

**ANSWERS TO THE EUROPEAN PARLIAMENT  
QUESTIONNAIRE TO THE COMMISSIONER-DESIGNATE**

**Frans TIMMERMANS**

**Better Regulation, Inter-Institutional Relations, the Rule of Law and  
the Charter of Fundamental Rights**

**1. General competence, European commitment and personal independence**

**What aspects of your personal qualifications and experience are particularly relevant for becoming Commissioner and promoting the European general interest, particularly in the area you would be responsible for? What motivates you? How will you contribute to putting forward the strategic agenda of the Commission?**

**What guarantees of independence are you able to give the European Parliament, and how would you make sure that any past, current or future activities you carry out could not cast doubt on the performance of your duties within the Commission?**

I am a European by birth and conviction. Born in Maastricht and growing up in Paris, Brussels, Rome and my home-town Heerlen during the Cold War allowed me to gather many different experiences during my childhood, which moulded my character, shaped my worldview and influenced the choices I made later on in life. My youth was filled with stories of ordinary people - my ancestors - working relentlessly to get ahead: coal-miners, farmers, washerwomen. It was also filled with dark stories of the Second World War and the German occupation of the Netherlands, but more so with the stories of hope when the Western part of Europe was liberated. My parents' generation and my own found opportunities hitherto unthinkable for people with our background. Opportunities based on liberty, a freedom still denied for decades to people on the wrong side of the European divide.

During my studies I focused on French literature and European integration. I served in the Dutch army for almost two years and passed the diplomatic exam in 1987 and joined the Dutch Foreign Service right at the onset of an historical change in Europe. One of those great turning points that no one could have predicted, and the most defining political event of my generation. The reunification of our continent is a triumph over oppression and backwardness and the biggest success of this great dream called Europe.

I was personal secretary and advisor to Max van der Stoep, former Dutch Foreign Minister and then High Commissioner on National Minorities for the Organization for Security and Co-operation in Europe (OSCE) in the mid-nineties. He became my political father and will ever remain a role model and inspiration to me with his tireless efforts for democracy, human rights and the rule of law in Europe. I intend to work in the same spirit for these European values that were, that are, and that will stay the very foundations of the European Union.

In 1998, I became a Member of Parliament for the Dutch Labour Party. In later years, I was member of the European Convention on behalf of the House of Representatives. The Convention showed how members of the European Parliament, national parliaments and member states' governments can productively work together. It also underscored the ultimate condition that politicians in the European Union should always seek their citizens' support when decisions are taken in the European Union. The resounding 'no' in the Dutch referendum came as a huge shock and personal disappointment to me. I daresay it was the lowest point of my political life, but it also taught me an invaluable lesson that no matter how benevolent our intentions may be, without the support of voters, our Union is left without the support of the people that form, with the Member States, its dual true sovereign.

If I am confirmed as Commissioner I want to strengthen the Union by improving its democratic legitimacy, by having political rather than technical discussions with the European Parliament, by working closely and constructively with the Council and the national parliaments as well. But I also want to reach out directly to our real stakeholders, the citizens of Europe. We all have a responsibility in improving democratic legitimacy, not just because it's useful, but because it's right.

As a member of Parliament, as Minister for European Affairs from 2007-2010, and as Minister of Foreign Affairs from 2012 onwards, I have had the extraordinary privilege to exchange views about the European Union with other politicians, with students, journalists and voters from all walks of life with a broad spectrum of beliefs. I believe in the values of European integration and am convinced of the need for a strong Europe in the 21st century, but during these personal encounters many people told me of their doubts and fears about the way the EU is working. We cannot talk down to people and simply publish more brochures or set up more information websites. We have to talk with people and listen to their real concerns if we are ever to harbour the hope that they will listen to us. And if we remain stuck in a debate where the only question is 'are you for or against Europe?', we all will lose.

In the Netherlands, I have initiated a debate on what the European Union should do - a debate on how to set priorities and focus, about how the principles of subsidiarity and proportionality could be better embedded in the DNA of the European decision making process, and looking at ways the interaction with national parliaments can be improved. I would be privileged to guiding and further shaping this debate as First Vice-President of the Commission, in close cooperation with the European Parliament and the Council. This is not just a job or a portfolio; this is about public service that ultimately must contribute to that greater goal of a united and free Europe, where every citizen can look forward to a better future, with a home, an education, a job, opportunities. This is what makes Europe unique, and we owe it to our children to fight for this goal and this Europe every day, together.

I will drive forward with vigour and enthusiasm the implementation of the political guidelines set out by Jean-Claude Juncker and will do my utmost to keep the Commission's work on track so that all the energy and expertise of its staff can be focused on the issues that matter most, and not get bogged down in the smaller things that can better be left to others. I will work closely with all Commissioners as equals within a real College and effective teams to ensure that European legislation meets the best standards of quality – not just 'fewer rules', but more importantly, better and more legitimate rules. For me this is about freeing Europeans to use the greatest gift they have, their own aspirations and hard work. It's about freedom. Freedom to do business; freedom to trade; freedom to take a risk and freedom to fail and try again; freedom for small businesses to not be dealt an unfair hand by big companies. Freedom to travel and learn; freedom to receive and impart ideas; freedom to express oneself freely in a democratic society; freedom from discrimination; freedom to live one's private and family life in dignity and safety. It's not about how many rules we make or break, it's about what our work really means, what our action or inaction does for women and men across our continent. What our impact is in Europe. What matters is not the volume of our legislative output but its practical outcome in reality.

