

Committee on Legal Affairs
The Chair

Committee on Civil Liberties, Justice and Home Affairs
The Chair

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Antonio TAJANI
Chair
Conference of Committee Chairs

Dear Chair,

The Committee on Civil Liberties, Justice and Home Affairs (LIBE) and the Committee on Legal Affairs (JURI), in accordance with Rule 125 of the Rules of Procedure of the European Parliament, held a public hearing on Wednesday 2 October with Didier Reynders Commissioner-designate, who, subject to the positive outcome of the nomination procedure, will be responsible for the Justice portfolio.

On 27 September 2019 the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Legal 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 Mr Didier Reynders.

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

The course of the hearing

Mr Reynders opened the hearing by making a statement in which he referred to the following:

- his respect for the role of the European Parliament and the value of its contribution to the European project,
- his commitment to deepening European integration as a means to address the global issues that we face as well as a way to influence the global order,
- the need to protect the achievements of the European Union, namely peace, security and citizens' well-being and to promote the common values; the need to be determined when it comes to rule of law, democracy and fundamental rights which are essentially interlinked,

- his support for multilateral institutions, sustainable development and social progress,
- his preparedness to work closely with Vice-President-designate for Values and Transparency and Vice-President for an European Green Deal,
- the inextricably linked aspects of his portfolio, namely justice, consumer protection and the respect of the rule of law,
- his willingness to work closely with Vice-President for Values and Transparency to ensure that the rule of law is upheld across the Union, as well as with the Commissioner in charge of Neighbourhood and Enlargement to ensure the consistency of the internal and external rule of law approach,
- the principal role of courts in protecting democracy, freedom of expression, media pluralism and electoral rules,
- the importance of rule of law for the creation of mutual trust and for citizens' trust in the European project,
- his commitment to lead the work on a comprehensive European Rule of law mechanism that will result to an annual report and be backed-up by the Justice Scoreboard and that will cover all Member States in an objective and fair way, building dialogues and sharing of best practices,
- his commitment to fully involve the European Parliament and to coordinate better with national Parliaments,
- his commitment to adapt judicial systems to the rapidly changing world through the reinforcement of judicial cooperation in civil and criminal matters,
- the protection of the European citizenship and the right to live and work in the EU, in the context of the free movement,
- the respect of our diversity and our different judicial traditions without impeding on freedom and security,
- his commitment to integrate new technologies to modernise judicial systems and methods of working together while ensuring the application of the law and the respect of fundamental rights,
- his commitment to work closely with the College for a coordinated approach on the human and ethical implication of Artificial Intelligence, considering the possibilities offered by new technologies and ensuring trust and security,
- his preparedness work for fairness and sustainability in society, for the efficient functioning of the single market, looking closely at both the supply and the demand sides of the business and consumer models,
- reiterated company law's key role in achieving sustainable development,
- his determination to push for swift adoption of the proposal on collective redress,

- the possibility to update the General Product Safety Directive to reduce the number of unsafe products, including clear rules in terms of liability for all providers involved in the online consumer journey,
- commitment to place particular emphasis on effective enforcement of existing pieces of EU law in his portfolio,
- underlined that as regards the accusations made against him, the charges were dropped.

The introductory statement of Mr Reynders 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.

During the course of the hearing, Members asked questions on the following subjects in particular:

