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Chapter 1

An Overview of the Commission

Introduction

The European Commission is the EU’s most distinctive, and also most controversial, institution. The distinctiveness and controversiality stem primarily from three features of the nature of the Commission.

First, the Commission is a central political and policy actor in the EU system, exercising a range of significant functions across many policy activities and areas. Prominent amongst these functions are: it has a generally recognized responsibility for ensuring the EU’s policy portfolio continues to advance in areas where this is deemed to be necessary; it has a near monopolistic power to initiate and draft legislative proposals; it has mediation roles to undertake between EU actors, most particularly between the Council and the European Parliament (EP) and between the governments of the member states; it has various tasks in respect of the EU’s external relations, especially trade where it alone represents the EU in most international negotiations; it prepares the drafts of the EU’s multi-annual and annual budgets; and it has a wide range of executive and policy implementation duties. Second, in undertaking these and other functions the Commission is obliged by treaty to be wholly non-partisan in its behaviour and actions. Under Article 17 of the Treaty on European Union (TEU), the Commission is charged to promote ‘the general interest’ of the Union and to be ‘completely independent in carrying out its responsibilities’. Commissioners are to be chosen from ‘persons whose independence is beyond doubt’ and on assuming office they ‘shall neither seek nor take instructions from any Government or other institution, body, office or entity’. Third, despite the wide range of very important responsibilities it undertakes and the significant powers it is able to exercise, the Commission is not directly elected or accountable to citizens.

There are both functional and normative reasons why the Commission is assigned a wide range of tasks and is given considerable powers. The functional reasons are primarily concerned with enhancing EU policy efficiency and effectiveness. By undertaking such tasks as identifying policy problems and possible solutions, providing agenda focus, reducing the transaction costs of bargaining, and monitoring compliance in order to increase the credibility of commitments, the Commission
can help the EU member states to overcome functional collective action problems. As for the normative reasons, from its earliest days the Commission has been charged by the treaties with protecting ‘the general interest’ of the Community/Union. This formal articulation, as well as the commonly shared assumption that the Commission serves as the ‘conscience of the Union’, reflects a certain normative understanding of the role of the Commission: namely, that it protects the interest of the whole rather than, as is often the suspicion when initiatives stem from other sources, a particular national or sectional interest.

It can hardly be denied, however, that in recent years both reasons for the many tasks and powers of the Commission have come to be questioned. The growth of EU policy activity – in terms of both breadth (covering more policy areas) and depth (exercising greater powers within existing policy areas) – that so characterized the integration process until very recently is no longer assumed to be necessarily desirable. Political and public discontent with the EU, and also the Commission by association, has increased and become more vocal. In consequence, member states have become hesitant to delegate additional tasks to the Commission – at least formal tasks associated with the traditional ‘Community method’ (see Dehousse, 2011, 2013), where the Commission has long exercised a powerful role. Member states’ responses to the post-2008 economic, financial and eurozone crises have been indicative of this, with primarily intergovernmental-based ‘solutions’ being put in place.

But notwithstanding the changed political and economic circumstances brought about by the crises, the Commission continues to play an integral and essential role in the EU system. It does so because of the nature and breadth of the multitude of tasks it performs. Moreover, its adaptive capacity is such that even though it may not have been given a central role at the peak of the crises in mobilizing financial support or taking decisions on bailouts, it continued (often via informal arrangements with member states) to: bring its expertise to bear on assessing the economic health of member states; use its formidable administrative capacity to help negotiate funding agreements with stricken states; partner with international funders and capital markets; and oversee and report on progress. These less formal activities – some of which have subsequently been formalized – buttressed the Commission’s already powerful role as regulator of the financial sector, monitor of state aid violations, and enforcer of member states’ compliance of single market rules. The events associated with the crises thus serve to show that the argument sometimes heard from observers and scholars that the Commission ‘is in decline’ should not be exaggerated.

This chapter introduces the Commission. This is done through descriptions and analyses of the main features of the Commission’s composition and structure, multi-dimensional nature, and functions.
The Composition and Structure of the Commission

In legal terms, the Commission is a single entity and when it formally acts it always does so collectively. However, in practice, like national governments, the Commission has two distinct levels: a political level, consisting of the College of Commissioners, and an administrative level, consisting of supporting services. Somewhat confusingly, the word ‘Commission’ is commonly used to refer both to the College and to the Commission as a whole.

