung> (last access on 1 September 2025).

<sup>7</sup> Cf. Art. 17 Para 3 TEU.

*to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.*

*The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in paragraph 3, second subparagraph, and paragraph 5, second subparagraph.*

*The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.*

Following the 2024 European Parliament elections, the EP voted very soon for a second office term of *von der Leyen* as Commission president.<sup>8</sup> She started this term, alongside her Commissioners' College, officially in early December 2024<sup>9</sup> - basically coinciding, among other, with the start of the Second *Trump* Administration in January 2025.

A (theoretical) premature change at the Commission's helm as mentioned in the abovementioned Introduction would have to occur probably by late 2026, in order to meet the German constitutional provision (Art. 54 para 4 GG) of generally convening the *Bundesversammlung* no later than thirty days before the end of the office term of the incumbent<sup>10</sup> *Bundespräsident*: This would lead to convening it, most probably, in February 2027.

The EU Primary Law foresees for (Art. 246 TFEU)

*(...) A vacancy caused by resignation, compulsory retirement or death 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 (...).*

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<sup>8</sup> Cf. European Parliament (press release of 18 July 2024), "Parliament re-elects Ursula von der Leyen as Commission President", accessed through <https://www.europarl.europa.eu/news/en/press-room/20240710IPR22812/parliament-re-elects-ursula-von-der-leyen-as-commission-president> (last access on 1 September 2025).

<sup>9</sup> Cf. European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations (news article of 2 December 2024), "The von der Leyen Commission 2024-2029 takes office", accessed through [https://enlargement.ec.europa.eu/news/von-der-leyen-commission-2024-2029-takes-office-2024-12-02\\_en](https://enlargement.ec.europa.eu/news/von-der-leyen-commission-2024-2029-takes-office-2024-12-02_en) (last access on 1 September 2025).

<sup>10</sup> Cf. Deutscher Bundestag (13 February 2022), "Frank-Walter Steinmeier als Bundespräsident wiedergewählt", accessed through <https://www.bundestag.de/dokumente/textarchiv/2022/kw06-bundesversammlung-878120> (last access on 1 September 2025).

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

*In the event of **resignation**, compulsory retirement or death, **the President shall be replaced for the remainder of his term of office**. The procedure laid down in the first subparagraph of Article 17(7) of the Treaty on European Union shall be applicable for the replacement of the President.*

which indicates that in the case of a Commission president's resignation, a replacement of him or her has to be elected (following the regular procedure of Art. 17 Para 7 TEU) only for the remainder of the ongoing office term (meaning, in the present case, obviously until 2029).

Based on that, one may have the impression that the Treaties would be well-prepared for such an incident, assumed of course that a compromise could be achieved about the person that would become candidate for being the temporary head of Commission. Political implications on that might differ, though (depending on the candidate). The quality of a candidate could very-well lead to re-election for a regular five year office term after 2029, since EU Primary Law has no contravening provision.

By mirroring the relevant stability over the last decades, history has of course provided us with no relevant examples under the *aegis* of the Lisbon Reform Treaty; one could maybe mention, for the relatively more recent years, that in 1999 (under the Treaties' *status quo ante*), after the resignation of the *Jacques Santer* Commission, *Manuel Marín González* became the acting Commission head for six months, until - in the aftermath of the 1999 EP elections - the *Romano Prodi* Commission took officially over in late 1999.

### III. Concluding Thoughts

Interestingly, the acting *Marín González* Commission came to office after the *Santer* Commission had survived a parliamentary censure motion (based on Art. 201 TEC, nowadays Art. 234 TFEU) but resigned soon afterwards. The present

*von der Leyen* Commission of course has survived such a motion of censure in July 2025,<sup>11</sup> but that does not mean by itself that history would necessarily repeat.

Altogether, it has to be seen positively, especially in times of grave global political unrest and asymmetric dangers, that the Treaties provide for feasible procedures to guarantee institutional stability in a theoretical case of premature change at the Commission's helm.

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<sup>11</sup> Cf. European Parliament (press release of 10 July 2025), "MEPs reject motion of censure against the European Commission", accessed through <https://www.europarl.europa.eu/news/en/press-room/20250704IPR29455/meps-reject-motion-of-censure-against-the-european-commission> (last access on 1 September 2025).