

# **An unstable house?**

## **Reconstructing the European Commission**

**Alasdair Murray**

**March 2004**

## ABOUT THE AUTHOR

Alasdair Murray is director of the business and social policy unit at the Centre for European Reform. He was previously an economics and Brussels correspondent for the *Times* and a business journalist for the *Times* and the *Mail on Sunday*. His other CER publications include ‘The future of European stock markets’, May 2001; (as co-author) ‘Europe after September 11<sup>th</sup>’, December 2001; (as co-author) ‘New designs for Europe’, October 2002; ‘European economic reform: tackling the delivery deficit’, October 2002; ‘The Lisbon Scorecard III’, March 2003; ‘Corporate Social Responsibility in the EU’, June 2003 and ‘The Lisbon Scorecard IV’, March 2004.



## AUTHOR’S ACKNOWLEDGEMENTS

A large number of current and former Commission officials contributed to this paper, many of whom would like to remain anonymous. But I would like to thank Michael Mann, Nick Clegg, Peter Guilford and Laure Astill for their comments and criticisms. Thanks are also due to CER staff for their comments and to Kate Meakins for layout and production. The conclusions and any remaining errors are the author’s own.



## Contents

About the author

Author’s acknowledgements

1	Introduction	1
2	The political Commission	9
3	Modernising the Commission’s services	25
4	A credible and efficient executive	39
5	Summary of recommendations	57

# 1 Introduction

The European Commission is the institutional heart of the European Union. For 50 years, the Commission has not only overseen the day-to-day functioning of the Union but also led the debate on the EU's future.

The Commission devises policies, drafts laws and then steers EU legislation through the Council of Ministers and the European Parliament. It also carries out executive functions – from administering EU spending programmes, such as development aid, to enforcing EU merger rules. It oversees the EU's budget. It represents and negotiates on behalf of the EU in a wide range of external fora, such as the World Trade Organisation. The Commission is also the guarantor of EU law, ensuring that member-states implement EU rules in a timely and equitable fashion. Without an effective and credible Commission, the EU would cease to function.

However, over the last decade or so the Commission's credibility has declined dramatically. Its failure to tackle management and budgetary problems has led directly to a series of embarrassing fraud allegations and corruption scandals. In November 2003, the EU's Court of Auditors declared for the ninth consecutive year that the EU's accounts were "unsafe" because of unresolved problems with the Commission's system of financial controls.

At the same time, the Commission's status has diminished relative to the other major EU institutions, the Council of Ministers and the European Parliament. The Parliament, which has gained a wide array of new powers over the last ten years, has shown greater willingness to flex its muscles – most notably by forcing the

resignation of the Santer Commission in 1999. Meanwhile, the EU's agenda has moved into policy areas where the Commission has only limited powers and expertise, such as foreign policy. Integrationist-minded countries, in particular France and Germany, no longer view the Commission as an essential motor for a closer European Union.

Even when the Commission does have a supposedly well-defined role, for example enforcing the eurozone's budgetary rules, the Council has shown scant respect for the Commission's recommendations. In November 2003 the council of finance ministers (Ecofin) humiliated the Commission by rejecting its proposals to compel France and Germany to make their budget deficits comply with the Stability and Growth Pact. The Commission showed poor political judgement by subsequently announcing in January 2004 that it would take legal action against that Council's decision. Too often, the Commission appears more concerned with protecting its powers at any cost, than with seeking to resolve complex problems such as the pact's flaws.

### The ghost of Jacques Delors

The Commission no longer dominates the European debate as it did under the leadership of Jacques Delors during the late 1980s and early 1990s. The Delors Commission secured significant successes, such as the creation of the single market and the launch of the plan for the euro.

<sup>1</sup> See John Peterson, 'The European Commission: Plateau? Permanent Decline?', in *Collegium*, No. 26, Spring 2003.

Yet the Delors Commission was probably an aberration, marking a high point of Commission influence which is unlikely to be repeated. As one commentator argues, only twice during the Commission's 50-year history has it set the European agenda, under Delors, and before that, under Walter Hallstein during the 1960s.<sup>1</sup> But Hallstein's presidency ended with Charles de Gaulle, the then French president, pursuing an 'empty

chair' policy. Since the European Economic Community (forerunner of today's European Union) could only take decisions by unanimity, de Gaulle brought the EU's work to a halt by refusing to send a French representative to meetings.

The decline in the Commission's authority should not be exaggerated. True, the Commission's power has diminished relative to that of the other EU institutions. But in absolute terms the Commission is stronger than ever. It is able to propose legislation on a huge range of policy issues, from working hours to asylum policy. The Commission's trade and competition powers have a global reach. It was the Commission, rather than the competition authorities of the US or of EU member-states, which in 2001 scuppered the €37 billion merger between two American companies, GE and Honeywell.

Nor is Delors's legacy entirely benign; many of the Commission's current problems can be traced back to the decade when he was in charge. Under Delors the Commission took on a wide variety of new tasks, many of which involved the disbursement of EU money. But it gave little thought as to whether it had the resources necessary to implement its new responsibilities. Delors employed a ruthless political machine to force through his ideas – led by his indefatigable *chef de cabinet*, Pascal Lamy (now trade commissioner). Lamy established a small informal network of loyal officials to implement the president's policies, but failed to tackle deep-rooted weaknesses in the Commission's management. As a result, large parts of the Commission services atrophied. Staff morale plummeted and has yet to recover fully. To rephrase the title of one Delors biography, Jacques's house was built on unstable foundations.<sup>2</sup>

<sup>2</sup> Charles Grant, 'Inside the House that Jacques built', Nicholas Brealey Publishing, 1994.

