

Letter to EU Commission President regarding Commissioner Várhelyi's espionage allegations

Date: 20 October 2025

To:

- EU Commission President, Ursula von der Leyen

Cc:

- Secretary General of the European Commission, Ilze Juhansone
- European Ombudsman, Teresa Anjinho

From: The Good Lobby Profs

Re: Serious Allegations Concerning Commissioner Olivér Várhelyi's Independence and Fitness for Office

Dear EU Commission President,

In our capacity as members of The Good Lobby Profs – a network of over **60 university professors** coming from over 30 countries dedicated to the defence of the rule of law in Europe – we are writing to you to bring to your urgent attention the latest allegations of serious misconduct concerning EU Commissioner Olivér Várhelyi.

As further detailed in [the investigation](#) conducted by the Hungarian journalistic collective *Direkt36*, in cooperation with several newspapers, including the German *Der Spiegel*, the Austrian *Der Standard*, and the Belgian *De Tijd*, EU Commissioner Olivér Várhelyi is said to have supervised spying operations aimed at EU institutions while he was working at the Hungarian Permanent Representation to the EU. While Várhelyi denied these allegations, the former head of the Hungarian Intelligence has [confirmed](#) the existence of the espionage network and stated publicly that it operated under the direction of Hungary's national leadership, explicitly naming the Prime Minister's Office as its coordinating authority. These revelations significantly strengthen the credibility of earlier claims and raise grave concerns about potential breaches of EU security and confidentiality obligations by Hungarian officials posted to Brussels, including Commissioner Várhelyi.

We are therefore writing to you to inquire how you – as EU Commission President – intend to respond to these concerning revelations.

We remind you that Article 17(7) TEU entrusts you with the primary responsibility for assessing - and continuously monitoring - the suitability of Commissioners. This confidence must extend not merely to technical competence but to the

fundamental independence required by Article 17(3) TEU as the same provision requires you to maintain the necessary confidence in each member of her College.

We respectfully request clarification on the following matters:

1. **Assessment of Allegations:** How do you intend to assess the credibility and substance of these allegations in light of the relevant Treaty obligations, and Code of Conduct applicable to the members of the Commission?
2. **Investigative Measures:** What steps, if any, will you, the College of Commissioners, the European Commission Independent Ethical Committee (CIEC) and Secretary General take to investigate whether Commissioner Várhelyi's previous activities are compatible with his current duties and Treaty obligations?
3. **Institutional Safeguards:** What measures will be implemented to ensure that Commissioner Várhelyi's conduct of his portfolio does not present conflicts of interest or compromise the independence of the Commission?
4. **Parliamentary Accountability:** Do you believe these allegations warrant a fresh assessment of Commissioner Várhelyi's fitness for office, potentially including a new hearing or other accountability mechanisms available under the EU Commission and Parliament's prerogatives?
5. **Preventive Framework:** What institutional mechanisms exist or should be strengthened to prevent similar situations in which Commissioners' previous governmental roles may compromise their independence?

To guide your own assessment, we share a legal analysis (herewith attached) that may orient your own review of alleged facts and remedies available under EU law. It concludes that if substantiated, these allegations indicate that:

- EU Commissioner Varhelyi may have never satisfied the eligibility requirements to become a member of the EU Commission under Article 247 TEU;
- His previous involvement with intelligence operatives and as an end-user of the intelligence they gathered from within the EU may disqualify Várhelyi ab initio, due to the lack of independence required by Article 17(3) TEU both before and during the mandate;
- The beyond-doubt standard of independence required by this Treaty provision indicates that even the *appearance* of compromise may be disqualifying, not merely proven dependence on national authorities.

