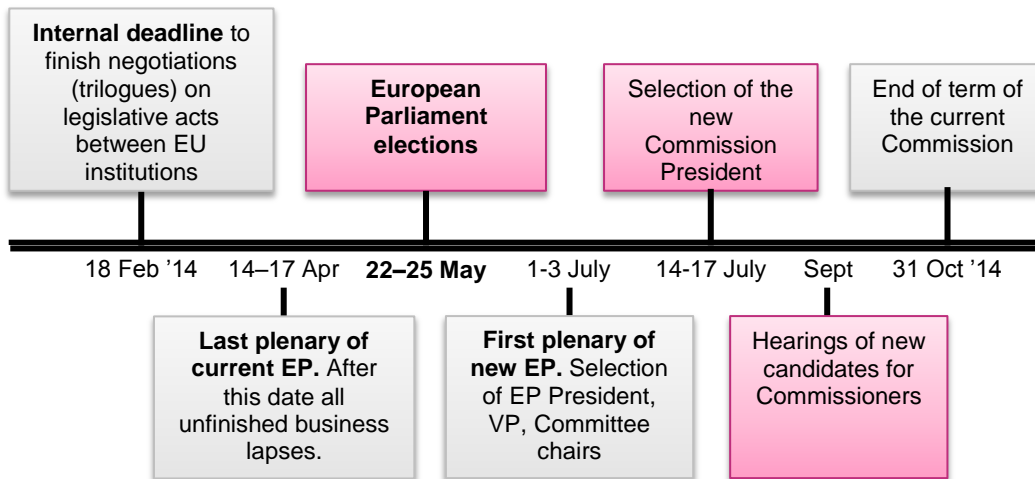


EU transition around European elections in 2014.

EU elections in 2014

2014 is a year that will define EU policy for the next five years. A new European Parliament will be elected in May. The European Commission's term will end in October. The first ever President of the European Council will see his mandate ending in November. The change of leadership positions in the EU will impact law making and define EU priorities for the years to come.

This article considers what will happen throughout the year of transition, focusing on the impact of the European elections on legislative work in 2014 and on the procedural aspects of appointing the decision-makers for the next 5 years.



How and when will the European Parliament be elected?

The Members of the European Parliament (MEPs) are chosen in direct elections within Member States. The date of the elections has been set for **22-25 May 2014**. The results of the elections will be announced on the evening of 25 May 2014.

The MEPs are elected in their Member States according to nationally approved rules. Each member state decides on the division of constituencies, election period, open or closed list system, as well as the minimum age for

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voting and for standing for election. However, common EU rules lay down that the MEPs must be elected for a term of five years by direct universal suffrage, in a free and confidential ballot (*Article 14.3 Treaty on European Union (TEU)* and *Article 223.1 of the Treaty on the Functioning of the EU (TFEU)*).

Table 1: The day(s) of European Parliament elections in each Member State

Date	Member State
22 May 2014	NL, UK
23 May 2014	CZ (1 st day), IE
24 May 2014	CY, CZ (2 nd day), FR (overseas regions), IT (1 st day), LV, MT, SK
25 May 2014	AT, BE, BG, DE, DK, EE, EL, ES, FI, FR, IT (2 nd day), LT, LU, PL, PT, RO, SE, SI

When and how will the new European Parliament's President and Committees' Chairpersons be appointed?

After the elections, the European Parliament will elect its President and Vice-Presidents by an absolute majority at the plenary session of 1–3 July 2014. Within the following weeks, the Chairpersons and Vice-Chairs of Committees will be selected from among the Committee Members.

The European Parliament President, as well as the Vice-Presidents and Quaestors, are elected from among the MEPs for a term of 2.5 years, according to rules 14-18 of the Rules of Procedure of the European Parliament. The European Parliament President of the together with chairs of political groups form the Conference of Presidents (*rule 24*).

European Parliamentary Committees

Individual MEPs are allocated to Parliamentary Committees on a proposal by the Conference of Presidents, (*rules 183–184*) based on the political preferences of each MEP and his/her political group. At the first meeting in July, each Committee will elect the committee chair and 4 vice-chairs for the term of 2.5 years.

What is different about the current European Parliament elections?

The 2014 elections are the first ones after the entry into force of the Lisbon Treaty, which brought important changes for the role of the European Parliament.

