



From a political to a politicised Commission?

Steven Blockmans and Daniel Gros

The Commission proposed by President-elect Ursula von der Leyen has been carefully calibrated to woo major parties in the European Parliament, member state governments and citizens alike.¹ Announcing a “geopolitical Commission”, von der Leyen expects her restructured institution to be better equipped to tackle the global forces unleashed by a protectionist ‘America First’ policy and an increasingly assertive China. It remains to be seen, however, whether some of von der Leyen’s more controversial choices will balance themselves out in the first 100 days after the new Commission takes office on November 1st, or backfire further down the line. The latter, in particular, concerns the role of the Commission as an impartial guardian of the treaties.

¹ The proposed Commission is geographically balanced at the level of the vice-presidents and spans three generations (the youngest is 28, the oldest 72). It also has more women than ever (13 out of 27). The UK has not nominated a candidate Commissioner. If, however, an extension of the Article 50 withdrawal procedure beyond October 31st is decided upon by the European Council, then a British empty-chair policy would be contrary to European Council Decision 272 of 2013. Adopted to accommodate Irish concerns ahead of a second referendum to ratify the Lisbon Treaty, this Decision states that the number of Commissioners will be equal to the number of member states. The European Council could of course amend that decision to limit the number of seats in the college to 27.

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978-94-6138-747-9

Available for free downloading from the CEPS website (www.ceps.eu)

Policy initiator

The good news is that von der Leyen hits all the right notes in fitting the Commission out for future purpose.² With an astute sense of the broader political landscape and keen strategic foresight, she has prioritised the big-ticket items of today and tomorrow: Brexit, climate change and the fourth industrial revolution.

The nomination of Irishman Phil Hogan – a vocal opponent of the UK’s withdrawal from the EU, now to return to the College as Trade Commissioner – sends a powerful signal that the Irish border issue will remain at the heart of any future EU-UK free trade negotiation. The prospect that he will be assisted by the new Director-General Sabine Weyand, until recently the right hand of Michel Barnier in the Article 50 task force, suggests continuity in the Commission’s firm grip on the Brexit file, as well as a strong stance on a future trade partnership with the US.

Von der Leyen recycled ‘first’ Vice-President Frans Timmermans in the role of Executive Vice-President responsible for implementing a ‘European Green Deal’ – her plan to turn Europe into “the world’s first climate-neutral continent” by 2050. As such, she is not only responding to a hot topic that has mobilised both young and old onto the streets. She is also signalling a leadership role for the European Union on a multilateral issue supported by France and abandoned by the Trump-led White House.

On a par with ‘Spitzenfellow’ Timmermans, Margrethe Vestager finds herself back in the College in the bigger seat of Executive VP, responsible for preparing the EU for the digital age. Vestager is expected to pioneer an EU digital services act to regulate how the likes of Facebook and Twitter should police illegal content and combat hate speech. Combining this regulatory work with a strictly apolitical anti-trust attitude will be a tricky balancing act for the new Executive VP. Traditionally, the Commissioner for competition had no other responsibility that could interfere with the main task. Vestager might, however, face a conflict between her role as guardian of free and fair competition and her responsibility for the ‘digital age’. The mission letter from the president-elect states explicitly that she should “work on a new long-term strategy for Europe’s industrial future, working together with the Executive Vice-President for an Economy that Works for People” (Valdis Dombrovskis). At the same time, it is notable that von der Leyen has not caved in to pressure from big member states that EU competition rules be made subject to a political/security test. Instead, she opted for continuity by offering a second term to the “tax lady” (dixit Trump) to break up or prevent abusive dominance in big tech (cf. US), transport (cf. China) and other important markets.

French concerns about the latter have nevertheless been somewhat mitigated by the appointment of Sylvie Goulard, a former MEP, briefly defence minister and staunch ally of President Macron, as Internal Market Commissioner. Entrusted with a heavy portfolio, Goulard will lead the work on industrial policy, promote the digital single market and be responsible for

² See the contributions of CEPS staff to S. Blockmans (ed.), “What Comes After the Last Chance Commission?” Policy Priorities for 2019-2024.

a new DG for 'defence industry and space'. With a view to the creation of a European Defence Union by 2025, integration in this area is slow but nevertheless important to strengthen the strategic autonomy of the EU in an increasingly conflicted world.

Guardian of the treaties?

The promotion and the protection of the rule of law, a slow-burning crisis that goes to the heart of European solidarity and integration, falls to another pair: Didier Reynders (who unveiled the Belgian government's plans in this area at the 2018 CEPS Ideas Lab) has been offered Vice-President Vera Jourová's former job as Commissioner responsible for justice. Jourová has been promoted to vice-president on an adjacent file, i.e. values and transparency, a topic that has landed the leader of her political party at home, Czech Prime Minister Babis, in hot water due to allegations of fraud concerning EU subsidies and conflicts of interest. It remains an open question whether Jouravá, who, despite her promotion will have to do without a fully-fledged directorate-general, will tackle such cases head on, whether in Visegrád countries or elsewhere.

