

Organising Institutional Autonomy in a Political Context: Enduring Tensions in the European Commission's Development

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Abstract

The High Authority, later the European Commission, was indeed an organisational innovation. Unlike international governmental organisations, it should from its very inception be able to act independently of national governments. Its autonomy was to be justified by its role as a promoter of the *common* interest of the community. However, having become a full-fledged *political* body, concerns about accountability are automatically raised. Obviously, territorialisation of the institution; i.e., e.g., making commissioners accountable to the governments that have nominated them, could be one possible route to legitimisation, however, this would run counter to the genuine mission of the institution. Alternative options might be sectorisation; i.e., e.g., to co-opt affected interest groups, or party politicisation, i.e. making commissioners politically accountable to the European Parliament. Both sectorisation and party politicisation threaten institutionalisation (“autonomisation”) of the Commission, however, they both tend to displace territorialisation. Through an ongoing demarcation of the political and administrative parts, a continued institutionalisation (which already has come far) of the Commission services could be compatible with party-politicisation of the college of commissioners. The paper presents some fresh data on the way top officials are appointed.

Introduction

The existence of the European Commission is, arguably, the most peculiar component in the institutional architecture of the European Union (EU). While councils, parliamentary assemblies and courts may be found in other governance structures at the international level as well, a separate executive body like the Commission is not in place anywhere else. The Commission and its predecessor, the High Authority of the European Coal and Steel Community (ECSC), were deliberately designed as engines of integration. They should inject genuine *European* interests into the policy-making processes of the Community. To be able to fulfil this task, they had to be organised independently of the Council and the member governments, and have their own political leadership; the college of commissioners.

However, organising autonomous institutions within a political setting easily raises questions about accountability and legitimacy. A certain independence may be acceptable if the organisation is clearly mandated, as may be the case for some administrative agencies. They may be allowed to handle individual cases according to a given law and their own personnel affairs without interference. Autonomy may also be tolerable if the institution builds its activity solely on agreed upon values or scholarly knowledge. If none of these conditions are fulfilled, it becomes more problematic to justify independence (Olsen 2003b). Concerning the Commission, it is primarily its role as promoter of the so-called general and common European interest that has legitimised its independence. Autonomy may also have been deemed acceptable in areas in which the task has been to reach a logically correct decision by interpreting given rules or by applying expert knowledge, as in the competition field. However, as a policy-initiator in a polity with an increasingly comprehensive and complex political agenda it may have become more difficult over time to legitimise policy proposals by claiming that they will serve the public weal. Arguably, therefore, the most salient historical tension in organising the Commission has been the balancing between institutionalisation (“autonomisation”) on the one hand and territorialisation (i.e. co-opting or installing national components in the structure) on the other hand. The reason for considering territorialisation as the alternative legitimisation route (the “default option”, so to speak) is of course the fact that power was “transferred” from the nation-states in the first place. However, other possible routes to increased legitimacy in a highly politicised context are thinkable; namely sectorisation (i.e. co-opting or installing sectoral or functional components

in the structure) and party politicisation (i.e. making commissioners more accountable to the European Parliament). While territorialisation obviously threatens to bring the Commission closer to a kind of intergovernmental arrangement, institutionalisation (“autonomisation”), as well as sectorisation and party politicisation, would all work to *transcend* intergovernmental patterns of cooperation and conflict. They would instead redirect such patterns along institutional, sectoral or ideological lines.

In this paper I will *not* go into the processes through which the Commission has been organised and reorganised along the dimensions outlined above. Rather, focus is on the relationship between certain organisational devices on the one hand and actual decision-making within the Commission on the other hand; to what extent do more or less “autonomous decisions” or emphasis on national, sectoral or partisan concerns reflect the organisational structure and demography within which decision-making takes place? I proceed from here by first elaborating a bit further on the theoretical argument, then by discussing institutionalisation, territorialisation, sectorisation and party politicisation through organisational means. Empirically, I build to a considerable extent on secondary sources, however, I bring in fresh data on Commission recruitment policy in order to assess the degree of autonomy in this, for most organisations, crucial field.

How organisation directs and redirects patterns of conflict – the theoretical argument

Organisational structures are arrangements of roles and norms that impose certain expectations and obligations on the role incumbents of a particular organisation (Scott 1981). For example, an organisational chart visualises who is expected to do what, and how different tasks should relate to each other. Thus, the structure broadly defines the interests and goals that are to be pursued. People are assigned specialised agendas, and more so the lower the hierarchical level at which they find themselves. One might assert that the specialised tasks that each is allocated match perfectly well the cognitive capacities that human beings possess (Augier and March 2001). According to Simon (1965), these capacities are limited and entail “bounded rationality” in organisational decision-making. Under such conditions, only those interests and concerns that are clearly embodied in the organisational structure will have any

fair chance of getting adequate attention in the policy-making process. In addition to the organisational structure, the demography and physical arrangement of an organisation may, under certain circumstances, affect its actual decision processes (Pfeffer 1982). For example, if officials with identical background, let us say in terms of geography, cluster in a particular organisational division, this might make it more likely that this particular demographic attribute could make a difference in their decision behaviour (Selden 1997).

