

The European Commission

The European Commission in a Period of Change: A New Administration for a New European Union?



Thomas Christiansen and Mark Gray¹

*resp. Senior Lecturer – EIPA Maastricht and
Member of the Cabinet of Commissioner Pavel Telicka,
European Commission, Brussels*



Abstract

Over the past five years, the European Commission has undergone what are probably the most significant reforms since its inception. The article provides a brief review and assessment of these administrative reforms, before looking at the political changes and challenges arising from the processes of constitutionalisation and enlargement. The entry of ten new Member States in particular has created additional pressures and demands, but also provides new opportunities to review and revise the workings of the Commission to enable it to adapt to an enlarged Union. This article sets out to examine the position of the Commission at this important juncture. It looks at the ongoing process of internal reforms in the European Commission and assesses their impact on the institution, considers the process of treaty reform and its implications for the Commission, and then reviews the wider impact of enlargement on the Commission and on the European Union as a whole. By way of conclusion, we assess the current and future challenges facing the incoming Commission under its new President Barroso.

Introduction

Over the past five years, the European Commission has undergone what are probably the most significant reforms since its inception. This is remarkable, given the expansion of tasks and size that the Commission had experienced over the previous decades. It took the crisis of 1999, when the Commission took the decision to resign rather than face an inevitable censure by the European Parliament, to suddenly thrust reform to the top of the political agenda. Given the implicit recognition at the time that the Prodi Commission would be judged on its ability to reform the Commission, it is legitimate now, at the end of its term, to question the extent to which this objective has been achieved. Beyond the long-standing need to reform the Commission and take account of its greater size and wider competences, Commission reform is also, and perhaps even more so, a response to the recent round of enlargement. The entry of ten new Member States has created additional pressures and demands, but also new opportunities to review and revise the workings of the Commission to enable it to adapt to an enlarged Union.

This article sets out to examine the position of the Commission at this important juncture. It will first look at the ongoing process of internal reforms in the European Commission and assess their impact on the institution. Second, it will consider the process of treaty reform and its implications on the Commission. Third, the wider impact of enlargement on the European Union is reviewed, with particular emphasis on the way in which this process affects the position of the Commission. By way of conclusion, we assess the current and future challenges facing the Barroso Commission.

The Kinnock Reforms

When the Prodi Commission approached the issue of reform, many of the key problems identified in the Spierenberg report of 1979 – such as size of the Commission, political influence of the Cabinets and legitimacy – were still relevant in 1999. An over-simplistic assessment was that the Commission system seemed to be based on a French centralised administration, a German control system and an Italian model of trade unions.

The case for modernization of the Commission arose primarily from the fact that, whilst Europe and the Union had altered hugely in four decades, the Commission's organisational systems had hardly changed. The reason for this was not difficult to see. Policy advance and application were necessarily the greatest preoccupations of an institution that was explicitly created for those purposes, and the Commission – as the motor of European integration – has attempted to fulfil those functions. The emphasis had essentially been on the concept of 'Administration de mission'. Further impetus to reform came from two external factors. The first was the expansion in the scale and scope of the Commission's tasks. As an example, at the beginning of the 1990's there was an explosion of direct management of funds in the field of external economic assistance. The second reason for change was that the EU was approaching its largest and most complex enlargement. The strains on the functioning of the Commission as an organisation, and the new demands being made on the institution, made fundamental overhaul essential.

In March 2000 the Commission adopted a Reform Strategy White Paper which set out three related themes of change:

- The complete modernization of financial management and control (establishment of a specialist Internal Audit service and audit capacities in each Directorate General);
- Introduction of Strategic Planning and Programming using Activity Based Management and Budgeting to achieve a more efficient and transparent annual focus on the main operational priorities and their operational consequences;
- Modernization of personnel policy and a new Human Resources strategy (e.g. new staff regulations including an appraisal system, new linear career structure and increased budget for training and management training).

A constant stream of proposals over the last four years included the adoption of a global package of reforms to staff policy and career structure in December 2001 and January 2002, followed by the successful reform of the new staff regulations which came into force on 1 May 2004. These proposals have been portrayed as the most comprehensive programme of modernisation in the Commission's 45-year history. They are seen as a comprehensive strategy of integrated change, which encompasses all aspects of the Commission's structure, systems of working and administrative methods.

Overall, it cannot be doubted that the complete modernisation of financial management and control has been largely successful in achieving its aims. More remains to be done on simplification of procedures, but the financial management of the institution has improved markedly over the last five years.