### Political pygmies

Weak leadership has compounded the problems that originated in the Delors era. This paper argues that the Commission has taken

some notable steps towards putting its house in order. However, reform is far from complete. The Commission is still plagued by damaging allegations of fraud and mismanagement, most recently against Eurostat, the EU's statistical agency. The Commission too often appears intolerant of internal dissent. The current Commission president, Romano Prodi, has further damaged the Commission's credibility through a series of spectacular gaffes. One French journalist has given a particularly damning verdict on the Prodi

<sup>3</sup> Jean Quatremer, 'Prodi sans prodiges', *Libération*, September 27<sup>th</sup> 2003. Commission: "Romano Prodi is the worst ever Commission president. During his term, the European executive has lost as much moral as political authority."<sup>3</sup>

Many member-state governments appear content to allow the Commission's political stock to decline – and not just countries such as the UK or Denmark which have traditionally been sceptical of the need for a strong Commission. The Commission has always fulfilled a role as a political punchball for member-state governments that are having to push through unpalatable reforms. But it used to be able to count on the political support of those countries which favoured further European integration. In recent years even Germany, traditionally a staunch supporter of the Commission, has become publicly critical of the Commission's policies, particularly over its robust line on state aid for German industry and its strict interpretation of the Stability and Growth Pact. Now the Commission's only consistent allies are the smaller member-states. They want a strong Commission to prevent the EU becoming dominated by a *directoire* of the larger member-states.

The Commission is concerned that the EU's constitutional treaty – if and when EU leaders approve the document – could accelerate its own decline. The text proposed by the Convention on the Future of Europe would grant the Commission few new powers, the key exception being a greater role in justice and home affairs policy-making. Meanwhile, the European Parliament would gain a raft of new powers, including more control over the EU budget. The treaty

would also create a president of the European Council, who would have direct responsibility for steering the EU's political strategy. The Commission fears that the president of the Council, rather than that of the Commission, could become Europe's most visible leader.

Moreover, the Commission worries that the 'community method' – the legislative process whereby the Commission proposes legislation and the Council and the European Parliament decide the final text – could be under threat. Member-states are making increasing use of other forms of decision-making, such as the 'open method of co-ordination' which restricts the Commission's role to that of a secretariat encouraging the exchange of best practice among the member-states. Some critics of the Commission are even asking whether it should continue to have the sole right of initiative for EU legislation. They argue that the Commission drafts too many ill thought-out proposals and should lose its legislative monopoly. They claim that the Council secretariat, or even member-state administrations, could just as easily draft EU rules.

However, it is not in the EU's long-term interest to turn the Commission into a political pygmy. The EU's enlargement from 15 to 25 countries in May 2004 makes it even more important for a strong body to enforce Union laws, and ensure the larger member-states do not wield excessive power. The EU needs a strong Commission to crack down on illegal state aid and protectionist behaviour within the single market. The existing member-states have a poor record of implementing EU rules in a timely and even manner. Two of the larger member-states – France and Italy – are among the worst offenders, accounting for more than a quarter of all EU law infringement cases. The Commission estimates that the number of such cases is likely to rise by up to 40 per cent following enlargement.

Equally, no other EU institution is both equipped and trusted to prepare and broker legislation. In theory, the Council secretariat could play a larger role in drafting legislation. But the EU would

then end up duplicating resources by increasing the size of the Council secretariat to perform this task. The EU found that when member-states shared the right to initiate justice and home affairs (JHA) legislation with the Commission, a raft of contradictory proposals paralysed the decision-making process. As a result, the Nice treaty – due to take effect in November 2004 – gives the Commission alone the right to draft JHA legislation.

In a larger, more diverse Union the Commission's role as the EU's collective memory will become even more vital. Only the Commission can ensure some continuity amid the ebb and flow of national politics. If the Commission did not already exist, the EU would need to invent it. But the Commission cannot perform these vital functions unless it possesses real political authority and credibility.

The Commission must take charge of its destiny. It needs to improve its performance in its core areas of competence. The Commission cannot expect to win new powers if governments and citizens think it unable to carry out existing functions properly.

First, the Commission should make further reforms to the leadership of the Commission, the 'college' of commissioners appointed by member-state governments. The next president must use his or her powers much more effectively to provide leadership in an enlarged Commission.

Second, the Commission must complete the reform of its 'services' – the directorates-general which make up its permanent civil service. The Prodi Commission has made some progress, for example by overhauling the personnel structure and tightening management controls. But as Jules Muis, the Commission's outspoken chief auditor, has said, the Commission still needs to end the "politeness conspiracy" which prevents necessary change. How the Commission should reform its services is the subject of the second part of this paper.

Such reforms are not politically appealing, and there is a risk that the next Commission will choose to make its mark in other ways. But addressing these shortcomings is imperative to the long-term success of the Commission. As one director-general put it: "The Commission needs to return to basics, do its homework on new legislation, redevelop its political skills and use persuasion." Thus the next Commission faces a huge challenge to regain credibility and to reform its structures to ensure that it can effectively function after enlargement. It is vital that the Commission succeeds in this task, for a self-confident and efficient Commission is indispensable to the future success of the European Union.