According to Gulick (1937) there are four fundamental ways in which tasks may be distributed horizontally among units, namely in relation to territory (geography), purpose (sector), function (process), or clientele served. If, for example, an organisation is internally specialised according to the geographical area served, it is expected to induce spatial perspectives and encourage policy-makers to pay attention primarily to particular territorial concerns. In this case, the structure reflects the territorial composition of the system and focuses attention along territorial lines of cleavage. Organisations based on a purpose principle, on the other hand, are supposed to foster sectoral horizons among decision-makers and policy standardisation across territorial units. Specialisation by function means to divide work according to the means (or kind of process) by which one wants to achieve one's goals. Typically, such a structure contains a legal division, technical division or an economics or budget division. An organisation structured according to the clientele served may, for example, have units for children, youth or elderly people.

An important point is that the choice of principle of specialisation is supposed to anchor a particular pattern of cooperation and conflict in the organisation and, simultaneously, to displace other patterns. Thus, institutions do not treat all conflicts impartially; they organise some conflicts into politics and some conflicts out of it (Schattschneider 1975). This seems to happen not only in theory, but also when it comes to actual decision behaviour (Egeberg 2003). It is therefore no accident that central governments of nation-states that often build on historically rooted regions arrange their ministerial structure according to sector rather than geography. This has furthered integration of the regional parts by refocusing conflict away from territorial lines towards sectoral lines, and has enhanced central governments' independence from the regions. By the same token, erecting geographically based ministries, as, for example, the Scottish and Welsh Offices in the British central government, clearly indicates that processes of territorial disintegration are taking place. Taylor (1990:49) reports

that Metternich, without realising what he was doing, actually proposed to divide the centralised chancellery of the Habsburg Monarchy into four departments according to geographical (national) criteria. The proposal was, however, never put into effect, so he may have realised what it could have meant for the unity of the empire. In an EU context one could argue that while the territorially based Council structure (like other international governmental organisations) primarily reflects and sustains the inherited nation-state system, the specialisation principles embedded in the Commission and the European Parliament tend to refocus attention along other lines of cleavage. Thus, arguably, only non-territorial principles of specialisation are conducive to *profound* integration and transformation of a state-centric international system (Egeberg 2001; 2004).

Most ways of specialisation may create serious external dependencies for an organisation. These dependencies may, however, also become important sources of legitimisation. For example, dividing work by geography increases the likelihood that members of a particular organisational unit start to identify themselves with “their” territory (Egeberg 2003). At the same time, such an arrangement may bring legitimacy to an organisation that finds itself in an environment dominated by actors that represent particular geographical areas. By changing the principle of specialisation, existing dependencies may be reduced, but only to see them replaced by new dependencies (and new potential sources of legitimacy). The process principle may represent an exception since this way of arranging work doesn’t clearly link up to important societal cleavages. Given that adequate legitimacy is achievable, therefore, organising by process could be highly conducive to gaining autonomy (“institutionalisation”). Inserting procedures that safeguard institutional autonomy in important areas, for example, recruitment policy, may also serve to strengthen such a development.

Organisations that are only arenas or instruments for other actors are, in this paper, not seen as “institutions” (cf. Selznick 1957). Thus, if the Commission is in fact “permeated by national interests, and acts as an important forum for competition between them” (Peterson 1999:59; Menon 2003), it certainly lacks key features characteristic of institutions. To be reckoned as “institutions”, organisations should have a distinctive identity and a value in their own right (Selznick 1957:21), and a significant portion of autonomy (Olsen 1992). In practice, however, we are dealing with a continuum rather than a dichotomy. Organisations may be more or less institutionalised, meaning here primarily that they have more or less

room for manoeuvring on their own. The extent to which institutional autonomy is deemed legitimate by the outside world, another key feature of institutions, is here less emphasised.¹

Co-opting or installing territorial, sectoral or party political components into the structure challenges an organisation's actual autonomy. However, this may be a necessary trade-off in order to raise external support or ensure accountability in a political environment. Although losing overall autonomy, an organisation may, nevertheless, increase its independence in relation to particular external actors by deliberately choosing a particular principle of specialisation. For example, as an alternative to institutionalisation, an organisation could arrange its tasks by sector in order to "escape" territorial politics. In practice, important institutions obviously have to balance several dimensions simultaneously. For example, although the long-term goal of the Commission seems to have been to "institutionalise" itself, legitimised by taking care of the EU's "general interest", it has adapted to external constraints by adopting territorial (national), sectoral and, probably more clearly in the future, party political components into its structure.