Serving as a government minister, my personal organisational and financial arrangements have been thoroughly scrutinized, and I have made my declaration of interest available to the European Parliament. If I am confirmed as Commissioner I will fully respect the letter and spirit of the Treaty, in particular the obligation to act in the European interest and without taking any instructions. I will respect and honour the word and spirit of the Code of Conduct of Members of the European Commission and commit myself to the greatest transparency in my work as First Vice-President.

## **2. Management of the portfolio and cooperation with the European Parliament**

**How would you assess your role as a Member of the College of Commissioners? In what respect would you consider yourself responsible and accountable to the Parliament for your actions and for those of your departments?**

**What specific commitments are you prepared to make in terms of enhanced transparency, increased cooperation and effective follow-up to Parliament's positions and requests for legislative initiatives? In relation to planned initiatives or ongoing procedures, are you ready to provide Parliament with information and documents on an equal footing with the Council?**

If I am confirmed as Commissioner, my role as First Vice-President and Commissioner in charge of Better Regulation, Inter-Institutional Relations, the Rule of Law and the Charter of Fundamental Rights will be to steer

and coordinate the Commissions' work in these areas. I will help Jean-Claude Juncker and work in close cooperation with all other colleagues in the Commission, especially Věra Jourová as Commissioner for Justice, Consumer and Gender Equality and Dimitris Avramopoulos as Commissioner for Migration and Home Affairs. I attach great importance to collegiality within the Commission and objectivity and impartiality to all outside stakeholders. Together we will work to ensure that every proposal of the Commission respects the principles of subsidiarity and proportionality, in close cooperation with the other European institutions and national parliaments. I will consider myself responsible and accountable to the Parliament for my actions and those of my departments, in particular the Commission's Internal Audit Service.

Transparency is a priority for the new Commission. I will make public on the respective web pages all the contacts and meetings I hold with professional organizations or self-employed individuals on any matter relating to EU policy making and implementation. I will prepare a proposal for an Inter-Institutional Agreement creating a mandatory lobby register covering the Commission, the European Parliament and the Council. I want to work with the Parliament to give new vigour to our special partnership under the Framework Agreement of 2010. I will work with Parliament in a transparent way, in a spirit of loyalty, mutual trust and cooperation, placing the co-legislators in the European Union on an equal footing.

The political guidelines set out by President-elect Jean-Claude Juncker will serve as the foundation for the Union's annual and multiannual programming, which I will help him to coordinate. Concerning the follow-up to European Parliament's positions and requests, I will apply the provisions of the Framework Agreement and, in my areas of responsibility, make sure that the Commission responds to parliamentary resolutions or requests made on the basis of Article 225 TFEU, within 3 months after their adoption. In this context, I support and fully endorse the commitment made by President-elect Juncker that the future Commission will be particularly attentive to legislative initiative reports.

In addition to upholding the principles of subsidiarity and proportionality, I look forward to working with Parliament and Council to improve the quality of legislation and remove unnecessary "red tape" at both the European and national level, including by steering the Commission's work on the "Regulatory Fitness and Performance Programme" (REFIT) and ensuring that thorough impact assessments underpin our activities. I will ensure that Commission proposals and initiatives comply with the Charter of Fundamental Rights.

#### **Questions from the Committee on Legal Affairs**

### **3. Impact assessments, administrative procedure law and subsidiarity**

**During the last legislature, Parliament focused a much of its work on better regulation in implementing the Lisbon Treaty, which created a new legislative environment. The move towards smart regulation and regulatory fitness is intended to pave the way for a policy cycle based on 1) wider consultations, including multi-disciplinary impact assessments at several levels and subsidiarity checks by national parliaments, 2) drafting and enactment of legislation with the possibility of delegating legislative powers or conferring implementing powers on the Commission, and 3) ex-post checks the result of which are to be fed back into new policy cycles in the form of new initiatives, including cutting red tape.**

**Parliament has in recent years set up internal services tasked with conducting ex-ante and ex-post impact assessments of legislative proposals and amendments and study European added value and the cost of non-Europe. The Commission's impact assessments are made before the College of Commissioners decides on a proposal, and do not take into account any revisions made in the final proposal. Furthermore, the Council has no means of carrying out impact assessments as regards its amendments and positions on legislative proposals.**

**In its resolution of 15 January 2013, Parliament requested the Commission to submit, on the basis of Article 298 of the Treaty on the Functioning of the European Union, a proposal for a regulation on a European Law of Administrative Procedure, following detailed recommendations set out in the resolution concerning inter alia general principles which should govern the administration and rules governing administrative decisions. The Commission has reacted to this request by stating that this question is very important and has committed itself to studying it carefully before taking any further steps.**

**The Lisbon Treaty sought not only to give wider legislative powers to Parliament, but also to facilitate the implementation, application and enforcement of EU law. In several resolutions, Parliament, invoking the Commission's fundamental role as the 'guardian of the Treaties,' has called on the Commission to use its**

**power and duty to oversee the application of EU law more rigorously, since this is a cornerstone of the Union legal order which must be based on the rule of law. How do you stand on this fundamental aspect?**

**According to Article 5 of the Treaty on European Union, national Parliaments "ensure compliance with the principle of subsidiarity" in accordance with the procedure set out in Protocol 2 of the Lisbon Treaty which introduced a mechanism of subsidiarity scrutiny by national Parliaments on draft EU legislation through the issuing of reasoned opinions.**

**According to Article 7 of Protocol 2 the author of a legislative proposal "shall take account of the reasoned opinions issued by national Parliaments or a chamber of a national Parliament". The so-called yellow and orange card procedures require the Commission to review a draft proposal and to decide whether to maintain, amend or withdraw it if a certain threshold is attained in terms of the number of reasoned opinions issued within the set time-limit. The threshold for a 'yellow card' by national Parliaments has so far been reached on two occasions. The first time was in May 2012 in respect of the Commission's legislative proposal on the right to strike (Monti II). The Commission withdrew the proposal some months later. In November 2013 the threshold for a yellow card was reached in respect of the proposal to establish a European Public Prosecutor's Office. However, on this occasion the Commission decided to maintain its proposal unchanged.**