- the next steps as regards the enforcement of the “new comprehensive European Rule of Law Mechanism”, the extent to which it will be covering the full scope of Article 2 TEU - democracy, rule of law and fundamental rights and the extent to which it will be based on independent expert monitoring; how he intends to go forward as regards the Article 7(1) TEU procedure; disappointment was expressed that his written replies do not mention Article 7 TEU; how he intends to protect civil society, which seems to be under attack in several countries;
- the inter-institutional cooperation with the Parliament as regards upholding the rule of law and promoting respect of fundamental rights across the EU, as strengthening the rule of law is a joint responsibility of all EU institutions and Member States, and whether the commissioner-designate would commit to developing a single mechanism, a binding inter-institutional agreement, involving all EU institutions to work on all the three interlinked aspects;
- further actions he intends to take to strengthen the rule of law in the EU, and to tackle corruption in Member States, including a possible new European strategy in order to combat corruption and organised crime; what would be the commissioner-designate’s position as regards golden passports and the risks they entail for the fight against corruption, money laundering, security and tax evasion within the EU;
- whether he intends to systematically assess the impact on fundamental rights of trade or migration agreements;
- the steps he will intend to take to promote EU data protection model worldwide and to avoid that the EU level of protection is not reduced by international agreements or negotiations;
- the carrying on of a specific impact assessment of the development of any EU law enforcement rules on citizens’ fundamental rights, including the protection of personal data (eg.: agreements on exchange of information between Europol and several third countries);
- how he will ensure that Artificial Intelligence applications, including systems for law enforcement purposes, fully comply with fundamental rights and the General Data Protection Regulation. Will the EU ensure monitoring and control on this? How can privacy and principle

of non-discrimination be guaranteed in the context of algorithms used for a larger surveillance of citizens;

- which actions will be taken to ensure an effective set up of EPPO in order to be able to fulfil its functions; would the commissioner-designate consider an extension of the EPPO competences and how will the balance with procedural rights be ensured; what steps will he take for other countries to join EPPO;
- which steps will the Commission take for a possible revision of the European Arrest Warrant, that takes into account the proportionality principle and the new challenges linked to the digital age; next steps in view of improving judicial cooperation among European Union authorities, for example the exchange of information between judicial authorities but also as regards law enforcement bodies ad to improve implementation of EU legislation;
- the Commissioner-designate's commitment to take concrete steps to ensure that EU companies and those operating in the EU adhere to globally-recognised human rights, as well as to the protection of the environment and his commitment to improve access to judicial remedies for those who have suffered of corporate malpractice by European companies and companies operating in the EU;
- the commitment to revise the Directive on EU non-financial reporting;
- on the insufficiency of voluntary commitments by companies and whether steps followed by France will be considered to end impunity of multinational companies;
- the intention of the Commissioner to put forward a proposal based on the EP 2017 July Resolution on minimum standards of civil procedure;
- on the ways to promote trade and investments via effective access to justice systems;
- on the fairness of online platform dispute resolution mechanisms and the privatisation of large parts of our justice systems and whether the EU will put in place a European model of online platform dispute resolution inspired by out-of-court mechanisms;
- on the ways it will be ensured that automatic technologies respect fundamental rights and access to justice in when automatic decision-making in online platforms is taking place;
- the danger of a lack of an EU framework on Artificial Intelligence and the reasons why according to available data 70% of economic benefit will flow towards China and the US;
- the possibility for collective actions to be used not only by consumers, but by all citizens affected by violations committed by companies in the field of environmental law and on the Commissioner's commitment to unblock the collective redress proposal in the Council;
- on the existence of access to justice for victims of climate inaction or violation of environmental law;
- measures to ensure consumers make informed decision to avoid buying counterfeit products and concrete Commission actions against piracy;
- on the state of the proposal on whistle-blowers and his position as a Commissioner;

- on the possibility to introduce a start-ups licence to clear the bureaucratic hurdles and to allow SMEs to work across the borders;
- on the proposition of legislation on civil liability in AI in the first 100 days of the Commission.

In his replies, Mr Reynders made specific commitments regarding his future action as Commissioner:

