

EUROPEAN COMMISSION AND PARLIAMENT: WHAT RELATIONS?

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This Tribune is based on António Vitorino's speech during a public hearing at the committee on constitutional affairs of the European Parliament, at the invitation of Chairman Carlo Casini and Rapporteur Paulo Rangel. The hearing on 20 January 2014 dealt with the question: "Relations between the European Parliament and the European Commission: Parliamentarism or Presidentialism?".

I will try to address some - and only some - of what I consider the key issues at stake in the relations between the European Parliament and the European Commission. Mainly focusing on the legitimacy of the European Commission; the political role and efficiency of the European Commission; its relationships concerning the exercise of legislative powers and the scope of inter-institutional agreements.

1. Differentiation as the key feature of the EU institutional development

Allow me a preliminary point of a more general nature.

I believe that in the near future the key feature of the institutional development of the European Union (EU) will be what Jacques Delors called, some 15 years ago, "differentiation" (others prefer "variable geometry" or "multi speed").

The euro area - the Economic and Monetary Union (EMU) - has the vocation to become the core of in-depth integration (economic and political integration).

Don't get me wrong - EMU is a common policy of the EU with two exceptions (UK and Denmark) but, due to this "divergence of objectives" allowed by the Maastricht treaty, most likely EMU will be developed and deepened following the logics of "enhanced cooperation" - a set of rules and commitments binding a specific group of member states - those that share the common currency and those that are legally bind to join the euro once they meet the required criteria.

As we have already witnessed during the evolution of the financial crisis, the deepening of economic, budgetary, fiscal and monetary integration in the euro

area will sometimes be based on intergovernmental agreements.

More relevant than the controversy about the legal basis will be - in my view - the impact of such instruments in the EU institutional framework and its relation with the Union's legal framework.

In my opinion it is essential first and foremost to guarantee that the EU institutions are fully enshrined and at centre stage no matter the nature of the legal instrument adopted.

In practical terms this means keeping the integrity of the EU institutional framework - namely the legislative powers of the European Parliament, the central role of the Commission (specially its rights of initiative) and the judicial review of the European Court of justice (ECJ).

The new legal framework of EMU will undoubtedly raise potential tensions and conflicts with the rules concerning the internal market, the core of the "Big Europe" at 28 and therefore only the EU common institutions will be in the appropriate condition to handle such potential difficulties.

This being said, one can't discard the need to introduce in parallel the necessary institutional innovations to cope with the new challenges even without any treaty change. What to me looks essential is to consider out of the question building any separate institutional setting exclusive for the euro area apart from the common existing institutions.

An example (and I know that it will not be consensual here in the Parliament) is the possible creation of a subcommittee in the economic and monetary affairs

committee of the European Parliament in charge of monitoring the evolution of the EMU, most particularly to cope with the so called European semester or to participate in the body created by article 13 of the fiscal compact in view of the future relations with the national parliaments of the euro area member states.

2. The appointment of the Commission's president: who is the king maker?

Coming back now to the question of the political legitimacy of the Commission we are about to inaugurate a new setting for the designation of the president of the Commission as it was defined by the Convention on the future of Europe and later taken on board by the Lisbon treaty. As a matter of fact in the Convention the alternatives of a direct election of the president of the Commission and keeping the designation process untouched were both discarded. Therefore a sort of middle ground solution was found establishing a link between the power of the European Council to designate a candidate to the post taking into account the results of the European Parliament elections.

In my opinion the key point in this respect is how to materialise the link established in the treaties between the results of the European Parliament elections and the designation by the European Council of the candidate to be elected by Parliament as president of the European Commission.

I believe that in line with the Treaty innovation, the decision taken by several European political groups to put forward their names for the presidency of the Commission in advance to the European elections is to be welcomed. By the way I recall that such an idea was put forward by Jacques Delors some 15 years ago. The aim of such a move is to link a face with a political programme in order to mobilise the citizens to participate in the elections and therefore reverse the trend of a declining turnout. Definitely this choice, if followed by the most relevant political groups, will be a strong political sign to the European Council about the willingness of the Parliament to play a crucial role in the choice of the next president of the Commission. Nevertheless I am of the view that most likely there will be no automatic link between the initiative of the political groups and the choice of the European Council.

Undoubtedly the choice of the political groups will enhance the position of the European Parliament in

front of the power to choose the candidate to president of the Commission that, according to the treaties, remains in the European Council. The inter-institutional bargaining of next June promises to be a very interesting (and hopefully exciting) one.

Most likely no single political family will have on its own the necessary majority of seats to elect the next president of the European Commission. Therefore a lot will depend on the political negotiations that will occur in the framework of the procedure of consultations that will take place after the 25th of May elections - consultations that probably will be conducted by the current president of the European Council and that will set a precedent for the future.

Will there be a common candidate backed by a coalition within the Parliament broad enough to sustain a candidate coming from the most voted political group in the Parliament? How will the negotiations concerning the future president of the European Commission integrate in the broader picture of the other relevant appointments that usually occur in parallel (the High representative for CFSDP, the president of the European Council, a possible permanent president of the Eurogroup)?

We all have experienced the difficult balances involved in such choices that are not likely to disappear (gender balance, big and small member states, North/South, political families balance). Even more if we will go back to the times when the most voted political group in the Parliament did not correspond to the political orientation of the majority of the governments of member states present in the European Council...