Institutionalisation vs. territorialisation

From its inception the Commission was meant to be able to act independently from national governments. Since one of its main tasks was to take care of the *common* European interest - as it could be derived from the treaties - an autonomous and impartial role in the policy process might be legitimised. This construction seems to partly parallel the executive's role in the French republican state tradition (Elgie 2003:149). The Commission's independence was clearly expressed in its formal structure which forbids commissioners as well as officials to take instructions from outside the organisation. To make this evident, the first president of the High Authority, Jean Monnet, originally wanted a college of only five members just to underline that commissioners were not to represent particular countries (Duchêne 1994: 240). The Commission has on several occasions, latest in its proposal to the Convention on the future of Europe, emphasised the need for an independent and impartial body whose mission should be to serve the *general* interest of the Union.²

However, from the very start, it became pretty clear that running the Commission was indeed a "balancing act" between autonomy and dependence on the member states (Lequesne 2000).

Seen from outside, a Commission that had the potential for becoming a genuine political actor and entrepreneur couldn't be allowed to act solely according to its own will, although this will is defined as the community interest. The appointment procedure of the college, according to which member states nominate "their" commissioners, and the national quota system, according to which the recruitment of officials should reflect the population size of the member countries, can be seen on this background. Member states' strong reluctance to give up their "representation" in the college, as demonstrated during the Convention on the future of Europe, clearly illustrates this point.³ Seen from inside, a Commission that adopted an increasingly complex political agenda couldn't rely entirely on legitimacy derived from pursuing the common good in an impartial way. Additional legitimacy could be provided by co-opting key affected parties like national administrations, for example, by bringing them in on policy preparatory committees.

Thus, from the beginning, there have been organisational components that have underpinned institutionalisation while others have supported territorialisation. Studies seem to indicate that commissioners, although more or less sensitive to the concerns of their country of origin, can not in general be seen as representatives of "their" governments (Nugent 2001:115). The same can be said about Commission officials: although they may serve as points of access for their compatriots (Michelmann 1978), and their attitudes on broad issues like capitalism and socialism may be linked to their nationality (Hooghe 2001), their actual behaviour is probably best accounted for by considering their bureaucratic role (Nugent 2001; Egeberg 2004).

Moreover, it is reason to believe that the Commission has gained *more* autonomy from national governments over time, at the political as well as at the administrative level. Concerning the college level, the Amsterdam Treaty assigned somewhat more leeway to the Commission President-elect as regards the selection of commissioners, and this leeway has been widened in the Convention's draft constitution. After Amsterdam the President also got the final say in how portfolios are allocated and even the right to reshuffle the team during the Commission's five-year term of office by redistributing dossiers, thus making it difficult to attach particular national flags to particular directorates general. The draft constitution also clearly authorises the President to dismiss individual commissioners. The Prodi Commission has also made *cabinets* more multi-nationally composed.⁴ This has probably changed the role

of entities that have been portrayed as “national enclaves” (Michelmann 1978), or as being apparently sensitive to national interests (Spence 1994:107-108; Cini 1996:111-115).

As for the political level, the developmental trends and reform efforts over the years pertaining to the services all point in the same direction: territorial components in the organisational structure have become continuously weakened. In the beginning the community administration had to rely heavily on national civil servants on short-term contracts (Coombes 1970). Currently, a large majority are permanently employed (Page 1997). While the Commission will maintain a broad geographical balance, nationality will, according to the Commission, no longer be the determinant in appointing a new person to a specific post.⁵ Two small case studies on recruitment of Commission personnel may serve to substantiate the “autonomisation thesis”.⁶

Appointing top officials at the Commission

From the very start personnel policy at the Commission has been a highly contentious issue. In particular, control over the career system and the appointment of senior officials has been seen as a question inherently linked to the grand debate on a federal vs. an intergovernmental Europe (Coombes 1970). To federalists, an *independent* career civil service was regarded as an essential prerequisite of the evolution of a federal executive. Previously, American federalists had argued quite similarly (Olsen 2003b). To intergovernmentalists, on the other hand, the notion of a self-contained, zealous body of “Eurocrats” was not particularly inviting. Thus, those who shared General de Gaulle’s conception of the future development of the Community argued that the Commission should consist of officials seconded from national administrations (Coombes 1970:121). As a kind of “compromise”, the Commission services developed into a career system with an increasing, and over time dominating, proportion of permanent posts while, at the same time, member states shared out senior posts among themselves under a sort of quota system (Coombes 1970: 157-58). This practice even reached the stage where national governments were almost claiming certain posts as being theirs by right (Cini 1996:126).⁷

