

Democracy and the European Commission

Introduction

The role of the Commission is not marginal to the democratic performance of the European Union. The very breadth of integration has inevitably demanded that the Commission be more than just a "problem-solver" on behalf of Member States and that it should operate as a self-consciously promotive institution charged with shaping European policy. Even so, the political role of the Commission is often a matter of considerable controversy with national governments. This controversy does not, ironically prevent the Commission from being regarded by many European electors as remote, bureaucratic and inefficient.

This brief note will suggest that in order to make the exercise of its existing competences more legitimate and democratically accountable, the Commission cannot rely exclusively on the policy results it can deliver to citizens. This note will also consider how a more political and politicized Commission, if not a sufficient condition to improve democratic accountability, might be a necessary one to breathe more democratic life into the EU.

The original conception of the European Commission

Jean Monnet's original vision of the High Authority, the European Commission's predecessor, was one of a de-politicized functionalist bureaucracy designed to pursue the common interests of European citizens. In the performance of their duties, the members of the High Authority were to be independent from any government and unaccountable to member states. The Authority's political legitimacy derived from its policy performance. In the early years, the political elites could reasonably expect to command popular consent, as long as the beneficial results of European integration were widely accepted.

As integration has been intensified with more national competences being transferred to the European level, so too have the problems of public mistrust and the lack of obvious legitimacy for the EU's central institutions become more acute. At least since the Maastricht ratification crisis in Denmark the benefits of integration have no longer been taken for granted by European citizens. The Nice ratification crisis in Ireland and the recent French and Dutch rejections of the Constitutional Treaty have intensified the symptoms of citizens' uneasiness with the EU.¹

Indisputably, the Commission has now a share in almost every function of EU governance. It has a large share over the Union's executive action, enjoying considerable discretion in the area of merger control and administration of the structural funds. It operates as an independent source of "political power" influencing national governments' bargaining and shaping their preferences, particularly whenever there is lack of information or absence of clear common positions

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EDITOR'S NOTE

This is the thirtieth in a series of regular *European Policy Briefs* produced by the Federal Trust. The aim of the series is to describe and analyse major controversies in the current British debate about the European Union.

We would welcome comments on and reactions to this Policy Brief. Other Policy Briefs are available on the Federal Trust's website www.fedtrust.co.uk/policybriefs. This Policy Brief has been submitted to the Trust's Working Group on 'Democracy, Legitimacy and Accountability in the European Union', chaired by Professor Vernon Bogdanor. For more information, please visit www.fedtrust.co.uk/democracy.

Brendan Donnelly (Director, Federal Trust)

amongst member states. In pursuing the common interest, the Commission is the guardian of European law, which requires taking responsibility for initiating infringement procedures before the European Court of Justice against member states and others who it considers to have breached EU law. Furthermore, the Commission is also an important actor in EU legislative functions because it is the sole body empowered to draft "pillar one" legislation and it is present at every stage of the co-decision procedure.

The increasingly political role of the Commission has produced a range of reactions both by member state governments and their citizens. National governments blame the Commission for "meddling" in national affairs and for disregarding the principles of proportionality and subsidiarity. Consequently, member state governments have been deliberately attempting to keep the Commission distant from the core process of integration. This has been done via treaty reform, for instance giving the Commission little influence over the "second and third pillars", where it only shares the power of initiating legislation with the Council of Ministers. Second, the adoption of new procedures outside the Community framework, such as the Open Method of Coordination, have left the Commission with no exclusive rights of initiative under sensitive areas where the treaty base is weak (e.g. labour market reform, social policies). Finally, member states have attempted to minimise the Commission's political profile through the appointment of Presidents such as Santer, Prodi and President Barroso, figures lacking the dynamism and charisma of Jacques Delors, and, in the case of the present President of the Commission, the holder of that office is the most intergovernmentalist-minded of recent decades.

At the same time, citizens often criticise the Commission for being too bureaucratic and for producing complex legislation. The recent Eurobarometer survey of last May confirms that one in two Europeans consider the EU to be

"technocratic" (49%) and "inefficient" (43%). In addition, the fact that it is not always easy for the public to know what policy outcomes they should attribute to which political actors and to whom to assign responsibilities raises a question of "blurred accountabilities".

In short, the Monnet legacy has made the Commission weak and vulnerable in the face of the democratic challenge. The voting public of the European Union has no direct input into who serves on the European Commission, thus making it an easy target for criticisms. Endowing the Commission with a more transparent structure of political accountability by attributing a greater measure of citizens' inputs into the process is an unavoidable proposal for discussion in the search to improve the EU's democratic credentials.

The Commission and democratic legitimacy

A number of commentators consider the Commission to be the most controlled executive in the world because it is subjected to a range of checks and balances mechanisms. In the current political structure, the Commission is accountable not only to member states in the Council but also to the European Parliament. While this system is not widely understood by the citizens of the European Union, it does provide an intellectual and theoretical response to the criticism that the Commission acts unaccountably simply on the basis of an agenda it sets for itself. However, the appointment procedures through which the Commission is elected are far from transparent. Moreover, beyond its obligations to the member states and the EP, the Commission is not in any way directly accountable to European citizens. This partly explains why, in the eyes of the public, the Commission remains a remote and secretive entity made up by unaccountable public servants that deserve closer public scrutiny.