European Parliament elects Commission President

For the first time in 2014 the European Parliament will elect the European Commission President with an absolute majority (*Article 17.7 TEU*), instead of merely approving her/him, as the previous Treaty stated. The candidate for Commission President will be put forward by the European Council (Heads of state or government of Member States), who are required by the Treaty to take into account the results of the European Parliament elections. In practice, the European political parties will announce their candidate for the

Commission President well in advance of the elections. The voters will therefore be able not only to endorse a given MEP candidate or a party, but also, indirectly, express support for the candidate for Commission President.

Number of MEPs at 750 + 1

Another change introduced by the Lisbon Treaty is limiting the number of MEPs to 750 + the President, with a minimum of six and a maximum of 96 seats per member state (*Article 14.2 TEU*). The President manages the sittings and debates. Should the person wish to take part in a debate, he must vacate the President's chair (*rule 20*). The formula 750 + 1 assumes that the President does not exercise his right to vote, preserving the 750-member ceiling of the number of MEPs.

Eurosceptic Parliament?

Some speculate that the new European Parliament will be more eurosceptic and extreme in terms of political views, given the rise of radical parties in a number of Member States. A high turnover of MEPs in the elections, with up to 75% new members, is also predicted. These tendencies could make finding sufficient majorities in the plenary and adopting new laws more difficult. Whether this would turn out to be true remains to be seen, especially as voter turnout for the European elections has historically been low, even below 25% in some new Member States.

The newly elected European Parliament, together with the Council, will shape the European legislation over the next five years. Following the entry into force of the Lisbon Treaty, the EP now has an equal footing as a co-legislator (in the ordinary legislative procedure) in almost all the policy areas, including the Single Market and the newly added areas of agriculture, energy security, justice and home affairs and more. With the Lisbon Treaty in force, the citizens who vote in the elections, and whom the European Parliament represents, have a greater impact on the EU policy making.

How do European Parliament elections affect legislative work?

The current legislature of the European Parliament will meet for the last plenary session between **14–17 April 2014**. However, the availability of current MEPs to meet with stakeholders will decrease earlier, already from February 2014 onwards, due to national campaigning.

In terms of the legislative work, all unfinished business after the last plenary session lapses according to *rule 214* of the European Parliament Rules of Procedure, until a decision is made to resume the work on specific files at the beginning of the next parliamentary term in July-September 2014. In practice, we can expect that the European Parliament will only commence its "business as usual" in September/October 2014.

What happens to unfinished files of the current legislature (7th legislature)?

At the end of the last plenary session before the elections (14–17 April 2014), all unfinished business (no matter the stage in the procedure) is deemed to have lapsed, according to *rule 214* of the European Parliament Rules of Procedure.

Decision to resume unfinished business

At the beginning of the new parliamentary term, the Conference of Presidents makes a decision on whether to resume work on unfinished legislative files (*rule 214*). The decision is made based on reasoned requests from Parliamentary Committees and other institutions. Non-legislative petitions and communications do not require such decision. At this stage, legislative proposals for which Committees would like to prepare a modified position at first reading (*rule 59*) are also selected. Additionally, the European Parliament may ask the Commission to withdraw legislative proposals (*rule 58.3*). Typically this applies to files which are considered obsolete (for example due to codification) or stagnated in the legislative procedure.

Traditionally, the Conference of Presidents decides to resume all the unfinished legislative work. Exceptions can be made, for instance if a renewed consultation by the Council or a new proposal by the Commission is expected.

Work in Parliamentary Committees

Most files for which the Committee has adopted its report will be placed on the plenary agenda for a vote on a report (but not necessarily the legislative resolution) before the elections. The version of the report approved by the plenary will then serve as a basis for informal trilogues between the Parliament, the Council and the European Commission in the new Parliamentary term.

If the work in Parliamentary Committee was not finalised and if the Conference of Presidents decides that work may resume, all work done until then remains valid. The rapporteurs (MEPs leading the legislative work on a given file in the Parliament) keep their position for the next term (unless not re-elected) and any texts produced within the Committee during term of office of the previous European Parliament remain valid. If the rapporteur is not re-elected, the Committee appoints a replacement, who normally comes from the same political group.

How can I know if a legislative file is likely to be adopted before the European elections?