The second block of reforms, with the introduction of strategic planning and programming, has been a partial success, but a question mark remains over its long-term viability. This process has led to a more strategic approach within the Commission, which in turn has helped to develop a more effective inter-institutional planning mechanism. The reality remains, however, that the Commission has failed in its efforts to concentrate on a small number of political priorities. The attempt to identify 'negative priorities' which should be removed from the work programme has produced limited results due to the reluctance of individual Directorates General. The Commission must also do more to ensure that the College of Commissioners looks forward strategically, rather than being bogged down with day-to-day decisions.

Modernization of personnel policy was always going to be the most difficult area to succeed in. On 22 March 2004, the Council adopted the Commission's proposals on the modernization of the Staff Regulations. These reforms cover all aspects of careers and working conditions of EU officials and other staff, from recruitment to

retirement. At the heart of the system is a new career structure centred on two categories of staff: Administrators and Assistants. The new Staff Regulations, among other things, update pension provisions by raising the pensionable age and pension contributions; rationalize various allowances; improve the mechanisms for the reporting of wrongdoing; sustain merit based remuneration; and modernize the working environment of staff. It is estimated that the reforms will generate cost savings of up to 100 million a year over the next decade. This in itself has led to the suggestion that the new Staff Regulations discriminate against those officials, especially from the new Member States, who joined after 1 May 2004.

The problem seems to be that, although most of the reforms have been implemented, they have tended to focus on accountability and control mechanisms rather than on a reform-based approach bringing the staff with them. Indeed, the internal reform process is widely seen to have sapped the morale of officials throughout the Commission. One of the main concerns amongst staff seems to be that many of the – otherwise welcome – reforms have added additional tasks to an increasingly heavy workload, and the reform process has developed numerous evaluation mechanisms without simplifying

procedures or providing a clearer sense of the demands being placed on the unit or the individual concerned. The many changes resulting from the reforms have also induced a higher degree of uncertainty over the future location of staff, with the distraction that that creates both for the work of units and for individual officials. In a nutshell, the Kinnock reforms imply

long-term benefits with prospects for a more efficient operation of the Commission internally, but have also created rather high short-term costs, and thus temporarily added to, rather than solved, the Commission's problems.

The Changing Politics of the European Commission

A lack of clarity about the Commission's role clearly remains. It emanates from the conflicting functions the Commission performs. The Treaties confer on the Commission functions of legislative initiator, administrator, policy manager in an ever-increasing number of areas, legal watchdog, mediator, power broker, negotiator, and external representative. In terms of its overall vocation, these tasks underline a potential role as a proto-government within a federal Europe. Commission President Prodi made no secret of his desire to see the European Commission regarded as a European government, and the Constitutional Treaty does recognise its function as the executive of the Union. However, political leadership will need to be shared even more in the future with the

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Council, given the plans for a European Council President who is bound to be a rival to the Commission President in terms of the representation of the Union vis-à-vis citizens, Member States and third countries.

More than ever the Commission therefore finds itself caught in the forcefield of the institutional triangle, with an ever-closer relationship with the Council on the one hand, but with ever-greater dependence on the European Parliament on the other.

The Commission has always drawn its legitimacy from a number of different sources – the support it receives from the Member States who appoint its members, its accountability towards the European Parliament and the efficiency of its management of the Union's affairs. Such multiple sources of legitimacy place contradictory demands on the Commission, and the institution has been struggling in recent years to cope with these.

Greater politicisation – which was an accepted, if not desired, outcome during the Prodi Presidency – may have made the Commission more visible in the public eye, but also made it more vulnerable to the attacks that come with partisan politics. There is, in the long run, no hiding for the Commission from the political nature of its work, and the controversies that may arise from that. What is problematic in this respect is, however, the Commission's reliance on both Council and European Parliament, not only in order to achieve results in the legislative process, but also in terms of its wider public acceptance.

The events surrounding the Barroso Commission's appointment in late 2004 illustrate this well: a Commission nominated unanimously – and after lengthy deliberations – by the Member States proved to be unacceptable to the European Parliament, forcing the designated President to withdraw his team just before the Parliamentary vote. While this was widely seen as a 'crisis', even a 'constitutional crisis', Barroso's ability to reshuffle his team relatively quickly, satisfying the demands of both Member States and EP, could even be seen to have strengthened him as President. If Barroso's decisiveness and diplomatic skill during this process of Commission nomination and approval is anything to go by, this is going to be a Commission with firmer and clearer leadership, and thus a contrast to the previous one.

Clearly the 'crisis' surrounding the Parliamentary approval of the Barroso Commission was the result of a continuing compromise in the Union's institutional arrangements, in this case the choice to base the Commission's appointment on the support of both Member States and Parliamentary majority. In this respect, the provisions of the Constitutional Treaty, under which the Commission President would be elected by the European Parliament and have greater freedom over the appointment

of Commissioners, would do away with this particular problem. On the other hand, the Commission and individual Commissioners will be weakened by not having the close working relationship with national governments and administrations that has been important for the Commission until now.

