

Directorate-General for Internal Policies of the Union
Directorate for Citizens' Rights and Constitutional Affairs
Secretariat of Civil Liberties, Justice and Home Affairs
Secretariat of the Committee on Constitutional Affairs

D(2019) 35654

D 313243 08.10.2019

Antonio TAJANI
Chair
Conference of Committee Chairs
PHS 08B043
Brussels

Dear Mr Tajani,

The Committee on Civil Liberties, Justice and Home Affairs (LIBE) and the Committee on Constitutional Affairs (AFCO), in accordance with Rule 125 of the Rules of Procedure of the European Parliament, held a public hearing on Monday 7 October 2019 with Věra Jourová, Vice-President-designate, who, subject to the positive outcome of the nomination procedure, will be responsible for Values and Transparency.

On 27 September 2019, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Constitutional Affairs, pursuant to Rule 125 of the Rules of Procedure and Article 2 of Annex VII thereto, received the letter by the JURI Committee regarding the scrutiny of the declaration of financial interests of Ms Jourová.

Prior to the hearing, Parliament had sent the Vice-President-designate a list of written questions. Our committees noted that Ms Jourová answered those questions and dealt with the priorities outlined satisfactorily.

After welcoming Ms Jourová to the hearing, both co-Chairs have made statements opening the meeting. Mr. López Aguilar, LIBE Chair, outlined the key issues of Ms Jourová's portfolio falling under the competence of the LIBE committee, including upholding the rule of law, the EU's accession to the European Convention on Human Rights or the enforcement of the Charter of Fundamental Rights. Mr Antonio Tajani, AFCO Chair, wanted to pay tribute to Daphne Caruana Galizia and other journalists like Jan Kuciak, who were killed while pursuing their work.

Ms Jourová opened the hearing by making a statement in which she referred to the following:

- The role of the European Parliament as a trusted ally in her quest to make Europe more democratic and transparent; more resilient against new threats, including digital ones; and more capable of defending values including rule of law and media freedom,
- The special relationship between the Commission and the European Parliament, strong inter-institutional cooperation and her readiness to engage with the Parliament at all stages of the policy-making process and the political dialogue,
- Her key objectives of upholding the EU's values, fundamental rights and the rule of law,
- The rule of law as the basis for European solidarity and mutual trust and the need to build a rule of law culture, while privileging dialogue but addressing problems where they exist, acting with determination and using all available tools,
- Further strengthening the toolbox to deliver on the rule of law, notably with the annual rule of law review cycle,
- The threats exposed by digitalisation, including external intervention and spread of disinformation, which contribute to the polarisation of societies; the need to consolidate the EU's response to these threats while respecting freedom of speech, inter alia using the European Democracy Action Plan,
- Addressing disinformation and manipulation through a comprehensive approach and in close dialogue with the European Parliament,
- Increased focus on media freedom and pluralism, including follow-up on ideas such as the Report of the High-Level Group on Media Freedom and Pluralism,
- Her commitment to defend fundamental rights for all citizens and including them in the design of the Commission's policy making in areas such as Artificial Intelligence (AI), digital transformation and equality policies,
- Review of the Strategy for the effective implementation of the Charter of Fundamental Rights by the EU,
- Her commitment to the EU's accession to the European Convention of Human Rights,
- The reinforcement of European democracy, addressing the way EU leaders are appointed and selected, by improving the lead candidate system and by introducing transnational lists,
- Her commitment as Chair of the Commissioners Group on a New Push for European Democracy to ensure that the Commission makes a strong contribution to the work on the Conference on the Future of Europe on those issues and acts as an honest broker between the Institutions,
- The design of the European Democracy Action Plan, as a vehicle for a new push to make our democracy more resilient, by putting in place a smart regulatory framework as well as coherent and interconnected structures,

- Working on solutions to bring more transparency on paid political advertising and more clarity on financing European political parties,
- Working towards a common transparency register and an independent ethics body common to all EU institutions, as set out in the Political Guidelines of the President-elect,
- Her commitment to ensure strong inter-institutional cooperation, engaging with the Parliament and LIBE and AFCO Committees at all stages of the policy-making process and the political dialogue in a spirit of loyalty, trust and transparency.

The introductory statement of Ms Jourová was followed by a first round of 7 questions from representatives of each political group and a second round of 18 questions by Members, including also a representative from the non-attached Members.