## 2 The political Commission

### The Commission and the constitutional treaty

The proposed constitutional treaty, if adopted, would shift the balance of power between the EU's main institutions. The inter-governmental institutions, the Council of Ministers and the European Council, stand to gain most. The treaty would create two new powerful figures who could compete directly with the Commission president: a president of the European Council, who would steer the EU's overall strategy; and an EU 'foreign minister', who would wield some powers which at present reside with the Commission.<sup>4</sup>

*<sup>4</sup> See 'Guide to the draft constitution', CER, July 2003.*

The Commission and some smaller states are concerned that these new posts would further diminish the authority of the Commission and its president. Consequently, the Commission could find it even more difficult to carry out its key tasks, such as holding member-states to account for flouting EU rules.

To counterbalance this expected shift of power, some of the EU's more integrationist members have proposed strengthening the authority of the Commission, in particular by giving the Commission president more democratic legitimacy.<sup>5</sup> If the Commission president was directly elected by the European people, he or she would carry much greater legitimacy and would find it easier to stamp his or her authority on the EU. However, a directly elected president remains a pipe dream; even the most committed federalists accept that pan-European politics is in its infancy. So those who want a stronger Commission have focused on using existing EU parliaments – both national ones and the

*<sup>5</sup> The next Commission president will be chosen in June 2004 by the European Council, acting by qualified majority voting.*

European Parliament – to elect the Commission president. One of Valéry Giscard d'Estaing's better ideas, in his role as president of the Convention on the Future of Europe, was to suggest the creation of an EU Congress to elect the Commission president. The Congress would consist of equal numbers of members of the European Parliament (MEPs) and national members of parliament (MPs).

Although Giscard's proposal came in direct response to the member-states' request to increase the role of national parliaments in EU affairs, the Convention chose not to pursue it. MEPs argued that such a system would diminish their powers, while others complained that the creation of a Congress would further clutter the EU's already complex institutional architecture.

Meanwhile, national government representatives blocked an alternative proposal, namely that MEPs should elect the Commission president, and that the European Council should confirm the European Parliament's decision. Some governments, such as the UK, argued that this system would lead to the 'politicisation' of the Commission. They claimed the Commission would lose credibility, for example when taking action against member-states in state aid cases, if its decisions became perceived as politically motivated.

Member-states have exaggerated the dangers of the European Parliament electing the Commission president. The college of commissioners is already a political body: it takes tough political decisions on issues such as agriculture, energy liberalisation or workers' rights. But that does not mean that the college is a partisan body; it reflects a wide range of political views and is not controlled by one political grouping. The election of a president ought not result in the Commission becoming any more partisan than it is now. Member-states would continue to propose commissioners drawn from the EU's diverse political parties. But an elected president would be more directly accountable to the European Parliament and a little more credible in the eyes of European voters.

The Convention could not reach a consensus on this issue. As a result, the draft constitutional treaty makes only very modest adjustments to the existing system, according to which the European Council decides on a candidate who is then confirmed by the European Parliament. In future, the Council would be required to consult the European Parliament before choosing the Commission president, potentially allowing MEPs to suggest their own preferred candidate. The Council would also have to take into account the outcome of the last elections to the European Parliament, which suggests that future Commission presidents are likely to come from the same political family as the largest party grouping within the European Parliament. Nevertheless, the Council would still have the last say in the selection procedure and the Parliament would do little more than ratify the Council's choice.

But the European Parliament could make better use of its existing powers to ensure the Council is held to account for its choice of Commission president. Since 1994, the European Parliament has held a series of hearings with the new commissioners, supposedly in the manner of the US Congress' 'confirmation hearings'. But the Parliament's attempts to vet the Prodi Commission in 1999 proved toothless. MEPs asked too many unfocused questions and failed to follow up key points, with the result that commissioners did not face sustained scrutiny of their political record. Even those commissioners who had served in the discredited Santer Commission enjoyed an easy ride. MEPs should modify their rules for the confirmation of the next Commission president (and future commissioners). They should be able to ask supplementary questions and subject the Council's candidate for Commission president to a proper hearing. MEPs should also indicate their willingness to reject any candidate who fails to impress at the hearing. The Council might then think twice before settling upon a weak and ineffectual compromise candidate for the presidency.



## The college of commissioners

One of the most heated debates surrounding the constitutional treaty is how to reform the college of commissioners to take account of enlargement. The expansion of the college to 25 commissioners, and perhaps to 30 or more in the future, threatens to make Commission decision-making much slower and more cumbersome.

At present, each member-state sends one commissioner to Brussels, with the exception of the five largest member-states which appoint two. The next Commission, which takes office in the autumn of 2004, will operate under new rules agreed in the Nice treaty. The larger member-states have agreed to give up their second commissioners, which will restrict the number of commissioners to 25 after the current round of enlargement. The treaty also caps the overall number of commissioners at 27, thus forcing the EU to return to the issue of Commission reform once Bulgaria and Romania have joined the Union, most likely in 2007. However, many people fear that even a college of 25 or 27 members risks making Commission decision-making much slower and more cumbersome.