If one considers this link between national and European executives has being important, if not essential, for effective governance in the EU, the provisions in the Constitutional Treaty regarding the number of Commissioners are a further test of this source of legitimacy: from 2014 the College of Commissioners is to consist of only two-thirds of the number of Member States. At any one time, a third of Member States will not have 'their' Commissioner in Brussels. In many ways this de-linking of Commission and Member State is overdue, considering it is only a logical consequence of the requirement of neutrality and independence from national interests that has always been expected from the Commission. But in terms of making sure that the work of the Commission – and indeed the activity of the EU as a whole – is communicated well to national governments, administrations and indeed the public, this change in the number of

Commissioners could well be detrimental if the interlocutor between Brussels and the national domain is lacking. All the more reason for the Commission to develop a communication policy that is equally effective in presenting the work of the Commission at the European level as in relating to the different national spheres within which EU policies will continue to be received and evaluated.

One of the criticisms of the Prodi Commission has been its failure to provide political leadership and a clear message. Both of these will be in high demand in a more diverse Union. The larger the Union grows, and the more variable geometries – including competing groups of Member States – that emerge, the more important it is to preserve and strengthen an institutional 'centre of gravity'. Thus there is a powerful functional argument for ensuring that the Commission remains at the core of the common institutional framework. However, it will require greater flexibility in the future not only to manage inter-institutional relations with the Council and Parliament, but also to make effective use of the European Council. In this context it needs to be recognised that the European Council as a forum has largely been replaced by constant bilateral contacts between individual Member States, from which the Commission has been largely excluded.

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domains. It is in line with the long-standing tensions facing the Commission that maintaining an independent stance vis-à-vis national governments and political pressures is becoming more important just as it is proving more difficult to achieve. The legacy of the Prodi Commission is clearly that the legitimacy of the Commission relies ever more on input (i.e. on the political interests that provide the foundation of its work), rather than on its output (i.e. the provision of effective solutions to the problems facing European society and economy).

The Commission's Role in the Wider Europe

In considering the position of the Commission in the enlarged European Union, we need to look not only at the direct impact this has had on the Commission as an institution, but also at the changes which enlargement brings to the European Union as a whole. Indirectly, enlargement has a significant impact on the Commission, both in terms of the demands placed on it, and in terms of the new constraints and opportunities it creates for the Commission.

First of all, this concerns the simple fact of size: the EU has grown significantly in terms of population, territory and economy, with a greater diversity of all three. However, the Commission has not grown accordingly. Some recruitment, as discussed below, is going on, but it is not likely to increase the size of the Commission proportionately for some time. Obviously, there are economies of scale, and one would not expect a 1:1 growth of the Commission with the entry of the new Member States.

However, some tasks for the Commission can be expected to grow disproportionately post-enlargement. Here one would expect the Commission to have to do much more, simply to remain at the level at which it has been in the past. One of these areas is control over implementation. There is a backlog of implementation of the *acquis* in the new Member States (not to mention the remaining candidate countries). Beyond that, the Commission now has a much more difficult job to supervise the correct transposition and application of Community laws in the Union. The administrative resources of the new Member States will also take time to come up to the levels of Western Europe, and thus there will continue to be limited capacities to implement EU policies. This implementation challenge in the new Member States comes on top of an already problematic implementation culture among the old Member States. Indeed, in some ways it is fair to say that the problems with implementation in the EU 15 have grown. The Stability Pact, and the way in which some of the core countries have had problems complying with it, has been the most visible example. Such demonstrations of

non-compliance send signals to all Member States, old and new, and may lead over time to a further erosion of the implementation culture in the EU.

With resources not having increased substantially, it is easy to see that the Commission here has a mammoth task. Recourse to litigation is not always a useful option, given the overload of the European Court of Justice. Perhaps it just needs to be recognised that implementation will be one of the areas in which the EU will pay the price for its simultaneous widening and deepening over the past decade. In some ways these are the signs of a potentially overstretched Union that will have to devote some attention to consolidation and persuasion – in particular within domestic systems. This is where the input of the Commission will be required, and the search for new and effective instruments to manage governance in this wider Union may have to go beyond the White Paper on European Governance.

Part of the answer appears to lie in processes of decentralization, of the Commission handing back powers to either national administrations or independent agencies. It is a trend that has gone on for some time, but which has been accelerating over the past few years. In areas such as competition policy the Commission is looking for a new division of labour with the Member States, thus casting off some of the load that has grown beyond its own resources. The desired effect would be that, by concentrating on a reduced number of issues and cases, DG Competition can be swifter and more effective in its own decision-making.