**What concrete steps does the Vice-President-designate intend to take in order to update and to revise the 2003 Interinstitutional Agreement on Better Law-Making – as requested on several occasions by Parliament –, and to build up a European Law of Administrative Procedure in order to take account of these developments and to ensure transparency and legal certainty for citizens? More specifically, what action does he intend to take in order to ensure that the Commission's impact assessments are conducted completely independently and that legislative procedures are evidence-based at all steps? How would the Commissioner-designate react if a proposal from the Commission were to receive a number of reasoned opinions and what action would he take? If the threshold for a yellow or orange card by national Parliaments against a Commission proposal were to be reached, would he consider himself under a duty either to withdraw or revise the proposal? Would the Commissioner-designate consider inviting the European Parliament and its committee responsible to evaluate, together with the Commission, what the correct response to a yellow or orange card should be?**

The EU is a union of values but also of law. Through successive Treaties European countries have attributed powers for the EU to act in areas where there is European added value because action at purely national level cannot deliver an effective outcome.

Union law is essential for our single market, providing a common set of rules for businesses to operate within the world's largest common economic space. It gives meaning to the freedoms which European citizens cherish, such as the right to free movement, whilst ensuring their security and right to justice. It frames our common response to shared challenges such as energy, the environment, and climate change, and underpins our European social model. Our body of European law is not only necessary, but it is also the thing that makes our EU qualitatively different from any other model of collective governance in the world.

And that is why, if I am confirmed as Commissioner, I will care passionately that every single one of the measures that makes up the EU's rulebook is of top quality - as effective, as appropriate, as operational, as up to date, as simple as possible.

The benefits of Union law for citizens, business, and wider society will not materialise unless legislation is well-designed and applied effectively on the ground. We need to work together to make this happen.

All of the Union's institutions need to take responsibility for good regulatory principles and to apply them in practice. Our existing inter-institutional agreement on better law making does not make this happen. I intend to propose to the College that we present a proposal next spring to update this agreement so that our working methods are fit for today's modern reality. I hope that through a constructive dialogue, we can agree on such a new Inter-institutional Agreement by the end of 2015.

But before the important question of 'how' to regulate, the first question we have to ask is 'why': what are our objectives? What are the problems that EU citizens identify as needing common solutions? The shared ownership of priorities across institutions is essential. The structured dialogue with the European Parliament, as set out in the Framework Agreement, is well-established as a key part of the Commission Work Programme

process. I am committed to exploring new ideas to enhance inter-institutional programming, in line with Article 17 TEU, so that Parliament, Council and Commission can all play their own specific role within a more systematic and shared approach to priority-setting. The strategic agenda set out by the European Council in June is a good starting point but we need to translate this into operational terms. This could be reflected in the modernised interinstitutional agreement on better law making. An immediate priority for me will be to take forward, with the European Parliament and Council, a discussion on the list of pending legislative proposals so that the Commission can decide whether or not they should be pursued.

I believe that the Commission, the European Parliament and national Parliaments share the same interest, namely to serve the citizens of Europe with European solutions to problems that cannot be tackled by Member States individually. National Parliaments deserve particular attention. The existing political dialogue needs to be deepened and I would see it as my personal responsibility, in agreement with President-elect Juncker, to encourage all my Commission colleagues to take up invitations to appear before national Parliaments.

Subsidiarity has to be at the heart of the European democratic process. It is key to our objective of being "big on the big things and small on the small things". But there is more work to be done on finding common ground on how to proceed with the evaluation of subsidiarity.

Subsidiarity is a legal principle, but also a political concept. For legislative proposals at European level, the question is not whether the proposed measure would be beneficial or simply "nice to have", but whether it is necessary in order to achieve something that cannot be done by national, regional or local action. The onus is on the Commission in the first instance to examine and explain in understandable terms exactly why its proposals are needed and how they comply with the principle of subsidiarity. I will pay particular attention to this and will require from my fellow Commissioners that for all proposals there is a political, and not just legal and technical, appreciation of subsidiarity.

The EU has introduced the yellow/orange card mechanism in recognition that this is a key element in the political discussion on a proposal: subsidiarity must be at the heart of our European democratic consensus. So the process of national parliaments issuing reasoned opinions should not be seen as a sanction – but as an invitation to engage in dialogue on the necessity and relevance of proposals.

If the Commission receives a number of reasoned opinions, but the threshold for a yellow card procedure is not met, the Treaties do not oblige the Commission to review the proposal, and the legislative process would normally continue to follow its course. However, I would ensure that all national Parliaments concerned receive individual replies to their reasoned opinions and I will encourage a close dialogue with interested national Parliaments in such files. Of course such opinions should also be taken into account by all institutions during the legislative process.

If the threshold for a yellow or an orange card procedure is met, the Commission is obliged to review its proposal, and it has to choose whether to maintain, amend or withdraw the proposal. The choice has to be made case-by-case, after careful examination of the arguments made and views expressed.

It would be very welcome for the European Parliament and its committees to engage in these debates. This can only help us to build consensus on the understanding of subsidiarity. I would fully support that the members of the Commission, if invited, should appear before the European Parliament or its committees to discuss the Commission's conclusions. This would be a real help in deepening our common understanding of subsidiarity through looking at a specific case. It could for example help us to distinguish between subsidiarity and proportionality, and give an opportunity to look at how these issues were scrutinised in the impact assessment and the explanations and justifications given by the Commission in its proposal.