In her replies, Ms Jourová made specific commitments regarding her future action as Vice-President, in addition to those made in her opening statement:

- Reinforcing the dialogue and the special relationship between the European Parliament and the Commission; viewing the Parliament, and AFCO and LIBE in particular, as strong allies; welcoming the opportunity for a regular debate with the LIBE committee, seeing merits in having it at least twice a year;
- Brokering discussions between the European Parliament and the Council on improving the lead candidate system and on the issue of transnational lists, by building upon the past experience; looking at different initiatives and comparing different options, through a discussion first at expert level and then at political level leading to the presentation of the first proposals by mid-2020;
- Engaging with the Parliament and the Council to ensure improved transparency at all stages of the legislative procedure, especially as regards trilogues; looking at the legal framework of the discharge of the Council and whether there are obstacles to the disclosure of the relevant information;
- Recognizing comitology as being part of the decision making procedures for which transparency and democratic accountability should be improved;
- Relaunching the negotiations on a Joint Transparency Register mandatory for the institutions and which ensures a fair balance of interests, by discussing three issues: the register of lobbyists, access to documents and how to guarantee that there is full transparency on every stage of the legislative process;
- Engaging in an interinstitutional dialogue on the way forward as regards the Independent Ethics Body which should be composed of trustworthy external people, building on existing regulations and codes of conduct to determine the scope and looking at several options regarding the model, including the option of an advisory body;
- Strongly supporting the Parliament regarding the right of initiative in accordance with the commitment made by the President-elect;

- Ensuring that the EU accedes to the European Convention on Human Rights;
- Ensuring a more proactive role as regards the European Citizens' Initiative, and enhancing its effectiveness, including by speeding up the electronic communication system and engaging with citizens in explaining the requirements;
- Ensuring the protection of whistle-blowers on the basis of the directive adopted on 7 October 2019 by the Council and proposing a co-financing mechanism between the EU and the Member States to help whistle-blowers;
- Promoting the Charter of Fundamental Rights, including the review of the EU's Strategy for the effective implementation of the Charter of Fundamental to address its implementation and any loopholes that might exist, on both substance and enforcement as well as ensuring the Commission includes fundamental rights in the design of its actions and proposals;
- Continuing to develop tools to deliver on the rule of law, giving it the priority it deserves and being ready to act, if needed; committing to remaining independent, making sure that prompt and proportionate action is taken when the rule of law is in danger, while admitting that showing awareness of the different circumstances and traditions of Member States does not mean diverting from the essential features behind an effective rule of law; facilitating the negotiations on the conditionality instrument, while paying attention not to punish the beneficiaries;
- Recognizing that, beyond Article 7 TEU; the Commission should also make full use of its infringement powers where there is a breach of EU law;
- On Article 7 TEU, recognizing that the institutions should work together to intensify the collective nature of decision-making, including the power of the European Parliament to initiate it; admitting that the Parliament should be invited to the hearings in the Council in the context of the current Article 7 TEU procedure for Hungary, which was initiated by the EP;
- Bringing a new dynamic into the debates on the comprehensive rule of law mechanism and treating its implementation with a systematic and transparent approach as a key priority for the first year of the new Commission; suggesting that the Commission's analysis of Member States' constitutional balance, independence of judiciary, corruption and media pluralism, forms the basis of debates in the European Parliament, which could then feed back into the review cycle through dedicated follow-up, stressing the key role to be played by the EP;
- Integrating corruption into the Rule of Law annual review, on top of what is currently covered by the European Semester and the Justice scoreboard;
- While acknowledging the limited competence of the EU to ban the selling of passports, committing to do more to monitor the genuine links with the Member States that have to be proven, a better due diligence control and in this regard to create an working group to look into the possible steps forward;
- Strengthening the dialogue with the churches and other non-confessional organisations;