European Commissioners are expected to solemnly declare at the European Court of Justice that they will act independently, in the general interest, and that they will not accept instructions from any national government or any other entity (Art. 245 TFEU). While it may be easier to deliver European messages to compatriots, Commissioners dealing with their own countries will always face the suspicion that they are doing favours for former allies. In the same vein, it may be harder for the Polish Commissioner-designate Janusz Wojciechowski, responsible for agriculture, to wean his country's farmers off EU subsidies.

Similar concerns exist with Von der Leyen's choice for the economy portfolio-holder, whose core competence is the enforcement of the fiscal rules. The Commissioner-designate, Paolo Gentiloni, is a former Italian prime minister and well-respected politician but has limited experience in finance or economics. He might have to struggle with a conflict of interest as a prominent member of the governing party of Italy – the one country that represents a constant source of friction due to its large debt level. He will therefore have to demonstrate his impartiality vis a vis his home country on this point. Moreover, he must work with Executive Vice-President Valdis Dombrovskis. In the Juncker Commission the influence of Dombrovskis was limited as he did not have his own service and most decisions were made on political grounds by the president himself (or rather his cabinet). This time round, Dombrovskis will be able to rely on the support of DG FISMA, which gives him greater clout.

Other choices are more controversial still. The suggestion that Viktor Orban's former minister of justice would be the right person to persuade accession and other neighbouring countries to improve their track record on justice sector reform and the rule of law flies in the face of everything the Commission has said it stands for and sends a terrible message to genuine reformers in the Western Balkans, Eastern Partnership countries and the MENA region. Unless, of course, von der Leyen's tactic is to neutralise Orban's nomination in the European Parliament. While risky, there may indeed be no majority for this candidate who played a key role in dismantling democracy in Hungary.

Equally absurd, but less harmful, is the promotion of former Commission spokesperson Margaritas Schinas to the position of VP (no less), responsible for “protecting our European way of life”. Covering, inter alia, migration and security, it is hard to tell whether the description of this portfolio is influenced by political tendencies espoused by the far right or is simply a clumsy title unworthy of a former spokesperson. The addition of employment and education to the mandate suggests the latter: a coordinating role supported by the Secretariat-General of the Commission. The onerous migration dossier has in fact been entrusted to Commissioner Ylva Johansson, who will lead DG HOME.

In a similar propagandist line of presentation, von der Leyen wishes her Commission to give “a new push for European democracy” (the accompanying tagline to the Commission’s new composition). While this sounds like a good idea for an institution that is often berated for being too remote, bureaucratic and out of touch, one wonders whether there is really much more the Commission can do to give the European citizen a stronger voice in policy initiation, let alone the EU decision-making process.³

Leaving the confusing new labels aside (see also the Commissioner for ‘International Partnerships’, formerly development, and the one for ‘Crisis Management’, previously humanitarian aid), the risk of politicisation of the von der Leyen Commission is real and potentially more damaging.

Political triumvirate

With the creation of a triumvirate of ‘executive vice-presidents’, von der Leyen has inserted a new layer into the hierarchical structure of her Commission. Unlike four of their colleague VPs, the big three cumulate their position with that of line Commissioner, complete with their own directorate-general: Timmermans is supported by DG CLIMA, Vestager by DG COMP, and Dombrovskis by DG FISMA. The eighth VP, the designated High Representative Josep Borrell, is supported by the European External Action Service. The extent to which the second-tier VPs will be able to exert political power over the regular Commissioners will therefore be mainly determined by their savviness in operating within the Commission apparatus.

Apart from the extra level of hierarchy in the College, political power in the new Commission seems to be further dispersed by the continuation, if not expansion, of Juncker’s use of clusters of Commissioners, tasked with cooperating on hot topics.

Yet no file is expected to percolate up to the College without having been cleared by the triumvirate, which is a reflection of the deal brokered by the June European Council to empower the majority held by the Christian, social and liberal democratic parties in the newly formed European Parliament. As such, von der Leyen will basically import a German-style grand

³ See in this respect the contributions to S. Blockmans and S. Russack (eds.) *Direct Democracy in the EU: The Myth of a Citizens’ Union* (Rowman and Littlefield, 2018) and S. Blockmans and S. Russack (eds.) *Representative Democracy in the EU: Recovering Legitimacy* (Rowman and Littlefield, 2019).

coalition political structure into the Commission. The presentation of the Commission speaks indeed of ‘a whole-of-government’ approach. However, the Commission is not, at least not yet, a government. It is a hybrid that combines two roles, that of policy initiator and, its traditional key task, that of independent guardian of the treaties.

By installing a political triumvirate of executive VPs, the von der Leyen Commission is rendering intra-Commission decision-making, which has always been political,⁴ more vulnerable to partisan influences, which risks further undermining the hybrid role the European Commission is expected to play. Interestingly, von der Leyen herself defines this Commission as a “geopolitical Commission” that supports the EU as a ‘guardian of multilateralism’. The omission of the ‘guardian of the treaties’ role is telling.

⁴ See S. Russack, “Institutional Rebalancing: the ‘political’ Commission”, in Blockmans (ed.), op. cit., 7-19.



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