Once we have a common understanding on the priorities – 'what' Europe should be doing – the next question is 'how' we should be doing this. I want the Commission to have the 'Best' regulatory practice. This means that we need to give highest priority to further strengthening and refining our better regulation tools – impact assessment, stakeholder consultation and evaluation. We need to continue to improve the Commission impact assessment system. The current system is recognised by external independent bodies to be of a high standard, but I want to raise the bar even higher. Only top quality, evidence based impact assessments can lead to proposals that deliver the results we are striving for. I will use the on-going revision of the guidelines that underpin how impact assessments are prepared to drive further improvements in quality. I will do the same with stakeholder consultation policy, to further improve the quality of consultations to deliver more transparent and informed policy making.

Impact assessments must be conducted professionally and impartially. The Commission's Impact Assessment Board carefully scrutinises all impact assessments and since its creation has asked for a resubmission of upwards of 40% of the draft impact assessments since the initial work did not meet the quality standards. This shows the seriousness with which quality control is exercised.

One thing to which I will pay particular attention is that the impact assessments are comprehensive. The Commission is always free to take a decision which differs from the preferred option identified by the impact assessment. But the Commission should never take a decision where the substance is not included and tested in the impact assessment: in any such case, the Commission should not adopt its proposal before the impact assessment has been completed. The introduction of teams of Commissioners with a role for Vice Presidents to coordinate and ensure coherence among different policies will help here, as it will allow for more political discussion – including the identification of possible alternatives - at an early stage in the process.

The strengthening of the impact assessment review capacities of the European Parliament is something I warmly welcome, bringing an essential added element of inter-institutional quality review. More needs to be done by the institutions to assess more systematically the impacts of significant legislative amendments. The Parliament is investing heavily but the Council is not as far advanced. If I am confirmed as Commissioner, I intend to raise this issue in the General Affairs Council.

Quality assurance is equally important in looking at the stock of EU legislation. Not only do we need to design our proposals well but we need to actively manage the *acquis* so that it remains up to date and fit for purpose. That is the aim of the Regulatory Fitness Programme (REFIT) – a systematic evaluation of existing legislation. I will closely monitor progress with the existing REFIT actions and will identify priorities for further steps. My aim is to remove unnecessary burdens and reduce costs to make implementation simpler so that the benefits of EU legislation can be more effectively achieved. The systematic evaluation of existing legislation, in consultation with business and civil society, will mean that the next generation of legislation reflects lessons learned and problems encountered in implementation – including those identified following citizens' complaints and petitions to the European Parliament - and delivers results for business and citizens in the least burdensome way.

As concerns enforcement of our EU law, first, the Commission must design its proposals in ways that take implementation challenges fully into account. This means that the Commission must engage much earlier with the Member States who will be implementing the laws, as well as with business and civil society at large in the consultation and impact assessment process. I would like the Commission to work intensively with Member States to develop implementation plans wherever useful.

Second, the Member States must take seriously their responsibility to transpose and to implement Union law. The Commission can help, explaining the rules and anticipating problems. The Member States should see the Commission as a problem-solver here. This is the purpose of the EU pilot mechanism, through which the Commission and Member States work together to tackle problems and find rapid solutions; 70% of potential legal problems are now resolved this way. Ultimately, however, I wish to be clear that the Commission must be ready to launch infringement proceedings and move more quickly to a referral to the Court if a Member State continues to fail to comply with EU law. One area to which I will pay particular attention, in close cooperation with the Commissioner for Justice, Consumers and Gender Equality and the Commissioner for Migration and Home Affairs, is police and judicial cooperation in criminal matters, which will fall within the usual infringements procedures and oversight by the Court as from this December. I will keep the Parliament and other institutions informed about the Commission's policy on a regular basis and welcome broader discussions on the implementation of EU law. I will also insist that difficulties encountered with application of EU law are systematically analysed and taken into account in the evaluation and review of existing EU legislation.

I intend to examine the option of a European Law of Administrative Procedure. Article 298 TFEU specifies the need for an "open, efficient and independent European administration". This guides the work of all the institutions, agencies and bodies of the EU. The administration today is governed by an extensive framework of rules, principles and practices. Many of these echo general principles followed in many of our Member States' administrations. Improving the visibility of these rules would already be helpful.

But we have to recognise that misgivings continue to be expressed about the way the European administration works. There is certainly scope for refining and improving the administrative rules. New legislation on the basis of Article 298 TFEU could be one way to express our commitment to the highest standards of public service. A

global framework setting broad principles for all the EU public service could help to show citizens and businesses that the administration is not an end in itself, but is there to serve the European interest.

Good administration at national level is equally important to the delivery of EU policies. Modernising public administration was identified as one of the five priorities for the European Semester this year. I will support continued attention to this issue, including in future country specific recommendations. Challenges such as tight budgets and the need to adapt service provision to the digital reality are common across Member States. The EU can play an important role in supporting Member States in these efforts, in line with Article 197 TFEU.