Some member-states, led by Germany and France, have proposed reducing the number of commissioners to 15 after enlargement. They argue such a reform would not only increase the efficiency of the Commission's decision-making, but also break the link between commissioners and national governments. Hence the college would be much more likely to base its decisions on a thorough appraisal of European rather than national interests.

A smaller Commission could be more efficient, but it would risk becoming even more distant from European citizens. Many voters already perceive 'Brussels', which normally means the Commission, as remote. The absence of a recognisable national political figure, able to explain important Commission decisions in their own language, would only heighten this sense of detachment. As one serving commissioner explained: "Citizens of each member-state

speak their own language and share a culture. They need a recognisable face in Brussels. Citizens need to feel that their countries retain a distinctiveness and their independence within the Union."

The EU should exploit this link to strengthen the dialogue between 'Brussels' on the one hand and voters and national parliaments on the other. Each commissioner should present and answer questions on the Commission's work programme in his or her own national parliament every year.

Commissioners also play an important role as political antennae for their institution. The Commission does not take decisions in a vacuum; it needs to understand the national political context of every member-state. The Commission services can assess the technical impact of legislation, but they are not in a good position to weigh up its political impact. Commissioners are much better placed to provide information on how Commission proposals are likely to be received in the various member-states.

Even now they are not always successful in this respect. The Commission regularly makes unnecessary, even absurd, proposals, at great cost to its credibility. For instance, in January 2004 the Commission revealed that it was considering setting up a 'Made in EU' trademark for manufactured goods. The proposal angered businesses and member-state governments, such as Germany, which claimed it would needlessly diminish the value of long-established national trademarks. This type of problem would become much more frequent in a slimmed-down college of commissioners. As it stands, the Commission should use its right of initiative more responsibly and sparingly.

To make use of the commissioners' national links does not mean that they should act as national advocates within the college, nor that every piece of legislation should satisfy every member-state. A closer parallel is how the European Central Bank, or the US Federal Reserve, operates: governors supply information about the economic

position of their particular nation (or region), but take decisions on the basis of the whole currency area. The Commission will have to take decisions that are opposed by individual member-states. But controversial proposals stand a better chance of success if they are thoroughly prepared and well thought-out.

Furthermore, a smaller Commission would not necessarily be less vulnerable to national prejudices or lobbying from national governments. Those member-states without a commissioner are likely to seek compensation in the form of other senior Commission posts, such as those of directors-general posts.

In the event, Giscard's Convention agreed on a compromise between the current system (one commissioner per member-state and two for the larger ones) and a smaller Commission (fewer Commissioners than member-states). Each member-state – large or small – would send one commissioner. But the new Commission would have two classes of commissioner, namely 'senior' ones with full voting rights, and 'junior' ones who, while not entitled to vote in the college, would play an administrative role. The number of voting commissioners would be capped at 15, including the Commission president and the proposed 'foreign minister'. Voting and non-voting commissioners would rotate to ensure that every member-state would have a voting representative at least once every five years.

Proponents of this compromise argue that it would ensure the Commission's smooth functioning after enlargement, while at the same time leaving every member-state with 'their own' commissioner. But the new member-states, in particular, are unwilling to lose their voice within the Commission so soon after joining the EU. The Commission president has echoed this sentiment, telling the European Parliament in September 2003 that "no people of the Union deserve to be represented by a second-class commissioner".

The Convention's proposal is both unnecessary and potentially dangerous to the long-term health of the Commission. Unnecessary,

because the Commission de facto operates a two-tier system: commissioners vary in terms of their political weight and the importance of their portfolio. And dangerous, because no credible political figure would want to serve as a non-voting commissioner. The junior posts would be more likely to go to political cronies who, deprived of any direct responsibility for Commission decisions, would spend their time lobbying for their national governments, or making the most of the Brussels *dolce vita*. At the same time, even the most able appointees would almost always face compulsory retirement after just one term as voting commissioners, owing to the rules of rotation.

In the run-up to the December 2003 summit, the member-states appeared to agree on the principle of one commissioner per member-state, although they left open the possibility of slimming down the Commission at a later stage. However, the collapse of the summit means the EU may yet revisit this issue in future negotiations over the proposed constitutional treaty. Small countries should stick to their guns when the EU revives discussions on the treaty. They were right to insist that every member-state should appoint a voting commissioner, to ensure that the Commission remains both legitimate and credible in the eyes of Europe's population.

### The president's powers

The draft constitutional treaty proposes one further reform of the Commission: it formally grants the Commission president much greater powers to steer the work of the college. The Commission president used to occupy a weak position in relation to the other commissioners. The president had no powers to dismiss under-performing or obstructive commissioners, and had virtually no say in their appointment. Even a strong Commission president, such as Jacques Delors, was forced to resort to extreme measures to stamp his authority on the college – for example by threatening to resign on numerous occasions.<sup>6</sup>

<sup>6</sup> Charles Grant, *'Inside the house that Jacques built'*, Nicholas Brealey Publishing, 1994.

