

Reforming the Commission

by Richard Corbett

Summary

The Commission is the day-to-day executive of the EU. It has significant powers which warrant democratic accountability. From the beginning it was made accountable to the European Parliament (EP), which was given the ultimate right to dismiss it. More recently the EP was also given a key role in its appointment. These procedures are, however, sometimes unwieldy, and there is scope for making them more workable and more visible, as well as for introducing additional forms of accountability. Better accountability would be the counterpart to strengthening the Commission's capacity to act, which is currently hampered by a number of weaknesses.

This paper suggests several reforms, including adjustments to the majorities required in the EP to approve the Commission president and to dismiss the Commission, giving the right to dismiss the Commission also to the European Council, adjusting the size and/or internal structure of the Commission, giving greater scope to the Commission president as regards the choice of other commissioners and bringing the European External Action Service fully into the Commission.

Keywords Commission – Democracy – Accountability – Capacity

Introduction

The Commission matters. The bulk of the EU's civil servants (*fonctionnaires*) work under its authority. It has the right of initiative on new policies and new legislation. It can itself take key decisions by virtue of the treaties or through delegated legislation. It executes the budget. It represents the EU externally in its fields of competence (while the External Action Service (EEAS), headed by a Commission vice-president, represents the EU in foreign and security policy questions).

The college of Commissioners is a political executive, not a technocracy, as illustrated both by the fact that member states generally nominate prominent politicians to serve on it, and by the collective nature of its accountability to the European Parliament (EP, which can only dismiss it by a vote of no-confidence in the Commission as a whole).

The nature and mechanisms of Commission accountability have evolved considerably over time. So has the Commission's structure, as its field of responsibility and its size have both increased. Both need to evolve further if we want to improve the Commission's capacity to deliver and at the same time reassure the public that it is accountable and subject to democratic scrutiny and control.

The evolving state of play

The Commission has always been subject to scrutiny through parliamentary debates, reporting requirements and its obligation to respond to parliamentary questions. This scrutiny has been strengthened over time, through the introduction of the budgetary discharge procedure and question time, and through the Framework Agreements between the Commission and the EP, which set out agreed procedures on the flow of information to the Parliament, legislative planning, responses to EP requests, access to documents, scrutiny of international negotiations and so on.

But when it comes to the ultimate sanction, the right to dismiss the Commission, the EP’s authority to act is subject to a high hurdle, requiring the adoption of a vote of censure by a two-thirds majority in the Parliament. This has never happened (the closest it has come was when the Santer Commission resigned ahead of a vote of censure that seemed likely to be adopted).

Parliament initially also had no role in the appointment of the Commission, which was appointed by national governments for a four-year term (and its president for a two-year term). Once the EP became directly elected, as of 1979, it pressed for involvement in the Commission’s appointment. It unilaterally held a debate and a vote on the incoming Thorn Commission in 1981. The member states recognised and accepted this practice in their Stuttgart ‘Solemn Declaration on European Union’ in 1983, in which they also agreed to consult the EP Bureau on the choice of Commission presidents. In 1985 the incoming Delors Commission waited for the outcome of a confidence vote by the EP before taking the oath of office. This was an important symbolic gesture that recognised the significance of the EP’s vote on the college, and implied that, had the vote been negative, they would not have gone ahead.

These practices were followed by changes to the treaties. In the 1992 Treaty of Maastricht, the member states changed the Commission’s term of office to five years to coincide with that of the EP, provided for the EP to be consulted on the choice of president, and gave the EP the right to vote to approve or reject the Commission as a whole. Five years later, in the Treaty of Amsterdam, the consultative vote on the president of the Commission became a binding vote, and gave the president the right to choose the other commissioners jointly with the national governments. In the 2003 Treaty of Nice, the Commission president was given the power to appoint vice-presidents and to dismiss individual commissioners (for instance, in response to parliamentary criticisms). Finally, the Lisbon Treaty required the European Council to take into account the results of the elections to the Parliament when deciding who to propose to the EP as president of the Commission. The EP’s vote on Commission president was described in the treaty as an ‘election’—not merely a matter of giving a seal of approval to a decision taken elsewhere, but the key point of the process.

Despite these changes, there remains scope for improvement. The Commission is a long way from being accountable to the legislature in the way that most executives in Europe are, and when it is, this is not always very visible to the public.

It is also a weak executive which, in many circumstances, lacks the necessary capacity to deliver. There is no point holding the executive to account if it is unable to act. The growing size of the Commission has made it unwieldy, and the division of competences between it and the semi-separate EEAS is awkward.

Possible improvements and changes

The first set of three proposed improvements concerns the mechanisms by which the Commission is ultimately accountable.

1. The election of the Commission president currently requires the positive votes of more than half the entire membership of the Parliament—absences or abstentions therefore count against. There are inevitably some absences—even if just 2% of the Members of the European Parliament (MEPs) are sick or have travel delays, then that is 14 MEPs who are automatically counted as being against the candidate, potentially tipping the balance. It also effectively removes the right to abstain—an important political right—as abstentions have the same effect as voting against. The required majority should instead be a simple majority, as is the norm in most national contexts.