#### **4. Delegated and implementing acts**

**Articles 290 and 291 of the Treaty of the Functioning of the European Union (TFEU) introduced the possibility of delegating legislative powers or conferring implementing powers on the Commission. The Council has shown itself unwilling to delegate legislative powers in the vast majority of cases where the conditions under Article 290 TFEU are met, and seems to favour the conferral of implementing powers, arguably in order to secure the influence of Member State experts. The Court of Justice has recently ruled, in its judgment in Case C-472/12, that the EU legislature has a discretion when it decides between the two Articles and that judicial review is limited to manifest errors of assessment as to whether the EU legislature could reasonably have taken the view, first, that, in order to be implemented, the legal framework which it laid down in the basic act needs only the addition of further detail, without its non-essential elements having to be amended or supplemented and, secondly, that the provisions of the basic act require uniform conditions for implementation.**

**Pursuant to point 15 of the Framework Agreement on relations between the European Parliament and the European Commission, the Commission is to provide full information and documentation on its meetings with national experts within the framework of its work on the preparation and implementation of Union legislation, including soft law and delegated acts. If so requested by Parliament, the Commission may also invite Parliament's experts to attend those meetings.**

**What steps is the Commissioner-designate planning to take in order to ensure that Article 290 TFEU does not become nugatory in the face of the Council's reluctance to delegate legislative powers to the Commission? How does the Commissioner-designate intend to improve the modalities of cooperation with the European Parliament in the field of delegated and implementing acts? How does the Commission plan to make progress on the so-called Omnibus package (alignment) that is currently stalled in the Council, despite the fact that Parliament adopted its first reading position as long ago as February 2014? Will the Commissioner-designate commit himself to setting up a Register for Delegated Acts, access to which would be granted unconditionally to Parliament at all stages of the procedure, and to improving the transmission to Parliament of all the documents pertaining to implementing acts? Does the Commissioner-designate agree that good cooperation in this area also includes full access of Parliament's experts to Commission expert groups preparing delegated acts and to the information available to them?**

I start from the principle that co-decided legislation is the most democratically legitimate. I shall take a firm position on what is genuinely non-essential, what is genuinely needed to ensure uniform application, and what is genuinely technical. Where the Commission proposes delegated powers or implementing powers, I will want to see a clear justification of why it is asking for these, and why it is not possible or less efficient or effective to include the relevant elements directly in the main act.

It is true that the distinction between delegated acts and implementing acts has proved a recurrent problem. It is in everyone's interests to find joint, Treaty-compliant solutions. That means Parliament, Council and Commission coming together again – and the Parliament's own initiative report of February 2014 provides a good starting point for a discussion I am keen to have with you and in the General Affairs Council.

The Commission's job is to include in its proposal what it considers to be the right choice between the two procedures. Bearing in mind the need for better regulation and the importance of democratic oversight, I will ensure that the choice is made following objective criteria in full respect of the treaties. But ultimately, it is for Parliament and Council to decide whether delegated or implementing powers should be conferred on the Commission.

Concerning alignment, it is not acceptable that use of the obsolete "regulatory procedure with scrutiny" is still so common. I want to give renewed energy to secure an agreement, and I intend to propose to the Presidency to

take this point up in the General Affairs Council. The Commission should be open to justified amendments, but the choice of empowerment will have to remain based on objective criteria. A consensus will also be closer if we make progress on delineation and consultation.

As regards delegated acts, I can certainly recognise the wish for better consultation and more transparency. In the preparatory stage, I will encourage fellow Commissioners to undertake public consultations wherever appropriate to gain the input of the full range of stakeholders. I will also consider whether the Commission could systematically publish draft measures at the point at which consultations with expert groups are due to start. This would allow the European Parliament and the Council as well as other stakeholders to express their views before formal adoption. The three institutions could discuss whether a dedicated Register could be part of the solution and depending on the conclusions reached, I would be ready to examine the feasibility of this option and its inclusion in the modernised inter-institutional agreement on better law-making. For implementing acts a clear and comprehensive legal framework is in place with Regulation (EU)182/2011 and transparency is ensured via the Comitology Register. This seems to work well, but of course I would be open to consider any suggestions for improvement within this legal framework.

Part of the answer also lies in more political ownership by Commissioners and better programming of the delegated and implementing acts work-stream, which will also allow us better to anticipate where real political issues may arise. It will also help us to identify where impact assessments are necessary. This is not the case for the bulk of truly technical acts – but it is very much needed where there are changes which will have a real impact on a wide variety of stakeholders and are therefore of legitimate political interest.

I know that a number of concerns were raised by Members of the European Parliament on the implementation of the Framework Agreement concerning participation of Parliament's experts in expert groups meetings. Cooperation on this point is crucial and the Framework Agreement must be our guide. I am aware that issues appear to sometimes arise in relation to the practicalities. This should become less of a problem as practice consolidates, but it is important that involvement is a political act by the Parliament as an institution, with a request from a competent office-holder such as the Chairperson of the competent parliamentary committee. There are some practical steps I think we can quickly introduce to improve things, including giving you better "early warning" about expert groups meetings. If I am confirmed as Commissioner I will be open to look at any suggestions to improve information and transparency for the European Parliament in this regard.

## **Questions from the Committee on Civil Liberties, Justice and Home Affairs**

### **5. Question**

**What will be your 2 priorities in the area of the rule of law and fundamental rights? Which specific method will you apply to make sure these 2 priorities are delivered?**

**Are you ready to participate in a question time with the LIBE Committee upon request in order to review these priorities and discuss relevant topical matters?**

Among the functions with which I would be charged as Vice President, I consider responsibility for fundamental rights as enshrined within the Charter and the rule of law to be of particular importance.

Respect for the rule of law is a prerequisite for the protection of all our fundamental values. It is a precondition for upholding all the rights and obligations deriving from the Treaties and from international law, including in particular the European Convention on Human Rights. It is crucial for establishing mutual trust between Member States and their legal systems. It matters because we want all our citizens to live in just, fair societies which uphold their rights as well as their obligations. But it is also a prerequisite for growth, creating the environment in which businesses are confident and will invest. It is of course also linked to the Commission's role as guardian of the Treaties: only a robust enforcement of EU law will ensure that Europeans can effectively enjoy their rights in practice.