Paradoxically, the Commission president secured extra powers during the ‘weak’ presidencies of Jacques Santer and Romano Prodi. The 1997 treaty of Amsterdam made clear that the commissioners work under the ‘political guidance of the president’. The Nice treaty in 2000 granted the president the power to structure, allocate and reshuffle commissioner portfolios. Meanwhile, Prodi secured a voluntary commitment from his commissioners to step down if the president requested their resignation. All these powers are formally enshrined in part III of the EU’s proposed constitutional treaty. In addition, the new treaty proposes granting the president a much greater role in the selection of commissioners. The president would make a final choice from a shortlist of three (including one woman) supplied by each member-state government. Prodi has suggested that the next Commission president – who will take office in November 2004 – should employ this power on a de facto basis, while waiting for member-states to reach agreement on the new treaty. However, the member-states appear unwilling to go along with Prodi’s plan and supply short-lists.

After enlargement, strong leadership will be all the more important for a well-functioning Commission. The next Commission president should therefore make full use of his or her powers over the college. But the president should resist the temptation to micro-manage the Commission. The Commission is too large and complex an organisation for the president to be able to intervene in every decision. Rather, the president should work with a management team, consisting of four or five of the most senior commissioners. The management team should focus on achieving the Commission’s broad political goals. It should carefully monitor the Commission’s work programme and ensure that the administration is functioning effectively. If problems arise, the president should not hesitate to reshuffle or even sack commissioners.

The Commission will require a skilled president to make the new arrangements work. Unfortunately, the most recent incumbents have enjoyed less than successful terms in office. Unlike his predecessor

Jacques Santer, Prodi looks set to see out a full term in office. But when Prodi suggested in September 2003 that he might be willing to stay on as Commission president, the member-states scarcely reacted with enthusiasm. Prodi has not employed the powers already available to him in an effective fashion. As one serving commissioner surmised: “The Commission president’s problem is not so much a lack of power but of presence.”

The member-states must ensure that they choose a strong candidate to replace Prodi. In the past, individual member-states have often vetoed perfectly viable candidates, either to push for their own candidate or to gain leverage in other areas of EU policy. As a result, the Commission has at times ended up with a president who lacked strong support among the member-states. In the future, this problem may get even worse. Once the new constitutional treaty has entered into force, the member-states may expend more energy on choosing the new Council, rather than Commission president.

The list of candidates for the two posts will probably be almost identical, namely the small pool of serving or former EU prime ministers. In theory, there is no reason why the EU could not select its Commission president from a wider list of talented EU politicians. For example, some have suggested that António Vitorino, the Portuguese socialist who has performed well as JHA commissioner, could become the next Commission president. In practice, however, many member-states – especially smaller ones who want to see a strong Commission – are unlikely to accept a president who has not been a prime minister. They will want to ensure the Commission president has equal status to the proposed Council president. Moreover, the next Commission president faces a tough job in improving the Commission’s low standing. He or she will need to be able to battle it out on equal terms with EU heads of government. The EU needs a reformed and effective Commission more than it needs a Council president to help with grand strategy, useful though that reform would be. Above all, the heads of government must resist the temptation to choose a weak compromise candidate as Commission president.

## The political Commission and the services

One of the first tasks facing the next Commission president will be the allocation of portfolios to the commissioners. No matter what is agreed in the new constitutional treaty, the next Commission will have at least 25 voting commissioners. Those who favour a smaller Commission have questioned whether there will be enough meaningful work for 25 or more of them. But in comparison with most member-state governments, the Commission remains tiny despite the breadth and importance of its tasks. Many of its recent problems derive from too little political leadership and oversight, not too much.

At present each of the 20 commissioners oversees one or more directorates-general (DGs). The Commission president could create posts for extra commissioners by further subdividing the DGs. For example, the president could appoint one commissioner each for information society and enterprise policy – two DGs that are at present overseen by just one person. But enlargement provides the next president with an opportunity to implement a much more radical internal restructuring.

The Commission should merge many of the existing directorates-general into larger, thematic ‘super-DGs’. Teams of commissioners would be appointed to run the super-DGs, each led by a senior commissioner. For instance, the enterprise, internal market, and energy and transport DGs could be clustered into a ‘competitiveness’ super-DG (to work in parallel with the new competitiveness council of ministers).

The Commission should also create a number of new directorates-general in key areas of its future work programme. For example, it could set-up telecoms and financial services directorates-general within the new competitiveness super-DG. Individual commissioners would take responsibility for the component parts – whether energy, telecoms or transport – of the super-DGs. These jobs are in policy areas where the Commission has real powers and political

importance, and should prove attractive to the more ‘junior’ commissioners. Meanwhile, a senior commissioner would oversee the super-DG’s work-programme and ensure that his or her team was striving to meet the Commission’s overall political goals. Thus several commissioners would work together in one super-DG – as teams of ministers do in the ministries of member-state governments.

The clustering of commissioners should also provide a further benefit: more than one commissioner would be capable of speaking credibly on key policies. There is a huge demand for Commission speakers at conferences and seminars across the EU that a single commissioner cannot fulfil. A cluster of commissioners would be able to communicate Commission policy more widely than a single one.

At the same time, the Commission could free up some resources and make an important gesture to the principle of subsidiarity, by abolishing peripheral directorates-general such as the 600-strong DG for education, culture and sport. At present, the Commission president is not completely free to organise the Commission as he or she would wish: both the Council and the European Parliament partially dictate where the Commission allocates its resources (see chapter 3).