The College of Commissioners

Each member state has one Commissioner, so there are currently 28 Commissioners. Virtually all Commissioners are former senior national politicians. The Commissioners meet together, usually weekly, in the College of Commissioners.

The growing size of the College in response to EU enlargements is widely acknowledged as having resulted in it becoming too large and unwieldy. The Lisbon Treaty sought to tackle this problem by providing for a reduction in the size of the College to the equivalent of two-thirds of the number of member states. However, some member states – especially smaller member states, which tend to look to the Commission to protect their interests – were never wholly comfortable with this decision. So, when the Lisbon Treaty was rejected by the Irish people in a referendum in 2008 and the Irish government pressed for the restoration of the ‘one Commissioner per member state’ principle so as to help persuade Irish voters to approve the Treaty in a second referendum in 2009, the proposed reduction in the size of the College was dropped.

Commissioners used to be appointed for four years, but this was lengthened to five years by the 1992 Maastricht Treaty so as to bring the College’s term of office into close alignment with that of the EP. The first College to be appointed to a five-year term was that which assumed office under the presidency of Jacques Santer in January 1995. However, this College became the first not to complete its term of office when, amidst allegation of general incompetence and inappropriate behaviour by some of its members, it was forced to resign in March 1999. Since then, all Colleges have served their full term.

The post of Commission President, which is examined in detail in Chapter 3, has become increasingly important over the years. Indeed, something of a ‘presidentialization’ of the College has occurred, with its overall political direction increasingly being steered by the President and with decisions increasingly being taken in direct dealings between the President and the appropriate Commissioner(s). The President does not command the range of powers within the College that national leaders normally command within their Cabinets/Council of Ministers, but he
(there has not yet been a female President) does stand significantly ‘above’ his College colleagues. Indeed, it is common for Colleges, and more broadly the Commission as a whole, to be referred to by the President’s name. So, for example: the 1985–88 College/Commission is referred to, after Jacques Delors, as the Delors I College/Commission (Delors was appointed Commission President on three occasions); the College/Commission that replaced the Santer College is referred to, after its President, Romano Prodi, as the Prodi College/Commission; and the College/Commission in office at the time of writing (early 2015) is known, after its President, Jean Claude Juncker, as the Juncker College/Commission.

The College sits at the apex of the Commission. The approval of the College is necessary for all major initiatives and decisions that are taken in the Commission’s name. Nothing of significance can be decided without being referred up the Commission system to the Commissioners. Once decisions have been taken, the College operates on the basis of collegiality: that is to say, all Commissioners are collectively responsible for all Commission decisions and must defend them in public. In consequence of this principle, the College mostly operates on the basis of consensual decision-making. Voting is permissible, but in practice is rare.

In addition to their duties as members of the College, Commissioners hold policy portfolios in a manner that is similar to the ways in which ministers at national level are responsible for particular areas of policy. Within their designated policy spheres, Commissioners are the most senior individual figures in the Commission.

**The services**

Despite the impression that is given in much of the European national media of an oversized and bloated ‘Eurocracy’, the services, which constitute the Commission’s administrative level, are relatively small in size. For all grades and categories of staff, they number officially just over 33,000 full-time employees. This is about the same size as a large city council or a reasonably important ministry in a larger-sized member state. The main reason for this small size is that, unlike national governments, the EU does not undertake the front-line implementation of its policies – and it is to undertake such front-line policy implementation tasks that most public officials are employed. Rather, with just a few exceptions, the responsibility for directly applying EU policies – such as the Common Agricultural Policy (CAP), the Common Fisheries Policy (CFP), internal market policies and environmental policies – is assigned to appropriate national implementing agencies.

Officials in the services are appointed and promoted on meritocratic bases, though at senior levels national and political considerations also have some influence. National considerations do so by virtue of there being some regard for balance between nationals of the member states, whilst political
considerations do so via the appointment to some posts of individuals with good political connections – something that is most frequently seen as the tenure of Colleges draw to a close and many members of Commissioners’ cabinets (private offices) ‘are found’ senior positions in the services.