Given the seriousness of these allegations and their direct bearing on fundamental Treaty requirements in a broader context where Commissioner Várhelyi has repeatedly engaged in behaviour raising the most serious concerns in respect of his duties and obligations as European Commissioner, we believe it is essential that the European Commission President promptly exercise her oversight responsibilities. Those entail to:

1. withdraw confidence in Mr Varhelyi as individual Member of the Commission as foreseen by Article 17(6) TEU;

2. failing to do so, the Commission President declines such a request must publicly explain that decision to Parliament in line with the Framework Agreement on relations between the European Parliament and the Commission;
3. should Várhelyi refuse to resign, the Commission must refer the matter to the Court of Justice under Articles 245 and 247 TFEU, as:
 - a. Article 247 authorizes the Court to order compulsory retirement if it finds that a Commissioner "no longer fulfils the conditions required for the performance of his duties."
 - b. Article 245 permits the Court to deprive a Commissioner of his pension or other benefits if he is "guilty of serious misconduct."

Together, these provisions establish a judicial mechanism to remove Commissioners who should not remain in office – whether due to loss of qualification or misconduct¹.

In addition, we draw your attention to the fact that under Article 246 TFEU, replacement of a departing Commissioner is not automatic, and that you may propose the Council not to fill the vacancy. While Article 7 aims at the suspension of voting rights (within the Council), the non-replacement would lead to the loss of direct representation in the heart of the EU Commission's decision-making processes.

Urgency of Response

The independence and integrity of the European Commission are fundamental to the proper functioning of the European Union and to public trust in its institutions. These allegations, if confirmed, would represent a serious breach of the principles upon which the Commission's authority and legitimacy rest.

We believe that a prompt, transparent, and thorough parliamentary response is essential not only to address the specific concerns regarding Commissioner Várhelyi but also to reaffirm the European Commission's commitment to upholding the highest standards of institutional integrity.

We would be grateful for your response at your earliest convenience and remain available to discuss these matters further should you require additional information or clarification.

Yours sincerely,

On behalf of The Good Lobby Profs

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¹ The sole precedent remains Commissioner Edith Cresson, who was found by the Court of Justice to have breached her obligations as Commissioner but was not sanctioned with removal or loss of benefits ([Case C-432/04](#)) under Articles 245 and 247 TFEU

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[Annex I Legal Analysis published in Verfassungsblog](#)

**Espionage, Eligibility, and the Integrity of the European Commission
The Várhelyi Affair as a Test of Institutional Self-Defence**

The revelation that Hungarian intelligence officers allegedly operated within EU institutional premises under the watch of the current EU Commissioner Oliver Várhelyi, who at the time served as Hungary's Permanent Representative to the European Union, poses an unprecedented challenge to the Union's constitutional framework.

According to investigations published in January 2025 by the Hungarian journalistic collective Direkt36, in collaboration with the German Der Spiegel, the Austrian Der Standard, and the Belgian De Tijd, approximately six officers from Hungary's Information Office (IH) – the country's foreign intelligence agency – worked under diplomatic cover at Várhelyi's mission between 2015 and 2019. These operatives allegedly recruited Hungarian nationals within EU institutions to extract confidential information serving Budapest's interests, including advance warnings of European Anti-Fraud Office (OLAF) investigations. Unlike previous cases of Commissioner misconduct – such as those involving John Dalli or Phil Hogan – where improprieties occurred during their terms of office, the allegations against Várhelyi concern conduct predating his appointment and potentially vitiating his eligibility from the outset. This distinction transforms the inquiry from one of disciplinary action for breach of duty to one of fundamental qualification: whether someone who allegedly facilitated intelligence gathering against EU institutions while serving as a Member State representative, and who currently serves his second term as Commissioner for Health and Animal Welfare, could ever meet the Treaty's requirement that Commissioners' "independence is beyond doubt" (Article 17(3) TEU).

This analysis examines the legal and institutional mechanisms available to address this question, including the EU Commission President’s power to force the removal of a fellow EU Commissioner and the compulsory retirement procedure before the CJEU. While these allegations have not been proven in court and Várhelyi has not been afforded the opportunity to formally respond to the claims in a formal proceeding, they nonetheless raise fundamental questions about constitutional eligibility that merit close examination.