The appointment of the President of the Commission now requires a qualified majority of the member states in the

European Council and needs to reflect the political balance of power in the EP. Nevertheless, it is still a relatively crude process of discreet bargaining between member states which determines the emergence of candidates for the Presidency of the Commission; nor has the European Parliament's theoretical right of veto ever come near to being exercised. There is moreover no treaty provision that gives the European Parliament the power to sack individual Commissioners, but only the full body of Commissioners as a whole. Some improvements for ex-ante accountability mechanisms have been informally developed, for instance that MEPs can now hold hearings of individual Commissioner candidates. If the EP votes by majority to withdraw confidence in an individual Commissioner, the President will either ask that member to resign or will justify before the EP his refusal to do so. This in effect was what occurred in the case of Mr. Buttiglione, where he resigned before taking up his portfolio rather than waiting for a guerrilla campaign from the Parliament against him once he had become a Commissioner.

A number of problematic consequences derive from the complicated system of accountability and election at work with regard to the European Commission. In recent years, the political leadership of the Commission has been weak, as potentially strong candidates were either rejected by the member states or refused to take on the manifest ambiguities of a role which is half bureaucratic and half political. Member states can often blame unpopular domestic decisions on the Commission while taking the credits for policy results achieved at the community level. While the Commission's actions increasingly generate uneven redistributive outcomes, citizens neither directly legitimise these results nor easily know who to blame or praise for them. Direct accountability of the Commission to European citizens is an obvious potential answer to at least some of these problems.

How can the role of the Commission improve democratic legitimacy in the EU?

The present Barroso Commission says that it is concentrating on improving legitimacy by means of emphasising its policy results. If the Commission addresses citizens' concerns, for instance by providing security, tackling unemployment, contributing to growth, it will thereby improve its legitimacy. This is at the very least a controversial analysis, perhaps more appropriate to the early years of the European Community rather than the present reality. Relying exclusively on what the Commission can actually deliver may add very little to the democratic features of the EU. Responsibilities will still risk remaining unclear at the eyes of the European citizens.

On the other hand, it is difficult to deny the legitimising impact of introducing an institutional structure into the European Union that allows for more political competition and direct political participation by citizens. For example, a political contest for electing the President of the Commission either on a party or an individual platform could open the door to a clear electoral agenda for the EU along true ideological rather than national lines. For instance, many of the left public in France who voted "no" in the Constitution were highly critical of the apparent dominance of the Anglo-Saxon economic model within the Commission, claiming that it reflected no legitimate political choice. Giving the public at least a say in choosing between a "liberal" or "social" agenda for the European Commission would be a clear reply to that complaint. In addition, improving parliamentary control over the EU executive through a more competitive political process could also have a positive formative effect on citizens' preferences and political identities. The supposed absence of a civic and political European "demos" is often cited as a barrier to the democratisation of the European Union. European Elections with clear political choices, issuing in

successful and unsuccessful candidates for the Presidency of the Commission, could help to facilitate the emergence of such a demos.

At the national level, political parties play a central part in democratic politics. At the European level, parity of argument would seem to dictate an important role for European political parties, perhaps nominating their candidate for the Presidency of the Commission before EP elections take place. EP groups can already do this on their own initiative without treaty reform. There is no legal reason why the EP should not seek to secure the appointment of the whole College of Commissioners in such a way as to reflect the outcome of European Elections. At present, the Council by common accord with the President-elect designate the College of Commissioners, which is then submitted to a vote of consent by the EP. The College represents the political balance of the Council and not of the European Parliament. Making the approval of the new President of the Commission dependent upon the simultaneous presentation of the whole slate of Commissioners to the European Parliament would endow the Commission with more political coherence than it has at present, allowing the President to have more leeway to pursue a coherent political agenda amongst a more politically cohesive body of Commissioners. This politically cohesive Commission would be well placed to rebut two frequently-voiced criticisms, that it lacks any democratic mandate for the exercise of its considerable powers, and that it is excessively responsive to the lobbying of national governments, particularly exercised on "national representatives" installed in the Commission to do their national government's bidding.

The proposal for directly electing the President of the Commission, or the entire Commission, by a mechanism other than votes in the European Parliament, might be a step towards addressing the problem of lack of overall leadership that has been felt in the EU ever since the Delors years. It could well secure a strong candidate

hoping to execute a politically legitimised mandate from electors across the European Union, thus enhancing the Commission's profile. The direct election of the President of the Commission by a direct vote would require an (unlikely) reform of the Treaties. It is difficult to imagine twenty-five or twenty-seven heads of state and government all of whom are willing simultaneously to set up so clear an alternative source of democratic legitimacy to themselves.

Hence, it is debatable to what extent some of these reforms would make citizens to identify more with Europe and whether a European "demos" could eventually emerge as a result of democratic practice. Yet, even if these measures are seen as an insufficient basis for the EU's overall legitimacy, in the same token, they are also seen a necessary condition to bring more political legitimacy to the EU.

Conclusion

There is scope for the role of the Commission to improve democracy, legitimacy and accountability in the European Union. Yet, the Commission will have to move beyond a narrow concept of legitimacy achieved primarily through policy results. If the EU is to be more legitimate and accountable to the European public, it will need to find ways of enhancing the citizens' direct participation and input into the European political system. In their present configuration, the European Elections do not suffice to provide that direct relationship between the elector and discernible political outcomes, whether in terms of policy or personalities. European Elections from which a President of the Commission emerged to carry out an announced political programme, would be one possible contribution to filling that lacuna.

Joana Cruz, The Federal Trust

¹ Julie Smith, "Democracy and Legitimacy in the European Union", Federal Trust Policy Brief, Issue 16, October 2005.