Like national administrations, the Commission’s services contain sub-divisions of various kinds. Most sub-units are called directorates-general (DGs). The number of these is subject to periodic change, but in recent years there have been about 30 – and 33 at the time of writing in the spring of 2015. Prior to the Prodi Commission, all DGs were assigned a Roman numeral and it was by these, rather than by their name, that they were normally known. So, for example, the DG for Industry was known as DG III, the DG for Development as DG VIII, and the DG for Energy as DG XVII. In the interest of making the Commission, and the EU as a whole, more transparent and understandable, Prodi decided to remove the numerals, so DGs are now referred to by their – usually streamlined – names. So, amongst current DGs are Agriculture and Rural Development (AGRI), Competition (COMP), Economic and Financial Affairs (ECFIN), and Energy (ENER). For a complete list of DGs and services, see Box 6.1.

Other sub-units are not constituted as DGs but rather as special services. The number of these has dropped over the years as several former special services have been ‘converted’ into DGs. At the time of writing there are 11 special services, all of which have specific, and mostly cross-sectoral, tasks. Amongst them are the Internal Audit Service (IAS), the Legal Service (SJ) and the Publications Office (OP).

The Commission’s Multi-Dimensional Nature

The Commission is often portrayed as being a homogeneous and monolithic institution, but in fact it is composed of many parts and contains within its ranks a wide range of different views and interests.

The most obvious distinction within the Commission is that between the just-described political and administrative levels. Relations between the two are by no means always harmonious and have often been characterized by tension and friction. Commissioners and their personal staff in the cabinets at times feel that the services prefer to concentrate too much on their own agenda rather than giving full support to Commissioners’ initiatives and policy preferences. For their part, the services sometimes feel that their work is undervalued by Commissioners and cabinets, and they frequently feel that cabinet officials interfere too much and too directly in the work of the services.

The political and administrative levels are themselves internally segmented, with Commissioners having to concentrate primarily on their portfolios rather than looking to the performance of the Commission as a whole and with the services being obliged to focus on matters within
their specified areas of responsibility. This segmentation can be a source of internal tension and friction within the Commission.

In the College, tensions and frictions sometimes arise, especially in cross-sectoral policy areas, over who is responsible for particular aspects of policy. This has, for example, long been a problem in the sphere of external policies, where Commissioners’ portfolios are not wholly self-contained but rather overlap at the edges. With most Commissioners wanting to be responsible for as much as possible, ‘turf disputes’ can sometimes become decidedly sharp.

In the services, a common problem is differences between DGs over policy priorities and policy methods. Jarle Trondal (2010) sees this as being reflective of the importance that departmental affiliations and loyalties play in shaping the attitudes and behaviour of EU officials. ‘A large majority of EU civil servants express a strong affinity with the unit, section or department in which they are organizationally embedded … In practice, this means not only that EU civil servants are characterized by a surprising lack of member-state affinities but also that their identification with the organizational structures and with their substantive dossiers and portfolios is very dominant’ (Trondal, 2010: 252). This view of Trondal that the departmental affiliation of officials is more important than their nationality in shaping their behaviour and actions has been broadly endorsed by a major study of the attitudes of Commission officials undertaken by Hussein Kassim and colleagues (2013). A persisting example of such organizational affinities resulting in policy differences within the services is attitudes towards the management of the internal market, with the Competition DG long having adopted a strongly liberal/non-interventionist stance whilst the Regional Policy and the Mobility and Transport DGs have been sympathetic to public support and intervention in particular circumstances.