Legal and institutional concerns

While it remains unclear whether and to what extent Várhelyi was aware of espionage activities – and which of his diplomats were involved –, these allegations cast doubt on Várhelyi’s suitability for the job, that is, on his ability to satisfy the conditions required not only to assume but also to retain his post.

Eligibility requirements for EU Commissioners

The Treaty on European Union establishes three distinct criteria that every Commissioner must meet at the time of appointment and maintain throughout their term in office: general competence, European commitment, and independence.

General competence refers to the professional qualifications, expertise, and capability necessary to discharge the responsibilities of the portfolio assigned. This criterion ensures that Commissioners possess the technical knowledge and administrative experience required for effective governance at the Union level.

European commitment, introduced by the Lisbon Treaty, constitutes a qualitative shift from earlier Treaties that required only competence and independence. This criterion demands more than passive acceptance of Union membership; it requires active dedication to the European project and the Union’s foundational objectives. While the Treaty provides no precise definition, the criterion necessarily implies loyalty to the Union’s institutional framework and its decision-making processes, rather than primary allegiance to national interests.

Independence stands as perhaps the most fundamental requirement, reflecting the Commission’s unique constitutional role as guardian of the general interest of the Union. Article 17(1) TEU mandates that the Commission “shall promote the general interest of the Union”, distinguishing it from the Council, which represents Member State interests, and the Parliament, which represents citizens directly. To fulfill this function, Article 17(3) TEU specifies that Commissioners’ independence must be “beyond doubt”, a formulation that establishes an exceptionally high threshold. This standard suggests that even the appearance of compromise may be disqualifying, not merely proven dependence on national authorities. The independence requirement encompasses several dimensions. Commissioners must act “in the general interest of the Union” and refrain from “any action incompatible with their duties” (Article 17(3) TEU). They may neither seek nor take instructions from any government or other institution, and Member States are obligated to respect this independence and refrain from seeking to influence Commissioners in the performance of their tasks. The Commission’s Code of Conduct further reinforces this

obligation by imposing a duty of loyalty to the Union that extends beyond the formal Treaty provisions.

Has Várhelyi ever qualified as an eligible candidate for Commissioner?

When examined against these constitutional requirements, the allegations concerning Commissioner Várhelyi raise profound questions about whether he ever satisfied the independence criterion necessary to assume office. According to the investigations, approximately six intelligence officers operated under diplomatic cover at Várhelyi's mission during his tenure as Permanent Representative. If substantiated, this arrangement placed Várhelyi in a position fundamentally incompatible with the independence required by Article 17(3) TEU. As the superior officer to these intelligence operatives and as an end-user of the intelligence they gathered from within EU institutions, Várhelyi would have been structurally embedded in a system designed to advance Hungarian national interests at the expense of – or at least in tension with – the Union's general interest. The intelligence gathered allegedly included advance warning of OLAF investigations and other confidential information about EU decision-making processes – information that would have enabled Budapest to pre-empt or undermine Union actions. A Commissioner who previously served as superior to operatives conducting such activities, and who benefited from the intelligence they provided, cannot credibly claim independence “beyond doubt” from that same government. The perception alone – that he may continue to prioritize Hungarian interests or maintain informal channels to Budapest – suffices to fail the Treaty's demanding standard.

The allegations also raise doubts about the European commitment criterion. Intelligence operations against EU institutions do not merely reflect national interest advocacy within legitimate political channels, but they also stand in stark contrast with the Union's principle of loyal cooperation. Facilitating such operations suggests an instrumental view of EU institutions as adversarial entities to be monitored and manipulated, rather than as components of a common project deserving of loyalty and bona fide participation. This orientation appears antithetical to the “European commitment” that the Lisbon Treaty now requires of all Commissioners.

Although the intelligence network allegedly disbanded in 2017, Várhelyi's nomination as Commissioner proceeded in 2019 without these activities being publicly disclosed or apparently examined. He has since been reappointed for a second term. This timeline raises critical questions about the vetting process and about whether information was deliberately withheld. More fundamentally, it underscores that any defect of independence, if present, has persisted throughout his tenure. The Treaty's requirements apply continuously; a Commissioner who never met the independence threshold at appointment cannot retroactively satisfy it through the passage of time, particularly when serving in the same institutional framework he allegedly helped to infiltrate.