- to take all actions to make sure that the rule of law is effectively upheld within our Union, including with the swift establishment of the new comprehensive European Rule of Law Mechanism and the adoption of an annual Rule of Law report starting in 2020; this report will serve as a basis for an enhanced inter-institutional cooperation, including with the European Parliament; the new mechanism will be monitoring rule of law developments in all Member States on a non-discriminatory basis and will also look into aspects related to the protection of democracy and of fundamental rights, such as media pluralism and elections, where there is a connection with the application of EU law; the new mechanism should result in recommendations for all member states; he also committed to organise a single debate covering rule of law but also protection of democracy and fundamental rights with the three EU institutions within the framework of a new working group, possibly to be followed up with an inter-institutional agreement; all tools at EU disposal should be used to promote and uphold Rule of Law;
- committed to the respect of fundamental rights in all the actions pertaining to his portfolio and in general of the values included in Article 2 TUE, internally but also outside EU; he mentioned that for him protecting European way of life is about the protection of the values included in Article 2 TUE;
- to have as a priority the rapid adoption by the Council and the European Parliament of the Regulation proposed by the Commission on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States;
- committed to go forward with the Article 7 TUE procedures, existing ones but also possible new ones, on the same basis as the previous commissioner; underlined that in his view the EP should be invited to Council meetings concerning the Article 7 procedure where the procedure was initiated by the Parliament; committed to ensure the financial support to strengthen the capacity of civil society, including through the MFF programmes such as the Rights and Values Programme; in case the MFF Rule of Law instrument is adopted and the conditionality applies he clarified that the financial support to civil society should be continued;
- to work together with the Vice-President-designate for Values and Transparency to monitor the respect by Member States of the EU Charter of Fundamental Rights and continue to report annually on its application;
- to ensure full implementation of the General Data Protection Regulation and the Directive on Data Protection in Criminal Law Enforcement, including by using infringement proceedings against Member States; committed to ensure that law enforcement and respect for fundamental rights go hand in hand;
- committed to work in the first 100 days on a horizontal approach on human and ethical aspects of AI; in this context he underlined that fundamental rights, including the full respect of data

protection and private life, should be considered from the design of any application; he also insisted on the necessity to envisage the adaptations of such rules to SMEs; he committed to think on the necessity for civil liability legislation in the field of AI; strong commitment to ensure that fundamental rights, including protection of privacy and personal data and non-discrimination are applied specifically in AI and law enforcement sectors.

- to lead the negotiations with the United States on a possible EU-US Agreement on electronic evidence, by encouraging international convergence with EU standards for data protection and data flows and not to conclude negotiations before the internal EU system is set;
- to strengthen compliance with fundamental principles of justice systems, such as independence, transparency and efficiency, through the range of instruments at our disposal, such as EU-level judicial training or the Scoreboard on justice systems;
- dedicated to making sure that EPPO will be able to take up its functions by the end of next year, by ensuring, inter alia, enough financial and human resources; more pressure should be put to ensure a correct implementation of the PIF Directive at MS level; look into the possible extension of the competences of the EPPO, and the new resources that would be needed for EPPO to be able to cover efficiently such extension; due regard should be made to ensure the balance with procedural rights also;
- to improve judicial cooperation by a proper implementation of the EU legislation which will be closely monitored by the Commission in accordance with its role;
- conduct an in-depth analysis of the EAW system, ensure its full application by infringement proceedings, and possible adjustments of the system, if necessary; committed to use possible infringement procedures in case of non-compliance; he will also further explore the idea of establishing minimum standards for pre-trial detention in order to strengthen trust;
- ensure a proper implementation of the legislation on protection of victims, in particular as regards victims of terrorism but also as regards other categories of victims; in this context the capacity of victims to have access to justice and to compensation should be extended;
- as regards golden passport schemes he underlined the need to ensure a strict respect of EU rules and highlighted the risk of corruption, money-laundering and electoral manipulation with such schemes. He committed to fight for limits to protect EU citizenship. He gave his view that citizenship should not be an open market. He underlined that further work is needed at EC level, a group of experts is being set up to collect information and data; he committed to protect free movement, particularly in the Brexit context;
- admitted that a start-up licence is a good idea that has to be organised with all MSs and it will serve as a passport across the EU;
- committed to ensuring the real application of the WB directive and that he would consider the possibility to put in place in new elements for a better protection of WB;
- confirmed there is room for closer cooperation between Member States and Eurojust, also for the exchange of best practices and information in the fight against counterfeit products and piracy;