As part of a more comprehensive administrative reform package launched by the Prodi Commission, new rules of procedure for appointing top officials have been introduced in order to “internalise” the recruitment process, although more informal steps in this direction

had already been taken long time ago (Coombes 1970: 158). How these new formal norms work in practice can be seen as a “litmus test” of what can be achieved through organisational design in this crucial issue area. The new formal procedure for appointing directors general (A 1), deputy directors general and directors (A 2) is presented in Appendix I. In case of a vacancy, the post has to be published, either internally (compulsory) or externally (optional). Internal and external candidates alike must submit their applications on standard application forms. The Directorate General for Personnel and Administration (DG ADMIN), maybe in cooperation with private consultants, shall carry out a systematic technical evaluation of the applications, thus verifying that candidates meet the requirements of the vacant post. These technical evaluations are then to be submitted to a so-called *rapporteur*. A *rapporteur*, designated from a pool of top Commission officials by the secretary general of the Commission, shall assist the process of identifying the best candidates. He or she is responsible for following an appointment from its initial publication to the final decision by the Commission.⁸ Thus, a *rapporteur's* tasks are to consult the “recruiting commissioner” on the required profile of candidates, to prepare (with the assistance of DG ADMIN, and, when appropriate, external consultants) a presentation to the Consultative Committees of Appointments (CCA) (see below) of accepted candidatures with a recommendation on which candidates should be interviewed by the CCA. The *rapporteur's* assessment shall not only take into account the specialist skills of applicants (although this is primary), but also the need to maintain a broad geographical balance, and measures to encourage the promotion of women. In doing his or her evaluation, the respective *rapporteur* is obliged to consult the “recruiting commissioner”.⁹

The principal mandate of the CCA is to advise the college on appointments at the A 1 and A 2 levels. The CCA shall act as an interviewing and evaluation board, which recommends a shortlist of candidates to the commissioners, who are responsible for the final decisions on appointments. The committee is chaired by the secretary general of the Commission and have the following members: the director general for DG ADMIN, the permanent *rapporteur*¹⁰, the *rapporteur* in charge of the appointment under consideration, the director general of the recruiting DG (for appointments of deputy directors general and directors within the DG), the head of the *cabinet* of the ADMIN Commissioner and the head of the *cabinet* of the Commission President (for the appointments of directors general). The committee shall seek to reach a consensus on its opinions. A vote may be taken if necessary at the request of a

member. In such cases, a decision requires a simple majority of the members present. In the event of a tie in the voting, the chair shall have a casting vote.¹¹ On the basis of the short list from the CCA the “recruiting commissioner” shall decide, in agreement with the ADMIN commissioner and the president (for directors general only), which candidate is to be appointed. The commissioner may also decide to appoint a candidate who was not short-listed by the CCA in the first place, or may decide to repeat the entire application process if none of the applicants seem acceptable.

According to the formal procedure outlined above, member state governments or their permanent representations in Brussels have no formal points of access to the recruitment process. Notwithstanding this, they could of course try to intervene informally at different stages in order to push “their” candidates forth. However, they don’t seem to contact Commission officials (e.g., the *rapporteurs*) in this respect. In case they want to have a say, it is possible they approach “their” respective commissioners or *cabinet* members instead. The extent to which this actually happens is not known (INTERVIEW). However, as stated in the rules of procedure, commissioners and *cabinet* members have at least multiple formal intakes to appointment processes. First, it is commissioners, in cooperation with top officials, who actually “create vacancies” in the first place (INTERVIEW). Second, the respective commissioner also clearly has an influence on whether to publish a post externally or not (INTERVIEW). During the last couple of years vacant posts have increasingly been advertised also publicly.¹² However, it is a clear policy statement that “priority will continue to be given to internal candidates”.¹³

The pre-selection phase, in which DG ADMIN verifies whether applicants meet the requirements of the vacant post or not, is a “hands-off” phase for commissioners and *cabinet* members (INTERVIEW). At the next stage the *rapporteur* consults the “recruiting commissioner” before submitting to the CCA his or her recommendation on whom to be interviewed by the CCA. Neither at this stage can much involvement be seen from commissioners or *cabinets*. The “recruiting director general”, or the *rapporteur*, is the “king of interviewing” (INTERVIEW). Concerning appointments of directors general, rules already preclude the possibility of having a compatriot of the respective commissioner as a director general. If a commissioner involves himself or herself it is seldom in order to pursue national

or partisan interests. Rather such interference usually reflects concerns for his or her portfolio (INTERVIEW).

CCA proceedings normally take the form of consensus seeking. *Cabinet* members play no particular role, they don't try to steer the process and are not particularly influential (INTERVIEW). If voting takes place, Commission officials may form comfortable majorities in relation to *cabinet* members; 4-2 in the case of A 1 appointments and 5-1 for A 2 appointments. In addition, the secretary general in the chair has a casting vote. The final critical question is of course whether the "recruiting commissioner" accepts the short list presented to him or her by the CCA or not. Normally, the short list is taken: Approximately 95% of those interviewed by the commissioner are from the list (INTERVIEW). However, if the commissioner chooses to interview applicants who have not been short-listed, this doesn't necessarily mean they are appointed: posts may instead be republished. During a one and a half year period only one applicant seems to have been recruited without being short-listed by the CCA (INTERVIEW).