In part so as to dampen internal differences and potential tensions of the sort that have just been described, there has been an increased formalization in the Commission’s operation and structure over the years. All parts of the Commission, from the top to the bottom and encompassing the political and administrative elements of the organization, must now adhere to more formalized procedures and rigorous routines that have been set in place since the onset of major administrative reforms under the Prodi Commission in the early 2000s. The reforms have applied to most activities in which the Commission is engaged and include: abiding by a stricter and more centralized formulation of policy priorities; following regular operating procedures for consulting/coordinating inside the Commission (including using new IT tools); taking careful steps in assessing the impact(s) of new policy, and especially legislative, proposals; consulting external interests in more systematic and documented ways; and reporting and evaluating activities after-the-fact. In further pursuit of internal Commission coordination and cohesion, at the beginning of his College in late
2014, President Juncker imposed a requirement on Commissioners that they must both coordinate and also negotiate their actions within Commissioner ‘project teams’ led by a Vice-President.

The Functions of the Commission

The institutional structure of the EU positions the Commission at the very heart of its system of governance. It has at least some involvement with every aspect of EU affairs and it is a direct participant at virtually every stage of EU policy and decision-making.

Most of the tasks undertaken by the Commission are provided for by the EU’s treaties, most particularly in Article 17 TEU, which states:

The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall ensure the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union’s external representation. It shall initiate the Union’s annual and multiannual programming with a view to achieving interinstitutional agreements.

A few additional tasks have no explicit treaty base but are a consequence of practical necessities and/or of views within and outside the Commission about what it should be doing.

The nature of the functions

Stepping back from specific tasks the Commission has been assigned or has acquired, a number of broad functions exercised by the Commission can be identified. These functions are examined at length later in the book. Four functions – provision of leadership and legislative, executive and external functions – are given their own chapters, whilst other functions are examined at various places in Chapters 8–12. All, therefore, that is attempted in this section is an identification of and an introduction to the main functions. They are as follows.

Policy leader and initiator
The Commission promotes and develops many of the policy initiatives that are launched at the EU level. It is best known for such policy activity in respect of what may be thought of as grand and overarching
policies – such as driving forward the liberalization of the internal market and, in recent years, pressing for a fiscally tight eurozone – but in volume terms most of its initiatives are focused on detailed policies in particular sectors. Whether, however, grand or specific policies are being addressed, the leadership, initiation and development tasks that are involved customarily see the Commission engaged in activities ranging from floating ideas and promoting dialogue with interested parties to drawing up and issuing policy documents.

A resource that is of considerable use to the Commission in enabling it to initiate policy debate and proposals is that it is generally recognized as being the main repository of ‘the Union interest’ – or, as it is still sometimes referred to, ‘the Community interest’. This is a partly normative notion, as discussed earlier in this chapter, and somewhat ill-defined, but it helps the Commission to present itself in agenda-setting in unique ways and without particularistic interests in view. The notion also means that Commission proposals are not seen as representing, as Council proposals frequently are, the sum total or the lowest common denominator of national interests. The Commission is thus well placed to frame issues in ways in which they can be interpreted as ‘European problems’, to mobilize broad coalitions of actors in support of new solutions, and to claim to ‘rise above’ the political fray (whether realistic or not) in shaping narratives. The Commission is, in short, positioned so as to be a driving force behind European integration.

**Legislative functions**

The Commission is, in many ways, crucial to the making of EU legislation. First, it has an exclusive right to draft legislative proposals, save for a few exceptions in the Area of Freedom, Security and Justice (AFSJ) policy sphere. Second, alone of the EU institutions, the Commission is represented at, and can contribute to, all legislative stages – including those that are conducted in the Council and the EP – which makes it ideally placed to be able to undertake the inter-institutional conciliation and brokeraging that EU legislative processes usually require. Third, the Commission can employ useful power resources as proposals make their way through legislative processes – with, for instance, its subject expertise meaning that the Council and the EP may have to bow to it on technical/information grounds. Fourth, most administrative acts are not subject to a full legislative examination but are made in the name of the Commission – usually via committees of national representatives (comitology committees) and in consultation with the EP, though these do not usually cause the Commission too many difficulties.

**Executive functions**

The Commission undertakes executive responsibilities of many different kinds. For the most part these responsibilities are more concerned
with setting out the ground rules and monitoring and coordinating the activities of others than they are with directly implementing policies and laws itself.