Remedies

The Treaty and Framework Agreement on relations between the European Parliament and the Commission provide three potential mechanisms to address a Commissioner who fails to

meet the requisite independence standards: voluntary resignation prompted by withdrawal of confidence, compulsory retirement through the Court of Justice, and non-replacement of a departing Commissioner. Each mechanism operates through different institutional channels and carries distinct legal and political implications.

Voluntary Resignation Through Withdrawal of Confidence

The primary responsibility for assessing – and continuously monitoring – the suitability of Commissioners lies with the Commission President under Article 17(7) TEU, which requires that she maintains the necessary confidence in each member of her College. This confidence must extend not merely to technical competence but to the fundamental independence required by Article 17(3) TEU.

This presidential power operates in conjunction with European Parliament oversight. Although Parliament cannot directly compel individual Commissioners to resign, Point II.5 of the Framework Agreement on relations between the European Parliament and the Commission provides that Parliament may request “the President of the Commission to withdraw confidence in an individual Member of the Commission” as foreseen by Article 17(6) TEU. If the Commission President declines such a request, she must explain that decision to Parliament. This mechanism represents one of the Commission President’s most significant powers, whose exercise is subject to virtually no legal limitation according to the literature.

Notably, this power has never been formally exercised, yet its mere invocation has led to the voluntary resignations of both John Dalli in 2012 and Phil Hogan in 2020. In Dalli’s case, Commission President José Manuel Barroso withdrew confidence following allegations of improper conduct; when Dalli challenged this action before the General Court (T-562/12), the Court dismissed his claim, and the Court of Justice confirmed the ruling on appeal (C-394/15 P). In Hogan’s case, von der Leyen herself withdrew confidence following reports of breaches of COVID-19 protocols during his mandate as Commissioner.

Várhelyi’s case is arguably more serious than either precedent. Both Dalli and Hogan faced allegations of misconduct during their service as Commissioners – conduct that violated their duties while in office but did not necessarily implicate their initial eligibility. Várhelyi, by contrast, faces allegations suggesting he may never have satisfied the independence requirement that qualified him to serve in the first place. The distinction is key: where Dalli and Hogan allegedly breached their obligations as Commissioners, Várhelyi may never have possessed the constitutional prerequisite to assume the office. If someone who allegedly facilitated intelligence operations against EU institutions could nevertheless be deemed independent “beyond doubt,” the Treaty’s eligibility criteria would be rendered effectively meaningless.

Von der Leyen’s decision is therefore not merely about addressing misconduct but about upholding the constitutional threshold for Commission membership. Her precedent with Hogan demonstrates her willingness to use this power; the question is whether she recognizes that Várhelyi’s case demands its exercise even more compellingly.

Compulsory retirement before the Court of Justice

Should Várhelyi refuse to resign, the Commission or the Council (acting by simple majority) may refer the matter to the Court of Justice under Articles 245 and 247 TFEU. Article 247 authorizes the Court to order compulsory retirement if it finds that a Commissioner “no longer fulfils the conditions required for the performance of his duties.” Article 245 permits the Court to deprive a Commissioner of his pension or other benefits if he is “guilty of serious misconduct.” Together, these provisions establish a judicial mechanism to remove Commissioners who should not remain in office – whether due to loss of qualification or misconduct. The sole precedent remains Commissioner Edith Cresson, who was found by the Court of Justice to have breached her obligations as Commissioner but was not sanctioned with removal or loss of benefits (Case C-432/04) under Articles 245 and 247 TFEU.