The most striking lesson to be drawn from this small case study seems to be that the tendency to attach national flags to top posts at the Commission almost has come to an end, and that the strict geographical quota system practiced formerly has been abandoned. It appears as if the recruitment of senior personnel has not only become insulated from pressure from *national governments*, but from the *political level* of the Commission as well, a point I will come back to later in this paper. Not surprisingly, the same tendency can be observed as regards appointments of heads of unit. Formerly, national governments and *cabinets* intervened frequently even at this level. Now, head of unit appointments are only exceptionally referred to a level that brings in *cabinet* members, i.e. the CCA (INTERVIEW).

Commission officials themselves ascribe the actual "internalisation" (into the services) of senior official recruitment to the so-called "objectivisation" of the process (INTERVIEW). By this they mean the adoption of a transparent procedure and clearly specified requirements that has to be met. For example, obviously in order to safeguard merit-based recruitment, external candidates have to meet strict criteria specified solely for them to pass the "technical" pre-selection assessment made by DG ADMIN. They shall have "at least 15 years" professional experience in a post of responsibility, the last five years of which must

have been in a senior post highly relevant to the post advertised.¹⁴ The services' enhanced control of the appointment process may also be due to the new roles installed through the new procedure. The permanent *rapporteur* is a full-timer wholly dedicated to this task, and the other *rapporteurs* are senior officials with special responsibilities in the area. Thus, the new rules of procedure generate more focused attention and capacity at the administrative level to deal with top appointments.

The EU enlargement, estimated to bring in 10 A 1 and 42 A 2 officials from the accession countries, sparked the procedural reform discussed above. Concerns about the future professional qualities of the services seem to have at least partly motivated the change (INTERVIEW). It is highly indicative of a less strict quota system that the Commission plans to announce the vacant positions in all the accession countries in order to create a broader competition (INTERVIEW). The new rules of procedure were adopted solely by a Commission decision, thus without being submitted to the Parliament or the Council (INTERVIEW).

Establishing the European Communities Personnel Selection Office (EPSO)

In July 2002 the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the European Ombudsman together erected a common inter-institutional body entrusted with the means of selecting officials and other servants. The new organisation should have the task of drawing up "reserve lists" from among candidates in open competitions in line with the needs indicated by each institution.¹⁵ Thus, the *concours* (competitive exam) formerly arranged by each institution for hiring new recruits will in the future be arranged as a "joint venture". From the common reserve lists the institutions then have to pick their respective newcomers. Only in exceptional cases, and with the agreement of the EPSO, institutions may hold their own open competitions to meet specific needs for highly specialised staff.¹⁶

EPSO has its own executive board composed of the secretaries general of the eight collaborating institutions (INTERVIEW). This kind of "agencification" should in theory insulate the organisation's activities from potential pressure from EU level politicians as well as from national governments. On the other hand, an inter-institutional joint committee with the EU level trade unions which organise officials in the eight cooperating institutions may

constrain its autonomy somewhat. This joint committee is consulted by EPSO, for example on draft selection procedures. However, “EPSO decides” (INTERVIEW). In fact, the unions seem to have been quite supportive of the new recruitment regime that EPSO represents (INTERVIEW). They have over time consistently pushed for a Europeanised and “internalised” (into the services) personnel system (Coombes 1970:163).

Since EPSO is a pretty young organisation there naturally are relatively few experiences so far as regards its actual independence from external pressure. However, in preparation for enlargement, EPSO has made a decision that could have been politically difficult to reach at the Commission (INTERVIEW). In order to overcome several practical problems and save money EPSO decided that candidates taking part in the common *concours* to be arranged for each accession country would have to choose between English, French and German to take their pre-selection tests. The linguistic area is a very sensitive one and would easily have got politicised, not least since the Commission Vice-President in charge of administration had praised a multi-linguistic service and expressed concerns about a potential reduction in the number of languages to be used (INTERVIEW). Politicisation would easily have been fuelled by the protests that were conveyed both from accession and member governments (INTERVIEW).

Preparing for enlargement the Commission has presented “indicative figures, not quotas”, for the number of staff to be drawn from each of the accession countries, numbers to be used in the planning process during a seven-year “transition period”.¹⁷ Although one can not expect national governments to try influencing individual recruitment decisions at the level of A8 or below, one could, nevertheless, imagine that how this flexible quota system is actually implemented by the hiring institutions would be of considerable interest. Arguably, the encapsulation of the recruitment process that EPSO provides has removed the political access points governments might have used in this respect. The Commission has also considered the option of running specific competitions for middle managers “in cooperation with EPSO”.¹⁸ This would, in case, probably “internalise” appointment decisions at this level even more than they already are.

Sectorisation

Over time, organisational devices like more discretionary power conferred upon the President, required multinational staffing of *cabinets*, more permanent administrative posts, new rules of procedure for appointment of senior officials and EPSO all seem to have enhanced the actual autonomy of the Commission at the expense of national governments. However, while territorialisation has lost ground to institutionalisation, sectorisation may simultaneously have challenged the institutionalisation process. Since the Commission divides its work primarily according to the purpose or sector principle, it attracts societal interest groups that are structured by the same principle (Kohler-Koch 1997). These organisations more easily find their “natural” points of access to such a kind of structure than to a structure arranged according to, for example, geography. At the same time, policy-makers in a sectorised bureaucracy may come to see co-optation or involvement of societal groups within their issue area as a route to legitimisation of policy proposals (Andersen and Eliassen 2001). According to the Commission’s white paper on governance, “with better involvement comes greater responsibility”.¹⁹ Thus, understandably, the Commission has in fact encouraged the formation of EU level interest organisations (Mazey and Richardson 1996).