My first priority will be to seek to prevent a systemic threat to the rule of law from emerging in the first place. I strongly believe that prevention is better than cure. Engaging swiftly in a dialogue can itself help to defuse problematic situations. The Commission's Communication of 2014 on the rule of law sets out the framework through which the Commission would launch such a dialogue. I was one of the proponents of this idea in 2013 and I believe it can fill a real gap, complementary to the efforts of other EU institutions and the Council of Europe. I expand more on this priority in my reply to question 6 below.

In the area of fundamental rights, my priority will be to complete the accession of the EU to the European Convention on Human Rights (ECHR). This is an important part of our work to ensure respect for the individual in the EU. Negotiations on the draft accession agreement were concluded in April 2013. If the Court in its opinion on the compatibility of the draft accession agreement with the Treaties paves the way for the conclusion of the accession agreement as negotiated, I am optimistic that we will be able to complete the accession process soon, and I am counting on the continued support of the European Parliament in this.

Deep, frank and genuinely political dialogue with the European Parliament is something I view as essential. I cannot imagine fulfilling my responsibilities as Commissioner without a constant exchange with the Parliament and its committees. I would welcome the opportunity for a regular debate with the Committee on Civil Liberties, Justice and Home Affairs, and I will also ensure, as part of my team coordination responsibilities, that my colleagues Dimitris Avramopoulos and Věra Jourová also make themselves fully available to Parliament. I will also, both personally and within my team, pay attention to the importance of representation at political level in trilogues.

## **6. Question**

**As the first Commissioner explicitly in charge of the rule of law, what is your strategy to ensure it is effectively and equally respected throughout the European Union? How will you make use of the mechanism put forward by your predecessor and follow up the position expressed by the EP in its resolutions on this matter?**

**What is your position as to a European Union internal strategy on fundamental rights as requested by Parliament, in order to ensure the effective application of the Charter throughout its territory?**

Recent experiences have demonstrated that threats to the rule of law in a given Member State can be a matter of serious concern for the EU as a whole. I was one of those who first encouraged the development of a more systematic approach in such circumstances, and welcomed the Rule of Law Framework set out by the Commission earlier this year. This fully respects the competences of the Union, as well as the responsibilities of the Parliament and the Council under Article 7 TEU.

The Commission can play a particular role here, as an impartial, objective and independent arbiter. It has experience in calmly and independently establishing the facts of a case – even in these sensitive areas, as shown by the Cooperation and Verification Mechanisms. Objectivity and fairness are key to the credibility of such exercises, and it is sometimes easier for Member States to accept difficult truths from the Commission than from their peers.

I will pay particular attention to the equal treatment of Member States. I have an open minded approach to all of them and, with the support of my colleague Věra Jourová, want to form my own judgements on the basis of the facts, and taking due account of the diversity of Constitutional and cultural traditions of the 28 Member States.

I am pleased that the Parliament has already voiced its support for the Framework. The more it is grounded in consensus, the more effective it will be. Indeed, I would like to build a common consensus in this area and an agreement that upholding the rule of law is a common responsibility. It is something I would like to include in my dialogue with you. Each of our institutions can play a complementary role to play, within the Union framework. I will also therefore encourage the General Affairs Council to have regular dialogue on the development of the rule of law in Member States.

I strongly believe that we have every interest in working closely with other institutions with expertise and credibility in this area, such as the Council of Europe and its Venice Commission. I will work in close cooperation with Secretary-General Jagland. We should avoid duplication of effort, and if there is a better-placed body to address a particular issue, we should support their work and complement it, including for example through launching infringements procedures when there is a breach of EU law.

But if the Commission identifies a potential problem which is not being addressed through other means or bodies, I would not hesitate to make use of the rule of law Framework, as well as to launch infringement proceedings where appropriate. Clearly, Article 7 TEU should be a last resort. I would hope that we never have a situation which requires its use. But if we do, I would be ready to make the necessary proposals.

The EU Charter of Fundamental Rights is the reflection of the common values and constitutional traditions of our Member States. EU institutions in all their actions and Member States when implementing EU law must respect and promote the Charter. Beyond that, the Charter has represented a giant step forward on the path to making the Union an area of common values.

We need to guarantee that all our actions comply with the Charter. This is the case whether we are acting in the context of legislation or otherwise. There must be systematic fundamental rights checks at different stages of the legislative process. I will look in particular at how to achieve this in respect of Commission proposals or other initiatives.

There are certain policy fields which demand particular attention when it comes to respect for fundamental rights. That is certainly the case as concerns justice and home affairs. The teamwork I will coordinate with Dimitris Avramopoulos and Věra Jourová will help us make a qualitative difference here, integrating respect for fundamental rights fully in the implementation of the strategic guidelines set out by the European Council in June. This will be particularly important in getting the right balance between fundamental freedoms and the need to ensure that Europeans can live in peace and security.

Citizens are increasingly raising concerns about the perceived unintended consequences of one of the core fundamental freedoms of the European Union, the right of EU citizens to move freely and reside and work in other Member States. Our answer cannot be to limit this freedom. But we do need to maintain its credibility and general acceptance, and so we should continue to help Member States to better use the tools they already have to address possible misuse or fraudulent claims.

And because respect for fundamental rights should not stop at borders, it is also of crucial importance that in our dealings with third countries, fundamental rights, including personal data protection, must be fully respected.

I also believe we need to stimulate a debate in political and public opinion to give reality to the Charter, and I will engage with the Agency for Fundamental Rights to see how it can better play its role here.

The Charter applies to Member States only when they are implementing EU law. If I am confirmed as Commissioner I will be firm in enforcing this obligation, including through infringement procedures where needed. Otherwise, it is for Member States to ensure that fundamental rights are respected in accordance with national constitutions and international human rights obligations, notably the European Convention on Human Rights. Subsidiarity also means that we respect the diversity of cultures, religions, national identities and traditions of the peoples of Europe.