The Prodi Commission has had some success in reducing the number of Commission directorates-general and departments, from 42 to 35. But the Commission has been less successful in shifting staff from well-resourced but peripheral DGs into new priority areas. In 2001 the Commission carried out a ‘peer group’ review designed to reveal exactly where staff were most needed. Some DGs refused to cooperate with the exercise, hampering the reform effort. In the end, the Commission shied away from making painful, but necessary, large-scale staff transfers.

The new Commission should revive the peer group exercise: far too many staff still work in non-priority areas. For instance, the Commission has halved the size of DG administration, which runs

the Commission's own internal bureaucracy, by contracting out services such as payroll or buildings (see chapter 4). But the little-known joint research centre, which provides scientific and technical advice to the Commission, employs more than 1,500 staff, making it the second largest DG. In contrast, the DG for justice and home affairs – a policy area that is rapidly moving up the list of EU priorities – is struggling to meet Council demands for important new legislation with only 220 staff.

### Commissioners, directors-general and cabinets

The Commission, like many national governments, has found it difficult to regulate effectively the relationship between politicians – and their advisers – and the permanent civil service. Commissioners face a number of unique problems in their relations with the permanent officials, the so-called services. Unlike ministers in a national government, the members of the Commission come from different countries and from a myriad of political backgrounds. The Commission takes office without an agreed common manifesto. Indeed, most commissioners have never met each other before they take up their new posts. This lack of familiarity and common purpose puts commissioners at a distinct disadvantage to the Commission's permanent staff.

The power of Commission officials is further entrenched by their superior knowledge of dossiers; unionised employment rights (which make it hard for commissioners to move or sack officials); and the fact that many member-states provide political support to senior officials of their nationality. Senior Commission staff are much more powerful, relative to their political masters, than national civil servants. Some directors-general, the most senior permanent officials, have in the past run their departments as virtual fiefdoms.

The Prodi Commission has sought to tackle this problem by frequently re-shuffling the directors-general to ensure that no

individual becomes too powerful (see chapter 3). Meanwhile, each commissioner can also rely on their own, trusted political advisors – the so-called cabinets – to maintain control over the career bureaucrats. The cabinet members play an important role: commissioners need political support for decision-making, and the directors-general are supposed to provide technical, not political advice. However, previous Commissions became overly reliant on the system of cabinets, which weakened the institution's formal structures. While cabinet members accrued unprecedented power and influence, morale in the rest of the Commission plummeted. The presidential cabinet of Jacques Delors maintained a vice-like grip on the rest of the Commission under the leadership of Pascal Lamy, who was then his *chef de cabinet*. Lamy built a small network of trusted senior officials to prepare key directives, excluding some of the directors-general. The Delors cabinet would also bully and cajole the cabinets of the other commissioners to ensure they carried out the president's bidding. One former cabinet member characterises the experience of officials in this system “as like working in a police state: efficient but miserable”.

During the Santer Commission, the cabinets became increasingly nationalised. Without the strong central control exerted by Delors and Lamy, the cabinets fought among themselves. They also began to interfere in appointments, down to the most junior management levels of the Commission. As one former cabinet member relates, during the Santer Commission “too many pimply boys had too much power. It is only a small exaggeration to say that cabinet members dealing with the more active DGs held powers comparable to junior ministers in a national government.”

On taking office, Romano Prodi pledged to reduce the powers of the cabinets. He cut the maximum number of cabinet members from nine to six per commissioner. He insisted that each cabinet must include at least three nationalities, apart from that of the commissioner. He also handed back some powers to the secretary-general, the head of the Commission's services (see chapter 3).

The Prodi reforms are welcome but do not go nearly far enough. Commissioners are understandably more trusting of their hand-picked cabinet staff than they are of senior Commission officials. But that is not an excuse for the fact that commissioners maintain cabinets that are still too large, and too often end up re-doing the work of directors-general. Therefore a new system is required. Commissioners should have access to a ‘private office’, consisting of two or three trusted political advisers. The advisers should liaise with the services and assess legislative proposals prepared by the director-general and the rest of the Commission. The cabinet should consist of this private office and a small number of additional officials drawn from the services to provide administrative support. The Commission also needs to clarify the relationship between the advisers and the permanent staff. The Prodi Commission has introduced a code of conduct, which sets out the responsibilities and reporting requirements for Commission staff, including political advisers. A new EU standards committee should help interpret and enforce this code for political advisers (see chapter 4).

Most symbolically, Prodi has also insisted that the commissioners and their cabinets move out of the Breydel building, the Commission’s headquarters, to share the same offices as their directors-general and permanent staff. The argument was that commissioners should work much more closely with their directors-general and exert greater control over their departments. Some commissioners in the Santer administration had failed to oversee their DGs properly. Commission staff relate (a possibly apocryphal) story of one commissioner who claimed to have only seen his director-general once during two years, and that was at the official’s retirement party.

Some officials argue that this decision has contributed to one of the major problems within the Prodi Commission, namely the decline in collective debate among the commissioners. “The fact that commissioners are now in their directorates-general has contributed to their isolation,” commented one director-general. “Commissioners

now need to make appointments to see each other and most only talk during the formal Commission meetings.”