Responsibility for the implementation of EU policies and laws takes numerous forms. Until recently, the only major policy area where the Commission has carried extensive direct implementation responsibilities has been competition policy, although there are parts of several other policies – usually the funding parts – where the Commission has also had direct implementation tasks. However, since the onset of the economic and financial crises in 2008, the Commission has been assigned a progressively increasing range of direct surveillance, monitoring and implementation responsibilities in connection with the EU’s, and more particularly the eurozone’s, strengthened macroeconomic and fiscal policies.

More commonly, however, responsibility for the direct implementation of EU policies lies not with the Commission but with outside bodies – including EU agencies of various kinds and national agencies (including governments and sub-national governments) in the member states. So, for example, much of the EU-level administrative activity concerning food safety matters is undertaken by the European Food Safety Authority (EFSA), whilst the ‘front line’ checking of food standards is undertaken by national, regional and local environmental/food safety officers (the EU does not attempt to impose uniform policy implementation arrangements on the member states). Where, however, as with food safety, the Commission is not the direct implementer, it still has executive responsibilities to perform. Two of these responsibilities are especially important. First, as noted above, the Commission draws up and issues required administrative acts (or ‘non-legislative acts’ in the words of the treaties): that is, the detailed rules that are not possible to incorporate in treaties or primary legislation but which are vital in policy areas – such as food safety – where circumstances can change quickly and where highly specific, often very technical, regulation is required. Second, so as to ensure that policies are applied in a reasonably consistent manner throughout the EU, the Commission attempts to supervise, or at least keep a watch over, the outside agencies that are responsible for most direct implementation.

**Legal guardian**

Closely related to, and overlapping with, its executive tasks, the Commission has a legal guardianship function. This function, which is exercised in association with the Court of Justice of the European Union (CJEU) – which consists of two main courts, the Court of Justice and the General Court – involves ensuring that the EU’s treaties and legislation are respected. As is shown in Chapter 11, this is an extremely difficult function to perform since infringements of EU law can be very difficult
to detect, and when they are detected there are often reasons – economic, social and political – which make it questionable as to whether they should be pursued.

Infringements can take many different forms, but whoever the suspected infringer may be, and whatever the suspected nature of the infringement, the Commission is obliged to deal with each case it chooses to investigate with great care and according to procedures that are specified in the treaties. All parties that are investigated are given a full opportunity to explain themselves and to refute any allegations made against them. If the Commission finds that an infringement has occurred it has the power to impose financial penalties, which are subject to judicial appeal.

*External representative and negotiator*

The Commission undertakes many external responsibilities on behalf of the EU. These have grown in importance as the EU has become an increasingly significant international actor. The nature of the responsibilities are described in Chapter 12, so comment here will be limited to making the general point that the responsibilities are far from confined to the sphere of external activity with which the EU and the Commission are most commonly associated, namely trade. Amongst responsibilities that are non-trade or non-exclusively trade in character are the management of development aid, work undertaken in support of the CFSP, and numerous tasks in regard to enlargement processes, the EU’s neighbourhood policy, disaster relief, and the external dimensions of such ‘internal’ policies as transport, energy and agriculture.

*Mediator and broker*

In the EU’s multi-actor, multi-interest and multi-view system, in which policy processes are many, varied and often complex, there is frequently a need for mediation and brokering functions to be performed so as to enable decisions to be made and applied. The Commission is by far the best-placed actor to perform these functions. This is so for three main reasons. First, as noted above, it is obliged by treaty to be non-partisan in its behaviour and actions. This results in the Commission normally being viewed as an honest broker when, for example, it advances suggestions and proposals for tackling difficulties and resolving problems. Second, the Commission is often in the best position to judge how a concerned or aggrieved policy actor can be assuaged, how a problem may be resolved, and what approach is likely to command support amongst decision-makers. This is because of the Commission’s knowledge of the nature and functioning of the EU, which is derived in no small part from the fact that in most policy sectors the Commission is usually present at every stage of the policy cycle, from initiation to evaluation.
Third, embedded in the internal culture and thinking of the Commission are attitudes that help to underpin the exercise of these functions. For example, officials recognize almost as a matter of course the difficulties that can arise if an important policy actor, especially a large member state, becomes dissatisfied over a matter, which naturally results in them encouraging and assisting actors to find solutions to problems when that seems to be desirable or necessary.