A file will most probably be adopted if the political discussions on the topic between the three EU Institutions have ended by mid-February 2014, that is, if the political agreement concluding a trilogue is reached by that date. The date corresponds to eight weeks before the last plenary session of the current European Parliament. Typically, the vote on a given file is scheduled eight weeks after the political agreement between institutions, in order to give enough time for jurist linguists to prepare the files in all the EU languages for

the plenary vote. However, several MEPs have hinted that the eight weeks' deadline may be treated flexibly for files considered as a political priority.

If political agreement on a given file is not reached by mid-February 2014, the file will most probably not be adopted in the current legislature. Accelerated procedures (*rule 138*) can be applied though, for files considered as priority and those already approved in the European Parliament Committee.

Which files will most likely be adopted before the European elections?

Based on the [State of the European Union](#) address of President Barroso on 11 September 2013 and the [Commission 2014 Work Programme](#) some proposals have been identified as priorities, to be adopted before the European Parliament elections are held.

Key priorities for adoption include:

- Banking Union and financial regulation proposals:
 - Single Resolution Mechanism,
 - Bank Recovery and Resolution,
 - Markets in Financial Instruments Directive II,
 - Payment Accounts Directive,
 - Payments package,
 - Amendments to the EC Insolvency Regulation.
- Legislation on CO2 emissions for cars and vans,
- Posting of Workers Directive,
- Connected Continent proposals,
- Tobacco Product Directive,
- Back-loading of the EU's Emissions Trading System,
- Fourth Railway Package,
- Public Procurement reform Package.

Which files will most likely not be adopted before the European elections?

The European Parliament's Conference of Presidents decided as a general rule that until May 2014 MEPs will not start parliamentary work on the proposals put forward by the European Commission after the summer recess (22 July 2013 – 31 August 2013). The reason for this is that there were about 200 estimated open legislative files on the table. At that point the files will need to be considered by the next legislature, starting in autumn of 2014.

How will the European Commission work in 2014?

The current European Commission's term of office officially runs until 31 October 2014. The new Commission should therefore start its term on 1 November 2014. In the past, the process of appointment of the Commission took longer, delaying the Commission's taking up office by months. For example, the current Barroso Commission was approved to take up office only on 9 February 2010.

The Commission will continue to propose legislation and strategies until early 2014. Afterwards, it will be in caretaker mode and focus on developing

strategies for the incoming Commission. However, the administrative and policy staff of Directorates-General will work on implementation of law and technical issues throughout 2014 as usual.

How and when will the new European Commission President be appointed?

Officially, the candidate for the Commission President is nominated by the European Council, taking into account the results of the elections and elected by the European Parliament.

The European Council will gather for an informal meeting on 27 May 2014, two days after the announcement of the results of the European Parliament elections. The Heads of state or government of Member States will request the European Council President, Herman Van Rompuy, to liaise with the political parties in the European Parliament and report back to the European Council at its 26–27 June meeting. The European Council will choose its preferred candidate with Qualified Majority Voting (*Article 17.7 TFEU*) and propose the candidate to the European Parliament. The successful candidate will then be elected by a majority of MEPs (376 of 75), at the plenary session on 14–17 July 2014. If the MEPs reject the candidate, the Council has one month to put forward another candidate.

For these elections, for the first time the EP political parties will name their candidates for the Commission President before the elections, enabling voters to indirectly support their preferred candidate for Commission President.

How and when will the new College of Commissioners be appointed?

Once elected, the Commission President will choose the Commissioners (and their policy area) from candidates put forward by Member States. The draft list of Commissioners will be submitted for approval (by qualified majority) first to the Council, then to the European Parliament. If the European Parliament approves the list, the new Commission will be officially appointed by the Council.

In September 2014, the European Parliament Committees will organise hearings of the Commissioners designate. The European Parliament plenary will vote on the entire Commission College in October 2014, if the hearings run smoothly.

The European Parliament has a right to veto the appointment of the College of Commissioners as a whole, but not to veto an individual candidate. However, in the past the European Parliament used the threat of its veto right to force the withdrawal of particular Commission candidates following poor hearings. Examples include the Italian candidate for Justice Commissioner, Rocco Buttiglione in 2004 and the Bulgarian candidate for Humanitarian Aid, Rumiana Jeleva in 2010.

How will the Council and the European Council work in 2014?

The Council will continue its legislative work during the transition period, taking into consideration the decreased availability of the European Parliament to engage in inter-institutional negotiations.