Another senior Commission official said that the college of commissioners now spends little time debating say, competition or justice and home affairs policies. The official cited the Commission’s veto of the merger of Volvo and Scania, the Swedish vehicle firms, as an example of a decision which would have excited heated debate in previous Commissions, but which was hardly discussed in the current college. Commissioners are sometimes reluctant to speak out in college for fear of appearing disunited. One of the major flaws of the Santer Commission was that too many battles between commissioners were fought out in public. In the Prodi Commission, much of the internal political debate takes place within the more opaque *chef de cabinet* meetings. Few issues are put to the vote at the weekly college meetings.

<sup>7</sup> *The Berlaymont building has been shut for a decade for the removal of asbestos.*

But the Commission as a whole suffers if the college no longer debates key policies effectively. Commissioners may not feel politically accountable for decisions taken by their colleagues. A lack of discussion can also lead to more unsuitable legislation whizzing through the system. As a result, some officials suggest that the new Commission should take advantage of the re-opening of the Berlaymont building, the Commission’s traditional headquarters, and move all the commissioners and their cabinets back in together.<sup>7</sup>

<sup>8</sup> *Officials in the Prodi cabinet adamantly deny there has been a decline in collegiate decision-making.*

However, the decline in collegiate decision-making has had little to do with the geographical location of the Commissioners.<sup>8</sup> The sheer scale of the Commission’s workload precludes detailed discussions of every decision, especially in ‘routine’ areas such as competition. The trend towards removing politics from competition cases is welcome, and is entirely in line with developments in member-states.<sup>9</sup>

<sup>9</sup> *EU rules require that member-states appoint politically independent competition commissions to investigate cases.*



Moreover, Prodi must take much of the blame for his ‘hands-off’ style of leadership. The Commission president has left his commissioners free to pursue their own dossiers and invested insufficient time in co-ordinating their work. In addition, he has himself made a number of ill-judged interventions without consulting the rest of the Commission. For instance, in 1999, Prodi extended an invitation to the Libyan leader, Muammar Gaddafi, to visit Brussels for talks. However, Prodi had not discussed this idea with either his foreign affairs commissioners or member-state governments, and was subsequently forced to retract this invitation. Similarly, in December 2002, Prodi submitted a proposal for reform of the EU to the Convention on the Future of Europe, the ‘Penelope document’, without allowing other commissioners to contribute. As a result senior commissioners publicly disowned the proposal, thereby reducing its impact on the Convention.

The college of commissioners should thoroughly debate the overall thrust of key policies such as competition, but should not interfere in individual cases. In an enlarged Commission, the president’s role as ‘chair’ will be even more important. The president must ensure that commissioners have the opportunity to contribute to the major discussions within the college, but be prepared to move to a vote to conclude them swiftly.

### 3 Modernising the Commission’s services

#### **The Kinnock reforms**

The Prodi Commission took office pledging to undertake the first comprehensive reform of the Commission’s services in its half-century history. Prodi appointed Neil Kinnock, one of the few survivors of the Santer Commission, to oversee the internal reform efforts. The president also gave Kinnock the status of vice-president of the Commission, to emphasise the importance of this new post.

Kinnock’s appointment had a seductive political logic. As leader of the British Labour Party in the 1980s, Kinnock had fought a long and bitter battle to regain control of the party from the Trotskyist ‘militant tendency’ and other leftist groups. Kinnock drew a parallel between these battles and the difficulties of dragging the unreconstructed Commission into the 21<sup>st</sup> century. While such comparisons played well in the British press, the Commission’s staff unions feared that Kinnock would lead a direct assault on their powers.

Kinnock, with the support of Prodi and Michael Schreyer, the German budget commissioner, quickly set about drawing up a reform plan, encompassing an overhaul of staff regulations, accountancy policies, and auditing and management systems (see box).

### Key elements of the Kinnock reforms

March 2000: Commission unveils a comprehensive strategy and action plan for reforming its staff regulations, and its accountancy, auditing, appraisal and management systems.

2001-2: Commission rolls out its new management reporting system.

January 2003: New financial regulation, the basic text for reform of the Commission's auditing systems, comes into force.

May 2003: Member-states agree on basic principles of new EU civil service staff regulations, including pension reforms.

2004: The new management system becomes fully operational.

2005 (est): The Commission will complete the introduction of a new accounting system.

<sup>10</sup> 'Kinnock unveils plans for radical reform of the Commission', *The Guardian*, January 20<sup>th</sup> 2000.

Under immense political pressure to swiftly right the wrongs of the Santer era, senior commissioners raised expectations too high about how far and fast reform could proceed. Kinnock, for instance, pledged to carry out "root, branch and trunk reform" in order to build the best multinational administration in the world.<sup>10</sup>

But the Commission first had to seek the consent of the member-states and the European Parliament for key reforms, which has inevitably led to some delays. The Commission also had to overcome internal opposition, including two strikes in 2003. The member-states only agreed in the spring of 2003 to a long overdue overhaul of staff regulations, including new rules for promotion and pensions. The Commission's new accounting system is not due to become fully operational until 2005, after the Prodi Commission has completed its term of office.

In November 2003 the Court of Auditors praised the "substantial progress" made by the Commission on administrative reform, in its overall assessment of the 2002 EU budget.<sup>11</sup> But the EU's auditors also warned that much work remained to be done and that the budgetary reform timetable, in particular, might prove over-ambitious (see chapter 4). The Prodi Commission is highly vulnerable to the charge of failing at internal reform, because high initial expectations have not yet been met. As one commissioner ruefully admitted, the Prodi Commission will have approved and implemented the reform package without seeing any of its benefits.