While sectorisation, like territorialisation, may threaten institutional autonomy, sectorisation displaces territorialisation. The Commission *might* (in theory) have been organised primarily by territory so that each of the directorates general (DGs) would correspond to a particular member state. Each geographically based DG could have been composed of officials seconded from the national administration of the country served by that particular DG. Each commissioner might have been in charge of the DG that should serve the country from which he or she had been nominated. However, things are in fact arranged quite differently. Although there certainly are, as mentioned, some territorial components in the structure of the Commission, most parts are non-territorial: the division of work among DGs reflects different sectors or functions rather than geographical areas. Most posts are permanent and filled (according to merit, with a view to geographical balance) by the Commission services themselves. Units and *cabinets* are staffed multi-nationally to avoid national clusters or enclaves (Egeberg 2004). Finally, the Prodi Commission has located commissioners and *cabinets* with their respective services. On this background it makes sense that empirical

studies so often portray decision-making at the Commission as politics among sectoral portfolios (or DGs) rather than among nations (Coombes 1970:203; Cram 1994; Cini 2000; Hooghe 2000; Mörth 2000).

Party politicisation

It has been argued above that the Commission, at the political as well as the administrative level, over time has enhanced its autonomy in relation to national governments. One could, however, on the other hand, assert that the college as a body has become more dependent on the European Parliament (EP) as time has passed. Already from the very inception of the ECSC, the Assembly, the forerunner of the EP, had the power to dismiss the whole of the college, though not individual commissioners. The Maastricht Treaty codified the right of the EP to be consulted before the President of the Commission could be appointed and also that the college shall be subject to a vote of approval by the EP (Nugent 2001:62). On 13 January 1999 the EP adopted as a resolution a report by its Committee on Institutional Affairs claiming a strong link between, on the one hand, the results of the European election, and on the other hand, the nomination of the college of commissioners and its programme for the parliamentary term. The European Convention's draft constitution largely follows up this claim by saying that the European Council, when proposing its candidate for the President of the Commission, shall take into account the elections to the European Parliament. According to the draft constitution, the candidate shall now be *elected* by the EP, not only "approved" (Article I-26). It certainly remains to be seen whether the constitution materialises. However, as shown, some, although small, steps towards a parliamentary system have already been taken. Highly compatible with such a development could be the growing proportion of the college with ministerial experience, also senior ministerial experience (MacMullen 2000). The fact that commissioners participate at their respective European political party meetings might be interpreted as a significant expression of the relevance of their partisan roles.²⁰

Party politicisation would threaten institutionalisation processes at the Commission. However, like sectorisation, party politicisation would displace territorialisation: It would bring to the fore ideological lines of conflict and cooperation rather than politics among nations. It represents an alternative route to legitimisation of the institution and its policy proposals.

Decoupling the political and administrative level

One way of coping with the tensions in the Commission's development might be to separate the political and administrative level more clearly from each other. Institutionalisation of the services could be legitimised on the grounds that they should be capable of impartially implementing, or monitoring the implementation, of common policies, and of providing reliable knowledge and "Europeanised" policy expertise for the college of commissioners. The college, on the other hand, obviously a genuine political body, could derive its legitimacy from being accountable to the directly elected EP, or, as the Commission has proposed, to the EP as well as to the European Council.²¹

In fact, an emerging dual structure could be seen already at an early stage of the Commission's history. Monnet himself seemed to have preferred a small, informal and integrated Commission (Duchêne 1994:240). However, soon after Monnet's departure, a larger gap than he had wanted opened between the High Authority's members and its officials. The services developed more into a bureaucracy according to French standards (Nugent 2001:22). A clearer role differentiation between the two levels apparently started, indicated by the increasingly different recruitment patterns found at the two echelons (MacMullen 2000). And, consistent with this, we have seen that the services themselves have gained more control over their recruitment and appointment processes, a feature pointing more towards a British or Scandinavian type of administration. Thus, while politicisation of civil service careers seems to have increased in most Western countries in the early twenty-first century (Rouban 2003:316), the opposite trend has been observed at the Commission. Moreover, the Prodi Commission has spelled out how *cabinets'* "policy creep" should be stopped. They should be down-sized and multi-nationally composed. They are to assist commissioners particularly in policy areas outside their portfolio but avoid interfering in departmental management.²²

One could interpret recent reform initiatives launched by the Commission as efforts to institutionalise not only itself, but the whole multi-level administrative structure serving the community. From an integrationist point of view, having to rely on national governments for implementing EU policies reflects the "old intergovernmental order." Early on in the Commission's life the permanent representations in Brussels even insisted that all

correspondence between community institutions and member states should go through them (Coombes 1970:244). Although this particular aspect never materialised, implementing through national governments exposes common polices for considerable influence from national politics and administrative traditions (Goetz 2001; Heritier et al. 2001; Knill 2001; Olsen 2003a; Sverdrup 2004). In order to push standardisation of administrative practice across countries a bit further, some directives have contained specific requirements as to how national agencies shall be set up (e.g., in the fields of communication and transport), the underlying assumption being that there is a close relationship between structure and actual behaviour.