- Committing to a holistic approach and coherent standards to counter disinformation and online hate messages, without compromising fundamental rights; promoting quality of journalism, looking at the market situation of quality independent media and the role of online platforms;
- Working on the functioning of algorithms with a view to assessing whether and how they can breach fundamental rights;
- Monitoring the implementation of the Audiovisual Media Services Directive and drawing lessons on whether more is needed to support a healthy environment for media pluralism in the EU;
- Prioritising funding to independent projects which monitor risks to media pluralism across Europe, map violations to media freedom and support journalists whose safety is under threat; also using her political and legal tools to follow-up on ideas such as the Report of the High-Level Group on Media Freedom and Pluralism;
- Expecting independent and thorough investigations in the assassinations of investigative journalists Daphne Caruana Galizia and Jan Kuciak and willing to follow closely investigations until proceedings can be brought to a satisfactory conclusion;
- Recognizing that the issue of Strategic Lawsuits Against Public Participation (SLAPP) is of direct relevance to her portfolio and deserves deeper analysis; looking further into mapping all possible situations of abuse to which journalists can be submitted, to look into legislative solutions and consider establishing a system of legal aid for journalists in situation of abuse; considering creating a help line for journalists under threat; EC could look into specific financial support and for example can support more cross border solidarity and cooperation between journalists; in her first year of mandate she will put efforts into properly designing of the Creative Europe Programme intended to support independent journalism as well as the Rights and Values Programme;
- Carefully assessing whether platforms have fulfilled the obligations they accepted under the Code of Practice on Disinformation; update the Action Plan on Disinformation if needed; working, together with Executive Vice-President-designate Vestager on a Digital Services Act, defining the responsibility of platforms vis-à-vis content; investing in more resilient digital society, while fully respecting fundamental rights online;
- Continuing work on protection of minorities and fundamental rights protection, including by ensuring proper implementation of the Framework Decision on Racism and Xenophobia and the Race Equality Directive, using infringement proceedings when necessary;
- Continuing to be the contact person for NGOs, which experience threats or difficulties, stressing that they can access funding from the European Social Fund and the proposed Rights and Values Program;
- Engaging, as Commissioner responsible for the application Article 17 TFEU, to fight all kinds of anti-Semitism;
- On values and the interconnection between the different monitoring processes, stressing that while the word or category is somehow abstract, she would follow 3 strands of work: a) annual review of rule of law under the new mechanism b) a new push for democracy, fighting

disinformation and protecting media pluralism and c) updating the EU strategy on fundamental rights.

Before the end of the hearing, the Vice-President-designate made a brief closing statement in which she reaffirmed her commitment to uphold the EU values, the Rule of Law and democracy, and to equip the EU with the necessary tools ahead of the 2024 elections, in her capacity as Coordinator for these policy areas and in full cooperation with the Parliament.

On the basis of the responses of the Members present at the hearing, as well as the comments made by our committees' coordinators, who met in camera after the hearing under our chairmanship, we hereby give the following assessment:

The coordinators of both committees consider that Ms Jourová enjoys the personal qualifications needed to properly perform the duties of Vice-President for Values and Transparency.

Ms Jourová has shown an unquestionable European commitment and has fully demonstrated her ability to communicate and to take initiatives.

The Vice-President-designate demonstrated a very good understanding of the area covered by her portfolio and has provided satisfactory answers to the broad range of questions.

The coordinators welcome the commitments made by Ms Jourová in her written replies, opening statement and in her replies to Members, in particular with a view to cooperating with Parliament, and coming regularly to meet with our committees for the issues under her portfolio, and positively assess her aptitude as regards the specific policy areas for which she has been designated.

Our committees welcome the commitment of the von der Leyen Commission to support a right of initiative for the European Parliament. We expect all Commissioners to honour that commitment fully.

As regards the proposed structure of the Commission, Ms Jourová's written replies, to be seen together with those provided by the Commissioner-designate for Justice, the Vice President-designate for Democracy and Demography and by the Commissioner-designate for Equality, explain that she will "chair the Commissioners' Group on a New Push for European Democracy", and "coordinate the Commission's work on the rule of law, working closely with the Commissioner for Justice". The relation envisaged therefore seems to be a hierarchical one. Moreover, she will "collaborate with the Vice-President for Democracy and Demography on specific issues for the Conference on the Future of Europe" and, for other areas, ensure "close working relations" with other Commissioners. Our Committees consider that this envisaged structure risks complicating scrutiny of the future Commission and calls upon the Vice-Presidents-designate and Commissioners-designate to ensure transparency towards Parliament as to who assumes responsibility for certain decisions and who would be the main interlocutor for specific legislative files and topics.

The general outcome of this hearing is that the Vice-President-designate gave a convincing impression of her aptitude to be a member of the College of Commissioners and to carry out the specific tasks assigned to her.

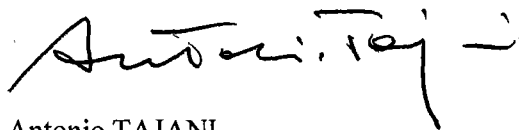
In accordance with Rule 125 of the Rules of Procedure and Article 4 of Annex VII thereto, the AFCO and LIBE coordinators unanimously decided to approve that the Vice-President-designate Věra Jourová is qualified both to be a member of the College of Commissioners and to carry out the specific tasks assigned.

