



★ ★ ★
★ Senior
★ European
Experts

The European Commission

The European Commission

Introduction

An independent Commission whose focus is the interests of the whole of the EU, all its individual Member States and their citizens has been a crucial part of the EU's structure and culture since its origins in the European Coal & Steel Community in the 1950s. Many have regarded it as the EC/EU's key institution and the motor of European integration. But today the European Commission is probably the most misunderstood of all the EU institutions and the one with the most negative image (and not just in Britain). There is a perception that it is a bloated, unaccountable bureaucracy pursuing an agenda no one else has endorsed.

Yet, while the Commission's 27 members are influential and important, the limitations on its power are considerable. The Commission proposes most laws in the EU but it does not decide them; it is the EU Council of Ministers and the Parliament that must accept or reject the Commission's proposals. The Lisbon Treaty transferred part of the Commission's former agenda-setting role to the European Council; it is the latter which now "defines the general political directions and priorities" of the EU and it has a full-time president to help it do that. The executive powers of the Commission are in the field of competition law, in the implementation of policies agreed by the Council and in its duty to uphold EU law as the guardian of the treaties. But only in competition decisions does the Commission have the power to act alone and even then its decisions can be overturned or modified by the Court of Justice. And the Commission can at any time face a motion of censure in the European Parliament, which if passed means the Commission has to resign *en bloc*.

This paper gives a brief history of the Commission, explains the method of appointment of commissioners and the role and powers of the Commission. This is one of a series of Senior Experts' papers on the institutions of the EU; in addition there is a short paper summarising all of them.

History

The High Authority, as it was called, of the European Coal & Steel Community was the precursor of the modern Commission. Separate Commissions were created with the founding of the European Economic Community and the European Atomic Energy Community. The three bodies were amalgamated into one in the 1960s.

The unified Commission was made up of two members from each of the large countries and one from each of the smaller ones; this system remained in force until the Treaty of Amsterdam in 1997 which restricted membership to one Commissioner per Member State and provided for there to be fewer Commissioners than the number of Member States once membership of the EU reached 27. The Treaty of Lisbon then proposed that the number be restricted to two-thirds the number of Member States from 2014 unless the European

Council decided otherwise. However, this proposal was not popular in many Member States and after the defeat of the Treaty of Lisbon in the first Irish referendum in 2008, in which the loss of the Irish Commissioner had been a significant issue, it was decided not to reduce the number of Commissioners below one per Member State.

The Treaty of Lisbon merged the posts of external relations Commissioner and that of the EU's High Representative for Foreign & Security Policy; the holder of the new post is both a Vice President of the Commission and High Representative and in the latter capacity chairs the Foreign Affairs Council, replacing the six-monthly rotating presidency.

The Commission's influence grew as the EU became of greater importance in the life of its Member States and as an international actor. Since Roy Jenkins' presidency (1977-81) the President of the Commission has attended meetings of the European Council and the annual meetings of the G8 group of leading industrialised nations and now the G20 meetings as well.

Rapid progress towards a single market in the 1980s gave the Commission greater influence in the implementation of legislation. When the Council has taken decisions on primary legislation, it has often delegated secondary legislation to the Commission which then acts after consultation with the experts of the Member States. As a result there is a large volume of this minor legislation but a substantial amount expires or is repealed each year.

The Commission's lowest point came in 1999-2000 when allegations of corruption dogged the Santer Commission and resulted in its resignation. Substantial reforms followed to prevent abuses occurring again and the introduction of hearings by the Parliament for new Commissioners has meant a greater level of scrutiny before appointments are made.

Since the advent of the unified Commission in 1967, of the 10 presidents of the Commission, only two of those (Jacques Delors and José Manuel Barroso) have served for more than one term of office (originally four years; five since 1995). The most influential of the 10 was undoubtedly Delors whose personal drive and experience in French politics contributed to his dynamic and often controversial term in office. The Delors Commission established the Single Market begun by his predecessor and laid down the foundations of the European single currency.

The Commissioners

The process of appointment of the Commission now begins with the European Council agreeing on a President of the Commission, taking into account the result of the European Parliament elections and asking the Parliament to approve their choice. The Parliament elects the President by a simple majority; if it rejects the European Council's first choice then the European Council has a month to come up with another candidate.

The President participates in a selection process for the other commissioners in discussion with Member States (who retain the decisive influence over the appointment of their commissioner); the European Parliament then can only vote on the college of commissioners as a whole. Normally the Commissioners have either held Ministerial posts in their own country or have been members of their national parliaments or the European Parliament. Commissioners are required to take an oath whose wording includes: "I

solemnly undertake ... to be completely independent in carrying out my responsibilities, in the general interest of the Union; in the performance of my tasks, neither to seek nor to take instructions from any Government or from any other institution, body, office or entity". In addition, Commissioners are not allowed to hold any other posts. But it is expected that commissioners and their cabinets will maintain close contact with the government of their own country and permanent representatives are in regular touch with "their" commissioner and his or her cabinet.