Last but not least, the Commission will go on depending on the confidence both of the European Parliament and of the European Council. This specific political environment (double confidence) corresponds to the dual nature of the EU (a Union of citizens and a Union of states). Therefore I anticipate that, like it has been the case in the past, the next Commission will be based on the logics of a "Grand coalition", involving three or more political families and, most probably, the functioning of the new Commission in relation with the Parliament will not follow the classic parliamentary lines of majority/opposition that we usually find in national parliaments.

In conclusion: the European Parliament will have an enhanced say in the negotiation that will occur backed

by the political choice of electors and at the end the two institutions (Parliament and Council) are condemned to come to an agreement in order to avoid any institutional dead-lock that would undermine even further the public confidence on the European institutions as a whole in this very critical moment. A lot will depend on the departing negotiation positions of the key stakeholders and of the fairness and effectiveness of the consultations prior to the designation of a candidate to the post of president of the Commission.

3. The political efficiency of the Commission: the need for innovation

My next point focuses on the political efficiency of the Commission that in my view is closely connected with the principle of collegiality. Historically speaking collegiality has been the basis of the political strength of the Commission. Nevertheless one must recognise that the size and the internal organisation of the Commission (and also the political style of some of the key players) have weakened this principle. From my own experience I can testify the difficulty of a fully comprehensive collegial functioning in a rather large body (28 members now according to the principle of one commissioner per member state).

Since Nice (in 2000) we have been debating the pros and cons of a large or a reduced Commission. I've always found reasonable arguments in favour of each of both solutions and I came to the conclusion that most probably there is no optimal one. Therefore choices will have to be made.

The Lisbon treaty made a choice in favour of a reduced Commission mainly in line with the idea that such a size would fit better with collegiality and also because in practical terms there are 12 up to 15 substantive portfolios. Anyway I would not expect that the European Council will reverse the decision taken after the Irish referendum to keep one commissioner per member state in the next Commission. Therefore the question that concerns me is how to maximise the political role of the Commission with 28 members and how to avoid a certain tendency for the Commission to become a sort of Coreper 3.

From my own experience, and considering the existence of in between 12 to 15 specific portfolios, I would be in favour of introducing two innovations in the internal organisation of the college.

First - creating a number of clusters of commissioners covering broad areas of policy responsibility, each of them chaired by a vice-president of the Commission, for examples:

- Foreign policy aggregating trade, development, enlargement and neighbourhood, humanitarian aid;
- Internal market - covering financial services, energy and climate change, transport, digital economy;
- Citizenship - justice, human rights, home affairs, education and culture;
- Economic and financial affairs - competition, budget, EMU.

Second - in a given number of portfolios some commissioners could be in charge of a more relevant and specified policy area attached directly to a vice-president or to another commissioner (for instance, financial services attached to the internal market commissioner).

I believe that the cluster system would reinforce the collegiality on a daily basis and provide it would be guaranteed that the decisions concerning policy and legislative initiatives prepared at the clusters level would always be submitted for approval to the entire college based on the rule of one member/one vote (all commissioners participating on equal foot).

As a consequence it would be advisable to streamline the number of DG's (Directorates-General) in accordance with the substantive portfolios.

Such innovations would require in parallel the recognition by the European Council of an enhanced power of the president of the Commission in the choice of individual commissioners.

In fact, the president of the Commission is better placed to assess the profiles of potential commissioners in line with the concrete needs of the institution and of its internal organisation.

It will be more difficult to find the right internal balance of a body of 28 members if the president of the Commission is solely confined by the proposals of member states governments, proposals that sometimes are more depending on pure reasons of internal national politics and less of the definition of the best contributors to the general European interest). Such enhanced power of the president of the Commission would be exercised on the basis of a dialogue with

national member states and bearing in mind the need to get the approval of the entire college by the European Parliament. In that sense one could say that the results for the European Parliament elections in each member state should also be taken into consideration in the choice of commissioners.

4. The exercise of legislative powers and the role of inter-institutional agreements

In what concerns the exercise of the legislative powers I believe that the Lisbon treaty considers the ordinary legislative process not only the rule but also the two co-legislators should be considered on equal footing. One must recognise that the precedent years of codecision have allowed the development of a more close and direct relation between the Council of ministers and the European Parliament. In this respect the Commission has lost some ground as an “honest broker” (with consequences in what concerns the effective exercise of the power to withdraw its proposals).

I find this evolution as a natural consequence of the maturity of a bicameral legislative process. Nevertheless I still think that such an evolution recommends keeping in the Commission the sole right of legislative initiative.

More relevant is the way still to go to clarify the criteria applied to the distinction between legislation, delegated acts and implementing acts of a more recent origin. To the advantage of all three institutions involved in the legislative process such a clarification should be the object of a tripartite framework agreement in order to simplify the complexity of the current legislation.

Finally I would add only one brief reference to the question of inter-institutional agreements. In broader terms I would make a plea for a basic tripartite framework agreement to replace the current model that appear to me to be fragmented unbalanced.

In this respect I acknowledge the distinction between political programming and procedural engagements and the very different scope of them. Nevertheless I believe that the need for enhanced dialogue and shared planning would be preferable to the set of partial agreements that might be contradictory and do not contribute to the clarity of the political purposes of the Union as a whole.

And clarity of purposes is what we are desperately in need so that 2014 can be the starting point of reconciliation of the vast majority of our citizens with the European ideal!

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