The Várhelyi case differs fundamentally from Cresson in one key aspect. Cresson’s eligibility to serve as Commissioner was never in doubt, whereas Várhelyi’s case raises the question whether he ever “fulfil[led] the conditions required for the performance of his duties” under Article 247 TFEU. If the allegations are substantiated, his independence was compromised before his appointment, meaning the qualification defect existed *ab initio*. This distinction calls for a teleological interpretation of Article 247 TFEU. The provision’s language – “no longer fulfils the conditions required” – contemplates situations where qualification has been lost. But can one “no longer” fulfill conditions one never fulfilled in the first place? A plausible interpretation suggests that if a Commissioner never satisfied the independence requirement, he cannot be said to have legitimately held office, and the Court’s power under Article 247 extends to recognizing this constitutional defect and ordering retirement. The alternative – permitting a Commissioner to serve throughout his term despite never meeting eligibility criteria – would render the Treaty’s demanding standards for independence meaningless. Whether the Commission or Council initiates proceedings carries strategic implications. Either path requires institutional courage to confront a sitting Commissioner with allegations that implicate not merely his conduct but his fundamental eligibility to serve, and potentially that of his replacement.

Non-replacement

Under Article 246 TFEU, replacement of a departing Commissioner is not automatic. The Council may unanimously decide not to fill a vacancy, following a proposal from the Commission President. While this provision is typically understood as a pragmatic mechanism to avoid unnecessary appointments near the end of a Commission’s term, it acquires particular significance in the Várhelyi context. Leaving Várhelyi’s post unfilled would serve multiple institutional purposes beyond merely addressing his individual case. First, it would avoid rewarding Hungary with a replacement Commissioner while fundamental questions about Budapest’s treatment of EU institutions remain unresolved. If a Member State facilitates intelligence operations against the Union, permitting it to immediately nominate a successor would suggest that such conduct carries no meaningful institutional consequences. The vacancy itself becomes a form of accountability – a tangible cost imposed on Member States that treat the Union as hostile territory rather than a common

project. Second, non-replacement would establish a precedent for how the Union responds to systematic breaches of the principle of loyal cooperation. Unlike individual Commissioner misconduct, which might be addressed through replacement with a more suitable candidate from the same Member State, allegations of state-sponsored intelligence operations implicate the appointing government itself. In such circumstances, replacement would simply transfer the Commission seat from one Hungarian nominee to another, doing nothing to address the underlying problem of a Member State's adversarial orientation toward Union institutions. Third, this approach would reveal an underutilized mechanism in the EU's arsenal for holding Member States accountable. Much attention has focused on Article 7 TEU procedures for suspending voting rights – a remedy so severe that it has proven politically impossible to fully deploy. Non-replacement of a Commissioner, by contrast, operates through the Commission President's own powers. While Article 7 aims at the suspension of voting rights (within the Council), the non-replacement would lead to the loss of direct representation in the heart of the EU Commission's decision-making processes.

The unanimity requirement under Article 246(3) TFEU presents a practical challenge but may prove surmountable in Várhelyi's unique circumstances. Council members would not be voting to punish Hungary for policy disagreements or political orientation, but rather to uphold the constitutional principle that Commissioners must satisfy independence requirements "beyond doubt." Member States have a collective interest in maintaining the integrity of the Commission as an institution; permitting a Commissioner to serve despite alleged intelligence activities against EU institutions would undermine confidence in the College as a whole. Moreover, non-replacement need not be permanent. The Council could revisit the question in future mandates or if circumstances change – such as demonstrable steps by Hungary to restore respect for EU institutional integrity.

What's next

The ball is now in Ursula von der Leyen's court and in the hands of the European Parliament. They must determine whether sufficient confidence exists between Várhelyi, the government that appointed him – that is, the Viktor Orbán-led government –, the Council of the EU that approved his nomination, the Commission President, and the Parliament itself that voted its confidence in this college of commissioners.

The Várhelyi affair poses a question the Union has never had to answer so starkly: What happens when a member state treats the institutions it helped create not as a common project, but as hostile territory to be infiltrated and undermined?

Ultimately, for the Union, the Várhelyi affair is a test of institutional self-defence.

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