## **Questions from the Committee on Constitutional Affairs**

### **7. Institutional challenges - How to bring EU closer to the citizens?**

**In order to fight against the growing Euroscepticism in many Member States can you clarify the elements that appear to be essential (better functioning of the European Citizens' Initiative, measures to improve the transparency of the EU decision making process and of lobbies activities...) to restore the confidence of citizens in the European project and what commitments you are willing to take in these areas? In the same spirit, which development of the institutional architecture of the European Union can you envisage in order to strengthen democracy; focusing in particular on the measures you intend to promote in order to prevent the Intergovernmental method from prevailing over the Community method, taking also into account the concerns expressed by some Member States about the functioning and deeper integration of the EU and encounter the President-elect's announced programme to find a "fair deal for Britain" and other Member States? Do you think that the experience with the "top-candidates" in the campaign for the European elections 2014 constitute an element able to restore confidence and what steps would you support to further improve the European electoral system and to empower the European political parties to better fulfil their mission? How do you intend to address the issues raised on the one hand by the consequences of the possible independence of regions from Member States (information of citizens, definition of precise procedures for these potential new States to join the EU...) and, on the other hand, clarify the implications of a possible withdrawal of Member States from the Union as well as the possibility of a partial or definitive retreat of associated States like Switzerland? Which measures do you envisage to promote cooperation with the national parliaments, enhance the effectiveness of the functioning of the European External Action Service in the overall institutional framework, and give**

**greater effect in practise to the Treaty articles dealing with the violation of fundamental rights in the Member States and accelerate the accession of the EU to the ECHR?**

I am convinced that the Commission has a responsibility not only to act in the interests of EU citizens, but to be seen to do so on a daily basis. Our role in bringing the EU closer to its citizens must be to listen to their ideas, hopes and anxieties, to see how we can help citizens to find common answers to common problems. The Commission must not be seen as stuck inside the "Brussels bubble". It must show that citizens' priorities are Commission priorities. It will take time and effort to build trust – but this is our task.

How will the Commission achieve this? I am not convinced that changing the institutional architecture is the way to reinforce European democracy. I am concerned that a prolonged debate about treaty change would distract us, and create unnecessary tensions between institutions who must work together if the Union is to succeed. Shifting powers between institutions is much less important than getting our culture and our attitude right. The existing Treaties provide a framework that allows for changing priorities and the need to go further on some areas of integration, such as the necessary further development of our economic and monetary union to underpin the reality of our single currency.

Our Community method is inherently adaptive, and we need to focus on applying it in a way that matches modern reality. It is democratic and transparent. It ensures equal representation of all Member States and produces results that more genuinely reflect our common interest. The Lisbon Treaty embedded this approach, and we must ensure that it works in practice. With the exception of CFSP, we must have no inter-governmentalism in areas falling under EU competence - justice and home affairs, for example, is now in essence a "normal" policy area like any other. If necessary, I will argue for the Commission to defend this position by legal means.

We should also remain open to the other options provided by the Lisbon Treaty. We should not rule out being able to make the case for using the "passarelle" clauses allowing a shift to qualified majority voting or the ordinary legislative procedure. And although it will always be a second best, there are circumstances in which enhanced cooperation can be in the common European interest, as was the case for rules on cross-border recognition of divorce.

So for me the real challenge is to change both what we do, by setting the right priorities and focusing on the big things, and to how we do it. Success is only possible if national and European democratic forces and responsible institutions align their goals and their messages. I believe that the European elections did exactly this, and recent surveys show that almost 6 out of 10 EU citizens believe that voting in European elections is the best way of ensuring that their voice is heard by EU decision-makers. The "Spitzenkandidaten" approach created a new and welcome dynamic. The interchange between national and European politicians is also vital. It is encouraging that we are seeing ever more politicians making a smooth transition to the European Parliament from national politics and vice versa. The role of European political parties is crucial for bringing national and European politics closer together, as well as overcoming the risk of a gap between positions taken by politicians nationally and those they take in negotiations here in Brussels.

As the Commission, we need to carry through the logic of this approach. I want – and will encourage my colleagues – to take our case more directly to the people, both in national parliaments and in national public opinion. And we must have a clear message: more jobs, more security, more economic growth. EU citizens will feel closer to the EU and take the project forward if they see its concrete benefits for them and their families, if they identify with its goal and vision and if they are involved in the process. EU citizenship has a key role to play in this respect, giving all citizens rights and opportunities that foster a sense of a genuine European identity.

The new team approach that Jean-Claude Juncker wants to introduce in the Commission will give us a clearer message, more focus, and a different and better way of working together. This also applies to the external relations area which is referred to in the question: I believe this is an excellent example of where we can identify and deliver common objectives through the effective and close coordination between the EEAS and the Commission. I look forward to doing whatever I can to support my future colleague Federica Mogherini in her role as Vice-President of the Commission, tasked by the President-elect to help ensure a more effective external action of the Union.

As the question makes clear, the Commission has a number of tools to help in the task of restoring citizens' trust. We need go further and really apply these tools to full effect. Along with all my colleagues, I am committed to the highest possible professional and ethical standards. The Commission needs to maintain a dialogue with the

world outside – but in the same way that responses to consultations are open to all, we should be no less transparent about whom we meet in person. The Commission and the Parliament have established the Transparency Register. It now covers some 80% of all lobby activities aimed at directly or indirectly influencing EU decision-making. The next step is to make the Registry mandatory for all the institutions – we should not accept that big law firms when engaged in lobbying activities and other key actors are not enrolled. And I will work hard to convince the Council to be involved on an equal footing. I fully support our new commitment to transparency set out in the political guidelines by the President-elect. I commit to making public all the contacts and meetings I hold with professional organisations or self-employed individuals on any matter relating to EU policy making and implementation.