The Commission is thus well placed to undertake much of the mediation and brokering that is necessary if the EU system is to operate in a harmonious and efficient manner. The mediating and brokering functions are undertaken in many contexts and vary considerably in nature. They range from identifying ways in which differences within and between the Council and the EP in the framework of legislative and budgetary decision-making procedures can be reconciled, to trying to reach accommodations with governments of member states on problems they may be experiencing in implementing existing EU laws.

**Mobilizer**

If an initiative is to advance at the EU level it must be given wide support. Preferably, it should be supported by all the main policy actors that have a direct interest, be they institutional, governmental or non-governmental. At a minimum it must command the support of the principal decision-makers.

The diversity of interests existing in the EU means that sufficient support is usually not automatically forthcoming for initiatives, wherever they may come from and whatever form they take. Rather, support usually has to be mobilized. The Commission frequently exercises such a mobilizing role. Amongst the ways it does so are the following: Commissioners and their representatives meet with decision-makers, opinion formers and the leaders of important interests; Commission members and officials address gatherings of interested and affected parties, including in the member states; the merits and advantages of initiatives are explained by Commission representatives when opportunities arise in the many forums in which they engage with other policy actors on a regular basis – such as in Commission advisory committees, in Council meetings at their different levels, and in EP committees; and policy documents of an explanatory and consultative nature are issued regularly.

This mobilizing function is closely related to the mediating and brokering functions that were identified above. It is, however, perhaps a rather more proactive function in that it tends to involve more in the way of initiating and pressing on the part of the Commission. Sometimes, indeed, what happens is that the Commission spots favourable circumstances for the development of an initiative and, acting as a ‘purposeful opportunist’ (Cram, 1993, 1997), seeks to take advantage of the
circumstances by bringing key actors together to help develop policy and/or persuade them that a particular course of action is desirable.

**Tensions between the functions**

There are tensions between some of the Commission’s functions, with the skills and resources that are necessary for the effective and efficient undertaking of some functions not necessarily being the same as those that are required for others.

In his classic study of the early Commission, David Coombes (1970) noted the emergence of what has subsequently been the main tension between roles, namely that between being a promoter of integration on the one hand and a policy administrator on the other. The former role requires dynamic and innovative leadership whilst the latter is dependent on more routine and bureaucratic capacities. Until the Prodi Commission, insufficient attention was given to ensuring that the routine and bureaucratic capacities were in good order. Under the presidency of Jacques Delors in particular they were neglected with, as Anand Menon has observed, ‘the Commission’s workload, rather than how well the work was done, [being] taken as the measure of its standing’ (Menon, 1999: 14). The resignation of the Santer College – which was partly occasioned by perceived operational inefficiencies and incompetencies on the part of the Commission’s services – changed all this. The Prodi College had no option but to place internal reform of the services near the top of its agenda and actions – which it did in the form of what became known as the Kinnock Reform Programme (named after Neil Kinnock, the Commissioner who was responsible for devising and driving through reforms).

Another example of tension between roles concerns mediating and mobilizing. It can be difficult for the Commission to appear to be neutral and to broker successfully a compromise on a policy proposal when it has previously been attempting to convince policy actors that the proposal should take a particular form.

**Concluding Remarks**

There is an ongoing academic debate about whether the Commission is a unique institution (Egeberg, 2014) or is essentially a rather traditional bureaucratic organization (Wille, 2013). But whatever stance is taken in this debate, what can hardly be denied is that the Commission displays distinctive features. One of these features is that the Commission exercises not only political functions that are usually the responsibility of political executives but also administrative functions of the kind that are normally undertaken by bureaucracies. So for example, the
Commission’s tasks range from active involvement in the agenda-setting stage of policy formation to numerous responsibilities associated with policy management and policy implementation. Another distinctive feature is that the Commission is composed of a multinational collection of politicians and officials with a broadly ‘European’ – rather than intergovernmental – vocation.

These and other key characteristics of the Commission are examined in the chapters that follow.
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Notes: bold = extended discussion or term highlighted in text;  
b = box; f = figure; n = footnote; * = photograph.

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