The autonomy of the “community administration” would almost by necessity be enhanced if the Commission could run its own agencies at the national level. This is, however, quite unrealistic and not even wanted by the Commission, which rather prefers to focus on policy development.²³ However, as an alternative, the idea of a “networked administrative system”, in which the Commission could partly “dispose of” national agencies has been launched.²⁴ Through New Public Management inspired and OECD driven (and partly EU initiated) reforms, most regulatory tasks have already been “hived off” from national ministries to “semi-detached” bodies (so-called “agencification”) (cf., e.g., Christensen and Lægveid 2001). This kind of administrative infrastructure provides a window of opportunity for running “double-hatted” regulatory agencies at the national level: they may be able to serve two principals simultaneously. On the one hand they of course constitute an integral part of the national bureaucracy as originally intended. But, on the other hand, due to their relative independence, they may be well placed also to serve as part of the “community administration”, as regards contributing to policy development as well as to implementation. A ministerial department could never play such a dual role.

The Commission would constitute the hub of a network, and national agencies working in the same policy area, for example telecom, would make up its partners.²⁵ This kind of structure would represent a kind of “semi-institutionalisation” of a multi-level community administration that could be highly conducive to enhanced policy convergence in the Union. Comparative studies of expert committees at the Commission and Council working parties have already been indicative of an emerging “de-composition” of national central governments. National officials do in fact play different roles in the two settings. Those in

Commission groups are relatively seldom mandated by central coordinating bodies like foreign ministries to behave in a certain manner. Thus, they have considerable leeway to contribute to *European* policy development, often on a highly sectoral basis. Those on Council committees (could be the same persons), on the other hand, are usually instructed from back home and tend to perceive of themselves as mainly government representatives (Egeberg et al. 2003; Trondal and Veggeland 2003).

From an organisational point of view the administrative arrangement most conducive to a harmonised implementation across the Union, even more conducive than the Commission services themselves, would be EU level semi-independent regulatory agencies.²⁶ Arguably, such bodies would largely encapsulate the implementation process from pressure from national governments at the national as well as at the community level. A precondition obviously has to be that an intergovernmental executive board is not installed on top of the agencies. Below, the various organisational structures are ranked according to the extent to which they represent an institutionalisation of a “community administration”. Although this exercise draws on more general organisational and administrative theory (Egeberg 2003), it is more a research agenda than an established fact.

Box 1

Degree of institutionalisation (“autonomisation”) of a “community administration”

High

EU level regulatory agencies

Commission services

EU agencies at the national level (not on the agenda)

Agency network (“double-hatted” agencies at the national level)

National governments – some structural EU harmonisation

National governments

Low

Conclusion

From its very inception the High Authority, later the Commission, was meant to act independently from member governments. The body was indeed an institutional innovation, pointing beyond a purely intergovernmental order. Its legitimacy as an autonomous organisation was to be derived from its role as an injector of the general European interest into the policy process. This author's interpretation is that the Commission has gradually strengthened its independence from member states over time. The introduction of new organisational procedures, both at the political and administrative level, has pushed institutionalisation further. Two small case studies presented in this paper have substantiated this conclusion. Although the lessons that can be drawn from these two reforms are still limited, they both point towards enhanced "internalisation" of recruitment and appointment decisions. By allocating and earmarking administrative resources to the process of appointing top officials, and by "objectivising" the rules of procedure, the highly contentious and persistent practice of attaching national flags to particular posts seems to have almost come to an end. Also, through the interinstitutional, "agencified" EPSO, which runs the *concours* for newcomers, a barrier has been erected against external pressure, for example, on how the quota system will be practiced in the future.

Since the agenda of the Commission has become increasingly comprehensive and multifaceted, it has probably also become harder to legitimise its independence and policy proposals by referring to what's in the general interest. One could interpret the efforts at involving civil society, and particularly European level sectoral organisations, as a way of compensating for the diminished role of territorial components in the Commission structure in this respect. Internal and external sectorisation threatens institutionalisation processes, but it also tends to displace territorialisation. Politics at the Commission is, in general, better described as politics among sectoral or functional portfolios than among nations.