Trilogues

The last trilogues between the European Parliament, European Commission and the Council led by the Greek Presidency are likely to take place at the end of March 2014. On 1 July 2014, Italy will take over the Presidency of the Council from Greece. The trilogues will resume once the newly elected European Parliament is ready to continue the legislative work, in September/October 2014.

Transition period

Between March and September 2014, when the European Parliament will not be available to negotiate in trilogues, the Council will concentrate on the files where agreement between Member States has not yet been found. Such files include legislative proposals published by the Commission after the summer recess of 2013 (after 31 August 2013), the files on which discussions between the Member States have stagnated, such as the General Data Protection Regulation, and the files for which the European Parliament does not act as a co-legislator, for instance enhanced co-operation in the area of Financial Transaction Tax.

European Council

The European Council (Heads of state or government of the Member States) does not exercise legislative functions. Its work will therefore not be impacted by the European elections, apart from the nomination of the candidate for the Commission President.

The term of the current European Council President, Herman Van Rompuy, will end on 30 November 2014. The European Council will elect its new President for 2.5 years by qualified majority (*Article 15.5 TEU*). The new President should enter office on 1 December 2014.

Key dates for the European elections in 2014

- **Early 2014:** expected start of informal campaigning of current MEPs and Commissioners.
- **18 February 2014: initial informal deadline for trilogues** on the ongoing files. The deadline has been extended to early March. If political agreement between the European Parliament, Council and the Commission is reached in trilogues by then, the file will still be voted upon in the European Parliament before the elections and will be adopted in 2014.
- **March 2014: official start of campaigning period** for political parties. The availability of the politicians to meet with stakeholders will decrease.
- **14–17 April 2014: last plenary** of the current European Parliament formation, which is the last opportunity to EP to vote on dossiers.
- **22–25 May 2014: European Parliament elections.** No results should be divulged before the end of the election process in all EU countries.
- **26–27 June:** European Council nominates the Commission President.
- **1 July 2014:** Italy takes over the Presidency of the Council.
- **1–3 July 2014: first plenary of the new European Parliament.** Appointment of European Parliament President, Vice-Presidents. Chairpersons of parliamentary Committees would also be appointed in July.
- **End of July 2014: preferred date for the election of the new Commission's President.** The candidates of the European Parliament political parties will be known before the elections in May. The President of the Commission should be elected at the plenary session on **14–17 July**.
- **September 2014:** hearings of Commission candidates at the European Parliament.
- **October 2014:** European Parliament vote on the appointment of the new College of Commissioners.
- **31 October 2014:** The term of office of the current Barroso Commission runs out.
- **1 November 2014: new Commission takes office** for 2014–19, unless the European Parliament does not approve the new College of Commissioners. In such case replacements need to be found, which would prolong the process.

EP plenary sessions in 2014

13–15 January (Strasbourg)

3–6 February (Strasbourg)

24–27 February (Strasbourg)

10–13 March (Strasbourg)

2–3 April (Brussels)

14–17 April (Strasbourg)

EP elections in May

1–3 July (Strasbourg)

14–17 July (Strasbourg)

Summer recess in August

Dates of plenary sittings from September 2014 onwards will be confirmed by the new Conference of Presidents.

- **30 November 2014:** End of mandate of the European Council President, Herman Van Rompuy. The new European Council President should enter office on **1 December 2014**.

If you have questions, please contact Bernd Meyring, Bernard van de Walle de Ghelcke, Etienne Dessy or Stefaan Loosveld.

Contacts

For further information please contact:

Bernd Meyring

Partner, Competition/Antitrust

+32 2 505 03 32

bernd.meyring@linklaters.com

Bernard van de Walle de Ghelcke

Partner, Competition

+32 2 505 03 02

bernard.van.de_walle@linklaters.com

Etienne Dessy

Counsel, Regulatory

+32 2 501 90 69

etienne.dessy@linklaters.com

Stefaan Loosveld

Partner, Litigation

+32 2 501 95 21

stefaan.loosveld@linklaters.com

Updated: March 2014 by Joanna Dreger.

Authors: Joanna Dreger and Alia Cardyn (EU Law Project Team).

This publication is intended merely to highlight issues and not to be comprehensive, nor to provide legal advice. Should you have any questions on issues reported here or on other areas of law, please contact one of your regular contacts at Linklaters.

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Rue Brederode 13

B - 1000 Brussels

Telephone (+32) 2 501 94 11

Facsimile (+32) 2 501 94 94

Linklaters.com