2. The required majority should also be changed when it comes to the dismissal of a Commission by the Parliament. The current two-thirds majority requirement is excessive. It could create a situation where some 60% of the Parliament votes for censure, but the Commission remains in office, creating political difficulties and perceptions of a lack of democracy. Here, a majority of members would be the appropriate threshold, still higher than a simple majority to ensure that the right is not used flippantly, but within the margin of feasibility and in conformity with normal democratic standards.
3. In a Union of citizens and states, there should also be a way for the European Council to dismiss the Commission. This should require a qualified majority rather than unanimity. The introduction of this right would be an important symbol, even if rarely used in practice.

A second set of improvements would make accountability more visible to citizens.

1. The practice whereby political parties announce their candidate for Commission president ahead of European elections, on the assumption that the candidate from the winning party (or the one able to build a majority coalition) should normally become president, should be continued. A widespread and well-understood practice at the national level in most European countries is that parties announce, ahead of legislative elections, who their preferred candidate is to be prime minister. That does not mean that the new prime minister is always one of the parties' candidates—sometimes there is a deadlock, and a compromise has to be found—but it is the starting point and usually one of them is chosen. It is what citizens are familiar with and increasingly expect at EU level too.
2. Visibility could also be increased by a simple symbolic ceremony: taking the oath of office on the steps of the Parliament.
3. Accountability is not just about appointments and dismissals. The ongoing answerability of the Commission to the Parliament needs to be more visible. One way to achieve this would be for the Commission to announce the main decisions taken at each of its weekly meetings to the Parliament instead of at a press conference, followed by half an hour of questions from MEPs. This would involve a short one-hour plenary sitting of the Parliament every Wednesday at the start of the afternoon. To avoid upsetting the balance between Brussels and Strasbourg, these 'micro-sessions' could replace the two-day 'mini-sessions' that are typically held four or five times a year in Brussels.

A third set of improvements would strengthen the Commission's capacity to act effectively.

1. It is increasingly odd that the EEAS is not part of the Commission, despite being headed by a high representative who is a Commission vice-president, and needing to work closely with Commission Directorate-Generals such as Trade, International Partnerships, and Defence Industry and Space. It is confusing for international partners and for the public. The EEAS could be brought fully into the Commission without losing some of its special characteristics (such as secondments from national foreign ministries).
2. With the successive enlargements of the EU, the Commission has been transformed from a compact executive into a mini-assembly. The Lisbon Treaty therefore envisaged reducing its size, but this has not been implemented. With the next enlargement, it should be. Failing that, the clear internal hierarchy that has evolved in recent Commissions should be further strengthened. In any case, member states should be obliged to offer the Commission president a choice of two candidate commissioners.
3. The president of the Commission should also be appointed president of the European Council, combining the two roles, as is possible under the existing treaties. The public does not understand the difference between the 'two EU presidents in Brussels' and third countries get confused about who they should

deal with. At G7 summits, others are irritated by the EU having two representatives (in addition to three of its member states being present, meaning five of the eight around the table are EU members). The Commission president's natural role in the European Council is to pitch ideas to, and find compromises among, the member states, just as the high representative/Commission vice-president already does when chairing the Foreign Affairs Council.

Conclusion

Some of these changes are easier to achieve than others. The first set (improving the accountability mechanisms) would require treaty changes, but the second set (improving the visibility of accountability) would be very simple to implement. If the EU's institutional system is to be effective and democratic as it grows to more than 30 member states, it is vital that the Commission both has the capacity to act effectively and is visibly accountable to the elected representatives.

	Programme 1	Programme 2	Programme 3
	Improving the mechanisms of accountability	Improving the visibility of accountability	Improving the Commission's capacity to act
Project 1	Change the threshold for the EP to elect the president of the Commission to a simple majority, not a majority of members.	Retain and promote the practice whereby political parties announce their candidate for Commission president ahead of European elections.	Fully integrate the EEAS, already headed by a Commission vice-president, into the Commission as a key part the EU's executive branch, even if some characteristics regarding the recruitment of its staff are maintained.
Project 2	Reduce the threshold for the EP to dismiss the Commission from a two-thirds majority to an absolute majority of MEPs.	Hold a formal inauguration ceremony for the incoming European Commission on the steps of the EP building (on the Agora Simone Veil), with the oath administered by the president of the Court of Justice of the European Union.	Make the Commission a more effective team. For this, it should be reduced in size, as provided for in the Lisbon Treaty (or alternatively, further strengthen the clear internal hierarchy that has evolved in recent Commissions), and member states should be obliged to offer the Commission president the choice of two candidate commissioners.
Project 3	Give the European Council the right, by a qualified majority, to dismiss the Commission.	Introduce a format whereby straight after its weekly meetings, the Commission, normally through the president, reports its key decisions to the EP, with questions taken from MEPs. For this purpose, the EP should replace its periodic mini-sessions in Brussels with weekly micro-sessions.	Appoint the president of the Commission as president of the European Council, combining the two roles and avoiding the misunderstandings that arise among the public and third countries about the current two presidents.

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