Another, or additional, route to legitimacy and accountability might be to develop a closer relationship to the European electorate. So far, the small steps that have been taken point more in direction of a kind of parliamentary system than a directly elected Commission president. Like sectorisation, party politicisation might hamper institutionalisation processes. It may, however, at the same time counteract territorialisation by bringing in ideologically

based transnational coalitions. The Commission's proposal to make itself accountable also to the European Council could be interpreted as a way of bringing the territorial dimension back in. However, making the college (or individual commissioners for that matter) partly accountable to the European Council as a body is very different from an intergovernmental arrangement. The latter case would mean that each commissioner would be accountable to the government that has appointed him or her.

Important institutions usually have to cope with, often simultaneously, competing demands, values and principles. A certain organisational de-coupling may simplify the balancing act. Regarding the Commission, a clearer demarcation of the political and administrative parts seems to have occurred over time. For example, the new rules of procedure for the appointment of senior officials are not only insulating such processes from national governments but from commissioners and their *cabinets* as well. The separation makes it possible to "maximise", so to speak, along at least two dimensions at the same time. The political part can be made accountable, and, thus, less autonomous through territorialisation, sectorisation or party politicisation. The services, on the other hand, can be institutionalised up to a certain point, legitimised by its role as impartial implementor and provider of reliable knowledge and Europeanised policy expertise for the political leadership. The development of EU level regulatory agencies and "double-hatted", semi-detached national agencies, both working in close cooperation with the Commission services, might be interpreted as the first real signs of institutionalising a multi-level "community administration".

The many inherent tensions in the Commission's development make it hard to figure out what the most important implications are for the European integration process as such. However, the lesson to be drawn from this analysis seems to be that the way the Commission has been organised contributes to changing the pattern of conflict and cooperation in European politics. Such a change can be seen as an essential feature of system transformation (Egeberg 2004). Most apparently, having become an actor in its own right through institutionalisation, it has complemented a decision system primarily composed of states and intergovernmental organisations and brought inter-*institutional* conflict and cooperation into the system. By connecting up national agencies it even challenges the internal consistency of national governments. Sectorisation means that politics at the Commission primarily takes the form of politics among sectoral DGs, which in turn link up transnational sectoral groups, and

compatible parts of national administrations. And, finally, the prospects for a college appointed more according to parliamentary principles would expand the room for party politics at the EU level.

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Notes

1. I'm aware that not only "concrete" organisations as such, but also arrangements and procedures, like territorial or sectoral representation, can be seen as more or less "institutionalised". However, such institutionalisation may serve to de-institutionalise the organisation as such, which is the point here.
2. Cf., *European Governance. A White Paper*, COM (2001) 428 final, p. 8, and *For the European Union. Peace, Freedom and Solidarity. Communication of the Commission on the Institutional Architecture*, COM (2002) 728 final, p. 18
3. Cf., e.g., *European Voice* 14-20 Nov. 2002, and 22-28 May 2003-08-18
4. *European Voice* 22-28 July 1999
5. Press statement by Vice President Neil Kinnock, 29 September 1999
6. Based on personal interviews with four Commission senior officials (Brussels 15-16 May 2003), among whom two were participants at meetings of the Consultative Committee on Appointments, plus documents (referred to).
7. *An Administration at the service of half a billion Europeans. Staff Reforms at the European Commission* (spring 2002), p. 20
8. Manual – Commission Top Management: The Selection, Appointment and Appraisal of Senior Commission Officials (07/11/02)
9. *An Administration at the Service of..*, p. 21
10. A2 official at DG ADMIN with an overall responsibility for recruitment of top officials. May also serve as *rapporteur* for specific appointments.
11. Rules of procedure for the Consultative Committee on Appointments (CCA) (ADMIN-2002-00355-01-00)
12. *An Administration at the Service of..*, p. 20
13. Manual, p. 5
14. *An Administration at the Service of...*, p. 20

15. *Official Journal of the European Communities*, vol. 45, L197/53, *An Administration of the Service of....*, p. 6
16. *Official Journal.....*
17. Meeting of Vice-President N. Kinnock with ministers responsible for public administration in the accession countries – 26 may 2003
18. Meeting of Vice-President....
19. *European Governance.....*, p. 15
20. At least, this is the case for social democratic commissioners. Source: Espen Barth Eide, member of the presidency of the Party of European Socialists (PES).
21. *For the European Union.....*, p. 18
22. *European Voice*, 22-28 July, 1999
23. *Externalisation of the Management of Community Programmes – including presentation of a framework regulation for a new type of executive agency (COM (2000) 788 final)*
24. *Externalisation....*, p. 6
25. *Externalisation....*, p. 6
26. *European Governance....*, p. 24

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Appendix I: Appointments of senior officials, grade A1. Formal procedure

Publication of posts

External publication

Internal publication

Applications with standardized forms

Technical evaluation of applications by DG ADMIN

Rapporteur evaluates files and recommends to Consultative Committee on Appointments (CCA) list of candidates to be interviewed

CCA interviews candidates and establishes short list for the “recruiting” Commissioner

Commissioner takes final decision in agreement with the President and the Commissioner for Personnel

Commission appoints senior official

Source: Manual – Commission Top management. The selection, appointment and appraisal of senior Commission officials (07/11/02), p. 7