We have also witnessed a growing trend of setting up new agencies which do some of the work of gathering and exchanging information, building up sectoral networks and assisting in implementation – tasks that were traditionally located inside the Commission. Indeed we may see agencies taking over from the Commission the centralized implementation of EU policies, relieving the Commission of its management tasks and thus freeing resources for policy-making and agenda-setting, where the Commission has been rather weak over the past few years. Indeed, a process of decentralization should strengthen the Commission and help return it to its traditional role of providing strategic leadership for the Union.

Future Challenges: The Agenda of the Barroso Commission

Looking to the future and the challenges ahead, it is clear that the reform process is far from over. Apart from the implementation of the changes required by the Constitutional Treaty, if and when that is ratified, the new Commission also needs to manage the institutional impact of enlargement. This concerns *inter alia* the

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impact which the recruitment of officials from the new Member States will have on the nature of the Commission's administration. There is, for example, the likely impact on language, with much greater use of English rather than the traditional French among new recruits. The whole culture of language use will be affected, both in terms of fewer languages used in internal meetings and documents (these already feature almost only French and English) and in terms of pressure on Commission staff to keep documents requiring translation as short as possible. Thus the counter intuitive effect of the arrival of new nationalities among the Commission staff, and the increase in the number of official languages may actually be a rationalization of language use inside the Commission.

Similarly, one should also expect the arrival of new administrative cultures to challenge the traditional *modus operandi* in the Commission. This will most likely be a gradual change, but over time there is the expectation that the Commission will be transformed by thousands of new staff from Central and Eastern Europe. However, what the medium- to long-term impact of the arrival of different administrative traditions will be is difficult to predict. On the one hand, it may exacerbate the already fragmented nature of the Commission. Thus, a significant number of new staff with a very different culture of public administration may make a mark on the institution, just as the arrival of a wave of officials from Sweden led to a push for greater transparency in the work of the Commission. On the other hand, the new nationalities in the Commission may 'dilute' the existing patterns of different national cultures, providing better chances of the development of a genuine European administrative culture.

At the political level, the incorporation of the new Commissioners from the ten new Member States is already having an influence on the way the Commission works. This is not just a question of languages and culture as discussed above. In the debate in the College in the first six months after 1 May 2004, the dynamics of discussions on issues like competitiveness and the European Social Model were affected because of the positions taken by Commissioners from the new Member States. As they gain experience and use the power some have obtained from Vice-President and key portfolio positions, this influence is set to increase.

President Barroso's first significant decision was to reject proposals advocating a radical re-structuring of the Commission and a strengthened role for the larger Member States. He resisted calls for the introduction of clusters of Commissioners at the level of the College and for the splitting of different Directorates-General.

Barroso sent a clear signal to the larger Member States that they would not control his Commission. He intentionally resisted the pressure to give the largest and most prestigious portfolios to France, Germany, Italy, the United Kingdom or Poland. He also decided that all members of the Commission will return to the renovated Berlaymont rather than remain with their Directorate-General, thus reversing one of the changes Prodi had

initiated when he took over in 2000.

Very early on, Barroso set about providing clear instructions to Commissioners on the areas they would be responsible for and what he hoped each would achieve. Barroso has worked hard to be inclusive and provide Commissioners with a sense of ownership over the policy agenda being formed. At a first informal seminar of the designated President and Commissioners in August 2004, a new Code of Conduct for Commissioners was provisionally agreed setting out the rules on independence and Commissioners' relationships with their departments. These new rules consolidate the previous Codes already adopted under the Prodi Commission. A number of subtle changes have been made, and new rules have also been set out on the make-up of the private offices of Commissioners. Barroso has also made it clear that he will demand the resignation of a Commissioner if and when necessary.

In the first few months after his appointment, Barroso has therefore already demonstrated better communication skills than his predecessor. He has also taken the long overdue step of appointing a Vice-President for institutional relations and communication strategy. The appointment of a new President also inevitably brings with it a renewed optimism amongst the staff of the Commission. Many staff seem to be looking for strong leadership from the President and consolidation and simplification of procedures, rather than a new bout of reforms. President Barroso will quickly have to decide which approach he intends to take on reform.

In fact, the European Union of 2004 has a completely different dynamic to the post-Santer Commission atmosphere in 1999. The focus has shifted from internal reform to the question of the role, credibility and ability of the Commission to function in a Union of 25. The Commission will have to adapt to the changing political dynamics stemming from the incorporation of the ten new Member States, not least by understanding the influence they will have internally.

Political leadership by the Commission will be more important than ever if a President of the European Council is established and a new Vice-President for external relations is created within the Commission. Perhaps the greatest change facing the new President and his team of Commissioners is to regain trust and credibility with the Member States, while at the same time harnessing the increased politicization of the Commission stemming from the increasing influence of the European Parliament.

NOTES

¹ The authors wish to emphasize that this article is written in a personal capacity and does not reflect the views of their respective institutions. □