- confirmed the need to look again at revising certain directives from an SME perspective limiting bureaucracy, also looking at the GDPR solution containing simplified mechanisms for SMEs;
- committed to having a first Council position regarding collective redress by November and to working with the College on a possible extension of the instrument to other policy areas, especially in the field of environmental rights protection in view of the 2016 Paris Agreement goals;
- confirmed the possibility for sectoral instruments on AI in the field of transport, financial services and healthcare;
- his readiness to consider a concrete EU mechanism on online platform dispute resolution;
- emphasised the need to build a majority in the EP for a legislative initiative in the context of Article 225 TFEU;
- stated that companies' voluntary commitments are not sufficient to ensure protection of human rights, and that concrete action was needed so that companies have medium and long-term objectives for human rights, local communities and environmental protection;
- confirmed his commitment to the fulfilment of the U.N. sustainable development goals and to work with the EP and the Council for the introduction of new requirements into company law, including mandatory due diligence obligations for companies in their entire supply chain;
- to work closely with the Parliament and in particular with the LIBE and JURI committees in the areas covered by his portfolio; he stressed that the full respect of a loyal inter-institutional cooperation is essential to the delivery of the justice agenda. In this regard he commits to fully apply the Framework Agreement and the Inter-institutional agreement on Better Law Making, notably by always preparing impact assessments, which include an assessment of the compliance with human rights.

Before the end of the hearing, the Commissioner-designate made a brief closing statement in which he reaffirmed the broadness of his portfolio that covers respect of rule of law, justice and consumers protection and his commitment to advancing the EU project as well as his willingness to work together with the EP to address its concerns. He recalled that in order to embark on new legislative initiatives there is a need for a strong EP majority. Finally, he reiterated he would put in place a Rule of Law mechanism and encourage companies and consumers to make sustainable choices and that he would promote collective redress to ensure consumer access to justice. He also emphasised his readiness to meet with EP on a regular basis and to attend EP meetings.

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 Mr Reynders enjoys the personal qualifications needed to properly perform the duties of Commissioner-designate for Justice.

Mr Reynders has shown an unquestionable European commitment and has fully demonstrated his ability to communicate and to take initiatives.

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

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

Our committees welcome the commitment taken by the President-elect of the Commission on behalf of the entire College to act on the Parliament's Article 225 TFEU resolutions, the so-called "right of initiative" for the European Parliament. We expect all Commissioners to honour that commitment fully.

As regards the proposed structure of the Commission, Mr Reynders's written replies, to be seen together with those provided by Vice-President-designate for Values and Transparency, Executive Vice President-designate for a Europe fit for the Digital Age and by the Vice President-designate for protecting a European Way of Life explain that he will "rely on the support and guidance of" the respective Vice-President-designates for the fields covered also by their portfolios. The relation therefore seems to be envisaged to be a hierarchical one. Moreover for other areas "a work in partnership" with other commissioners would also be necessary. Committees consider that this envisaged structure risks to complicate scrutiny of the future Commission and calls upon the Commissioners-designate to ensure transparency towards Parliament as to who assumed responsibility for certain decisions and who would be the main interlocutor for specific legislative files and topics.

Opinion of the committee associated with the hearing

As far as the Committee on Internal Market and Consumer Protection is concerned:

Commissioner-designate Reynders is qualified to be a member of the College of Commissioners and to carry out the assigned portfolio. The IMCO Committee welcomes the engagement of Commissioner-designate Reynders with respect to consumer protection. Mr Reynders recognised that consumer protection is an important part of his portfolio (the other two being rule of law and civil and criminal justice), and the IMCO Committee especially welcomes his undertaking to ensure fairness and safety in the internal market and to stimulate further consumers' confidence and trust in the internal market.