The Parliament was given the power to "approve" the Commission in the Maastricht Treaty; it introduced hearings at which the nominated Commissioners are questioned. This greater power enabled the Civil Rights Committee of the Parliament to reject a nominated Commissioner in 2004 (Rocco Buttiglione); he was replaced with an alternative candidate. The Lisbon Treaty requires the Parliament to "appoint" the Commission on the nomination of the Council and the President.

The alignment of the term of office with that of the Parliament, and the requirement in the treaties on the European Council to take account of the result of the EP elections, has resulted in an a view widely supported in the Parliament that the President of the Commission ought to come from the party group which has a majority in the Parliament and be the person chosen for that post by the Parliament.

Role & Powers

The Commission's principal roles are set out in Article 17 of the Treaty on European Union:

1. *as the proposer of legislation at Union level*: the Commission consults very widely with those directly concerned such as consumer and environmental groups, business, commerce, trade unions, and professional interests. The great majority of proposals in fact come in response to the wishes of the Member States or of important opinion within the Union.
2. *the implementation of policies and programmes decided by the Council and Parliament, including the EU's budget*: the Commission depends largely on the services of the Member States themselves (for example, on agriculture and on regional and social spending) and also works closely with international organizations and non-governmental organizations (for example, on humanitarian aid and development).
3. *as the regulator of the Internal Market*: one of the most important Commission roles is its independent decision-making capacity in ensuring fair competition in the internal market by its powers in relation to business mergers, against the abuse of dominant commercial positions and on state aids.

The Commission also has an important role as the negotiator for the whole Union, within the terms of a negotiating position decided by the Council, in international negotiations on external trade and in some other areas.

4. *as "Guardian of the Treaties"*: the Commission ensures that the Member States correctly transpose the European Union directives into national law and follows up on any other infringements, if necessary referring them to the European Court of Justice.

The treaty article refers to the Commission exercising “co-ordinating, executive and management functions, as laid down in the Treaties,” a phrase whose blandness does not capture the critical role the Commission plays as the protector of the interests of all Member States. It must hold the ring, often under sustained political pressure, and backed up by far fewer resources than those available to Member States.

Staff and budget

The European Commission has about 33,000 permanent and temporary posts in its operational budget for a Union population of over 500 million people. Almost 10 per cent of the staff are translators and interpreters.¹ The Commission's administrative budget is less than that of the Mayor of London, is about three per cent of the entire European Union budget and has been cleared by the Court of Auditors for many years. The Commission's staff constitutes a permanent civil service, almost all of whom are recruited by open competition. Each Commissioner is supported by a cabinet of advisers, similar to the special advisers that British cabinet ministers have.

It has been agreed that the Commission's staff will be reduced by five per cent over the next five years as part of economies which will see the Commission's administrative budget continue to be frozen in 2013. Major reforms of the Commission's administration in 2005 reduced the number of permanent staff and the introduced lower-paid contract staff whose pensions have fewer benefits and require higher personal contributions.

Assessment

The negative perception of the Commission as an unaccountable bureaucracy wielding great power is prevalent but not fully justified. The Commission is less powerful today because of rise of the European Council from an informal meeting to an institution of the EU and its role as the agenda-setter of the EU and because of the growth of legislative co-decision with the European Parliament. The new post of President of the European Council partly eclipses the role of Commission President and coupled with the diminution of the Commission's originally exclusive rights of initiation in all areas of EU policy (except foreign policy) and a general rise in inter-governmentalism, is symbolic of the shift in power from the Commission to the Member States acting in concert.

The Commission is damned if it is led by an allegedly over-powerful president (Delors) and damned if it is led by a supposedly weak one (Santer). These contradictory assessments of the Commission may be understandable at times but they ignore the fundamental point that the EU could not have achieved as much working on a purely inter-governmental basis. The unique value of the Commission is its ability to consider the interests of the EU as a whole and then table a proposal that, in its opinion, best advances those interests.

This role becomes more important, and more difficult, as a result of increasing differentiation within the EU, with some Member States in the euro and in Schengen, and others such as the UK outside, the Commission has to ensure that it responds to the interests of all Member States.

October 2012

¹ See European Commission, *HR Key Figures: Staff Members*, 14 October 2012



Senior European Experts

The Senior European Experts Group is an independent body consisting of former high-ranking British diplomats and civil servants, including several former UK ambassadors to the EU, and former officials of the institutions of the EU.

The group provides high-quality, fact based briefing materials on EU issues.

 senioreuropeanexperts.org

 info@senioreuropeanexperts.org

 [@SEE_Group](https://twitter.com/SEE_Group)