For many other tools and instruments – the European Citizens Initiative, public consultations, impact assessments, evaluations, the subsidiarity mechanism – these must be opportunities to enhance dialogue. The Commission must show that it is genuinely open. If it decides to maintain an established position, it must be able to make a persuasive case.

I would be wary about speculating too much about the implications of scenarios like the independence of regions or withdrawal of a Member State. To date, no Member State has applied for withdrawal and no region has voted in a constitutional referendum to leave a Member State. I believe very fundamentally that the Commission must fully respect the constitutional and democratic processes of Member States as concerns these issues, just as we must respect the right of Member States to determine their own internal organisation. Of course, some choices would have implications under EU law. But this cannot be assessed in abstract – each case would be different, depending on the choices made nationally.

Any European state can apply to join the EU. Some of our neighbours in the EEA and Switzerland have chosen a different form of cooperation with us, accepting many of the obligations of EU law, such as free movement of people, and benefitting in turn from access to our single market. We will always try to accommodate reasonable requests. But the EU cannot be dictated to and we will not accept that the fundamentals of our Union are called into question. In any event, the Commission is there to be scrupulously fair to all parties.

I prefer to underline the reality rather than speculate on a hypothetical future. This reality is that the Union has enjoyed a spectacular enlargement. It has shown how a stronger and larger EU has given Europeans both a bulwark and a springboard in the age of globalisation. We have a bedrock of values and a system which has stood firm in testing times. And we see over and over again Europe's power of attraction – for example in Ukraine, where we stand side-by-side with the Ukrainian people to ensure that their wish for a closer association with the EU is respected.

The UK has been one of the Member States – alongside the one I know best – which has been most vocal on the need for a strong and united European response on Ukraine. Here, and across a wide range of other issues such as climate change, development, the economy, the single market, we see why it is in the interest of the UK to be in the EU and shaping the EU. And it is my firm view that it is in the EU's own interest for the UK to be in the EU. It is of course for the British people to assess the balance and make up their own minds. But I want to do everything I can to keep the UK in, under terms that are considered fair both to the people of the UK and to the rest of the EU. I believe there is scope to find pragmatic solutions to some of the concerns raised.

## **8. Institutional implications of the Euro crisis**

**During the last years the Euro has gone through a severe crisis and thanks to emergency measures, back room deals and great efforts by the European citizens the Euro has survived, but there has been damage (economic, social and in terms of trust and confidence) along the way. Several issues have been raised during this period and, amongst them, the more relevant are related to the accountability of the Eurozone; the integration of the Treaty on Stability, Coordination and Governance into the EU legal framework within five years; the institutional consequences of a further integration of the economic policies of the Eurozone members; the opportunity of a Commissioner chairing Eurogroup meetings and, last but not least, the external representation of the Eurozone. Taking each of these points into consideration, what are your views on the future institutional evolution of the Eurozone?**

The crisis has made us acutely aware of our extraordinary interdependence, particularly between the Member States that share the same currency. This is a huge opportunity but also a huge responsibility. The EU, and the euro area in particular, must respond with more coordination, more convergence, more social dialogue and a better external representation. It will be a priority for the Commission to deepen the reform of the Economic and

Monetary Union to preserve the stability of our single currency and to give us a real springboard for growth, and the current Treaties and a modernised approach to the Community method provide us with the necessary tools to deliver that.

The euro is the common currency of our Union. It is the general rule, not the exception, although not all Member States will move necessarily at the same speed, and the Treaties respect that some have decided they will not adopt the single currency. Whatever their situation, all Member States remain equal.

Deepening the euro area must be done in a way that is consistent with upholding rights of all and the integrity of our single market. I am convinced that this is possible. The EU has, for example, created a single rule book for its financial sector that is upheld by the European Supervisory Authorities. At the same time, the EU has introduced a Single Supervisory Mechanism with the ECB as a single supervisor for the banks in the euro area and those Member States who wish to join the mechanism. This included adaptations to the EBA's governance in order to safeguard the interests of non-euro area Member States, and a sound board structure for the ECB that, inter alia, ensures the scrutiny powers of the European Parliament.

The further deepening of economic and monetary union should build firmly on the EU institutions and the Treaty framework. Not only do they ensure the efficiency, fairness and legitimacy but also the openness of the process. They are also a guarantee against fragmentation.

This also includes the integration of intergovernmental instruments that were created during the crisis into the EU Treaty framework. First steps have been taken already with the "two-pack" legislation, but the full integration of the Treaty on Stability, Coordination and Governance in the legal framework of the EU is something I intend to work towards with the Member States.

I would like to stress that the ECB's independence should be fully respected. This is an essential principle of the Treaties and crucial for the financial stability of the euro area.

Finally, the proliferation of new institutions and actors should be avoided. There is no need for parallel and separate institutions for the euro area. Donald Tusk's personal appointment as President of the euro area summit is something I personally welcome. The Community method has to remain our guiding principle for economic governance as for the rest of our Union. It offers clarity, it ensures fairness, and it guarantees a democratic bedrock through the full involvement of the European Parliament.

The external representation of the euro area is something that merits being addressed more closely. Articles 17 TEU and 138 TFEU would allow this. The euro area needs to be represented in a way that is aligned with its economic weight, in particular in fora such as the IMF. If I am confirmed as Commissioner I will be keen to see the Commission launch a discussion about how to achieve this with our Member States, many of whom have traditionally been reluctant.