In particular, the IMCO Committee takes note of the statement of Mr Reynders that consumer policy can significantly contribute to sustainability and a sustainable economy, while looking both at the supply and the demand side, and welcomes his undertaking to work on new ways to empower consumers to make informed choices. He especially committed to work with the supply side and to examine ways to direct consumers to sustainable solutions; and to think about a legislative initiative on sustainable consumption touching upon the aspects of durability, programmed obsolescence, capacity to repair, with emphasis on relevant consumer information, on liability, and on tackling greenwashing.

It also notes Mr Reynder's intention to work on product safety and in particular on the update of the general product safety Directive and to ensure clear rules on liability in the online sphere. In particular, the Commissioner-designate shared his concerns about new technologies, including algorithms, and the risks and need for consumer information, and committed to be involved in the 100 days of the new Commission in the coordinated approach on artificial intelligence.

Mr Reynders committed to proceed with a holistic evaluation of consumer protection rules and examine if further harmonisation is required, while allowing for cases where Member States can reinforce the level of protection including for vulnerable consumers.

The IMCO Committee also agrees with the importance that Mr Reynders placed on vigilance for dual quality and for ensuring fair conditions for all consumers, wherever they live, in this respect, as well as with the emphasis he placed on effective enforcement in the area of consumer protection, both inside the Union and with international partners. The IMCO Committee welcomes the firm commitment of Mr Reynders to push for the swift adoption of the Directive on representative actions for the collective interests of consumers, helping in particular vulnerable consumers, against dishonest and aggressive selling practices. Also it notes his commitment to work on the area of the out of court dispute resolution and on how to better inform consumers about their rights.

Mr Reynders had declared in his written replies his intention to keep regular contact and direct flow of information with the Chair of the IMCO Committee. Once the Commission is confirmed, Mr Reynders is invited to report back directly to the IMCO Committee on all matters under its responsibility that are linked to consumers' interests and protection.

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

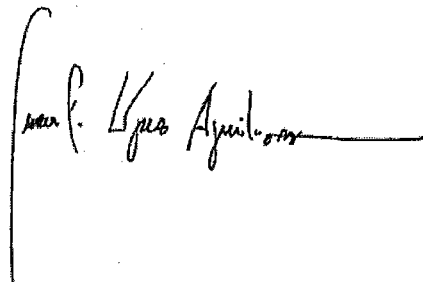
The LIBE/JURI coordinators representing a majority of two-thirds of the committee's membership approved that the Commissioner-designate Didier Reynders, is qualified both to be a member of the College of Commissioners and to carry out the specific tasks assigned.

Yours sincerely,



Lucy NETHSINGA

Chair of the Committee
on Legal Affairs



Juan Fernando LÓPEZ AGUILAR

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

Committee on the Internal Market and Consumer Protection
The Chairwoman

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Mr. Juan Fernando Lopez Aguilar
LIBE Chair
ASP 14G305

Mr. Lucy Nethsingha
JURI Chair
WIB 2M003

**Subject: Opinion to the joint LIBE/JURI evaluation of the hearing of
Commissioner-designate Didier Reynders**

Dear Chairs,

Please find in annex the IMCO Opinion of the hearing of Commissioner-designate Reynders in view of the JURI/LIBE Coordinators evaluation meeting today, 2 October 2019. This represents the assessment of a consensus among all Coordinators of the IMCO Committee.

Yours sincerely,



Petra de Sutter, MD, PhD
Chairwoman

Annex

“Commissioner-designate Reynders is qualified to be a member of the College of Commissioners and to carry out the assigned portfolio. The IMCO Committee welcomes the engagement of Commissioner-designate Reynders with respect to consumer protection. Mr Reynders recognised that consumer protection is an important part of his portfolio (the other two being rule of law and civil and criminal justice), and the IMCO Committee especially welcomes his undertaking to ensure fairness and safety in the internal market and to stimulate further consumers’ confidence and trust in the internal market.

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Mr Reynders had declared in his written replies his intention to keep regular contact and direct flow of information with the Chair of the IMCO Committee. Once the Commission is confirmed, Mr Reynders is invited to report back directly to the IMCO Committee on all matters under its responsibility that are linked to consumers’ interests and protection.”