During the evaluation meeting, Members expressed the following:

- The need for greater commitment regarding the reinforcement of the lead candidate system and the introduction of transnational lists; the difficulty in achieving results in those issues, on a revision of the electoral law, as well as on the Transparency Register and the Independent Ethics Body, which will require close dialogue with and the support of the Parliament if the Vice-President is to succeed;
- The Independent Ethics Body should be fully independent and adequately resourced; its mission of overseeing conflicts of interest should be clear and it should have, in consequence, appropriate competences, notably issuing binding recommendations;
- The negotiation on the transparency register with a view to reaching an agreement between the three institutions should aim at introducing a mandatory register;
- We regret that Ms Jourová's responses on questions regarding the protection of the right to freedom of peaceful assembly and to freedom of association, as well as on actions to address attacks against NGOs were quite vague. As Commissioner, we will expect her to do her utmost to protect these rights and to respond rapidly to any attacks on NGOs.
- Our committees welcome Ms Jourová's commitment to defend democracy, the rule of law and fundamental rights, but would appreciate a more integrated approach to cover all Article 2 TEU values within the same assessment cycle within the rule of law mechanism, with the involvement of independent experts, as foreseen in the Parliament's proposal for the Democracy, Rule of Law and Fundamental Rights (DRF) Pact.
- Our committees welcome the commitment of Ms Jourová to work on the protection of media freedom and journalists and would appreciate a more ambitious approach to the issue of Strategic Lawsuits Against Public Participation (SLAPP), such as complete ban of SLAPP laws and practices.

The opinion of the committee associated with the hearing, the Committee on Legal Affairs (JURI), is attached to this letter (Annex 1).

Yours sincerely,



Antonio TAJANI

Chair of the Committee
on Constitutional Affairs



Juan Fernando LOPEZ AGUILAR

Chair of the Committee on Civil
Liberties, Justice and Home Affairs

Annex 1

Please find below the JURI assessment of the hearing of Vice-President-designate Jourová in view of the LIBE/AFCO Coordinators evaluation meeting today, 7 October 2019. This represents the opinion of a consensus among all Coordinators of the JURI Committee.

The opinion reads as follows:

The Committee on Legal Affairs expresses the following opinion:

The Committee on Legal Affairs welcomes the Vice-President-designate's commitment to strengthening the position of EU as a global standard setter in the field of Artificial Intelligence. It also welcomes Ms Jourová's resolve to guarantee the accession of the European Union to the European Convention on Human Rights as required by Article 6 TEU.

The Committee on Legal Affairs considers of the utmost importance Ms Jourová's commitment to setting up an interinstitutional Independent Ethics Body and looks forward to Parliament's early involvement in the conception, design and mandate of that body.

The Committee on Legal Affairs is pleased that the Vice-President-designate considers the proposal on a "Directive on collective redress" one of her major successes. In this context, it encourages her to take all the necessary steps to persuade Council of the need to adopt the directive as soon as possible. The Committee further appreciates Ms Jourová's strong implication for the adoption of the "Directive on whistle-blowers' protection". The Committee expects that she will closely monitor its implementation by Member States to ensure an effective protection of whistle-blowers across Europe.

The Committee on Legal Affairs welcomes Ms Jourová's firm stance in favour of freedom of the press and looks forward to measures to protect journalists effectively, including anti-SLAPP legislation.

The Committee on Legal Affairs, as the committee responsible for better law making, is also concerned with all measures having an impact on the transparency of the legislative procedure. In this connection, the Committee on Legal Affairs welcomes the Vice-President-designate's commitment to engaging with Parliament and Council in launching as soon as possible the Joint Legislative Portal as agreed upon by the three institutions in the 2016 Interinstitutional Agreement on Better Law-making.

The Committee on Legal Affairs also welcomes the Vice-President-designate's invitation to Parliament and Council to swiftly revive negotiations on a joint Transparency Register which should provide precise information about the lobby activities before EU institutions and at the same time safeguard the free exercise of MEPs' mandate.

The Committee on Legal Affairs also approves the Vice-President-designate's commitment to implement a policy of dialogue with Member States in order to prevent infringements of Union Law, while at the same time her determination to make full use, when necessary, of the Commission's infringement powers, including actions before the Court of Justice. It also

appreciates the inclusion of Member States' justice systems and judiciary in an annual rule of law review cycle.

The Committee of Legal Affairs further considers that the Vice-President-designate showed a good understanding of the issues under her prospective portfolio.

The coordinators of the Committee on Legal Affairs concluded that Mr Věra Jourová is qualified for handling the Values and Transparency portfolio in the incoming Commission."