<sup>11</sup> *European Court of Auditors, 'Annual report concerning the financial year 2002'*.

### The directors-general and the secretary-general

One of the Prodi Commission's earliest, and most successful, internal reforms was the decision to introduce compulsory rotation for its most senior officials, the directors-general. Directors-general will now serve no more than five years in any one DG. This reform serves two main purposes. First, it prevents long-serving directors-general becoming too powerful. Second, it enables the Commission to break the link between member-states and certain posts – a process known as 'de-flagging' in EU jargon. In the past, some member-states had monopolised some departments. For instance, a French official always oversaw agriculture, while a German looked after competition policy. Now, for the first time in decades, a non-French director-general is in charge of the agriculture DG. Meanwhile, a German director-general is in charge of the internal market DG and a British director-general runs competition – a direct reversal of the traditional position.

Not everyone is happy with the new arrangements, however. Member-states have publicly supported the changes, but privately continue to battle over the senior appointments. Chancellor Schröder, for instance, personally called Prodi to try to prevent him from moving Alexander Schaub from his position as head of the competition DG. Prodi held firm, although Schaub did win the



considerable consolation prize of the powerful internal market DG instead.

Although the Commission is determined to see posts primarily awarded on merit, it still needs to ensure some geographical balance when it shares out the top posts. Inevitably, this means that some able staff will take longer to reach the top, most notably those of French and German nationality, both of which are well represented in the upper echelons of the Commission. On the other hand, some smaller countries have benefited from the new merit-based arrangements: Ireland has no fewer than four directors-general out of the total of 35.

The new Commission will face the added problem of ensuring that talented officials from the ten new member-states quickly scale the ranks. This may lead to ‘bottleneck’ periods, when some well-qualified officials from the existing member-states will miss out on the top posts. Member-states are likely to support the Commission’s policy in public, while lobbying even harder for their candidates in private. But although rotation will be harder to manage after enlargement, the new Commission should adhere rigidly to the system. The Eurostat scandal demonstrates the dangers of not rotating senior officials. Yves Franchet, the suspended head of the EU’s statistical agency, was the only director-general who had served more than five years not to have been rotated (see chapter 4).

Prodi has also sought to reassert control over the directors-general and the services by strengthening the office of the secretary-general, the Commission’s most senior official. Under previous Commission presidents, the president’s cabinet often carried out many of the jobs the secretariat-general was originally supposed to do, such as co-ordinating the Commission’s work programme and overseeing the directors-general. But while the presidential cabinet is well-placed to push through particular policies, it is too small to manage effectively the work of the whole Commission.

Prodi moved his own head of cabinet, David O’Sullivan, to head the secretariat-general in May 2000. O’Sullivan prepares and monitors progress on the Commission’s annual work programme. The secretariat-general also co-ordinates important cross-cutting policy issues, such as the Lisbon economic reform programme.

However, Prodi’s reform of the secretariat-general has not been entirely successful. In part, this reflects Prodi’s inconsistent style of leadership: he has not provided strong political support for the secretary-general’s work on the Lisbon programme, for example. More generally, individual directorates-general continue to propose legislation which does not sufficiently take account of the Commission’s overall policy goals. For example, the environment and consumer affairs directorates-general often prepare legislation that seems to conflict with the Commission’s overall commitment to boosting the competitiveness of the European economy. In the lead-up to the spring 2000 European summit some member-states – led by, Germany – repeatedly criticised the ‘anti-business’ stance of these two DG’s.<sup>12</sup> Moreover, the Eurostat scandal has exposed continuing problems in how the secretary-general oversees management issues within the services (see chapter 4).

<sup>12</sup> See Alasdair Murray, ‘The Lisbon Scorecard IV: the status of economic reform in the enlarging EU’, CER, March 2004.

### Staff reforms

While Prodi and Kinnock moved swiftly to deal with problems in the upper echelons of the services, overhauling the rest of the bureaucracy has proved more difficult. In 50 years the Commission had never systematically revised its personnel policy, which is enshrined legally in the EU staff statute.

The Commission’s career structure was based more on seniority than merit. Staff training was not compulsory, and the Commission spent little money on ensuring officials acquired the necessary skills. Officials enjoyed an attractive range of benefits and perks, such as family, education and travel allowances, as well as a generous pension scheme.

A substantial body of European law governs employment conditions, and in particular protects the independence of officials, making it notoriously difficult to sack or discipline under-performing staff. The staff unions, while not as powerful as in the past, can still present a formidable obstacle to change. Furthermore, the staff statute is applicable to all EU officials, including those who work in the European Parliament and Council secretariats. The Commission has had to consult widely to ensure the support of the Council and the European Parliament for its proposed reforms. As a result, the Commission has taken more than three years to introduce comprehensive new staff regulations, which will overhaul promotion, pensions, training and disciplinary procedures for all officials.

### Career structure

The new staff regulations will introduce a clearer and more predictable career structure into the Commission. Too often in the past, advancement depended on nationality, patronage, or length of service, rather than merit. Officials cite the opaque promotion system as a key cause of disaffection within the Commission's ranks.

The Commission has always operated a very flat structure with only three levels of management below the director-general: deputy director-general, director and head of unit. At present there are eight grades (A1 to A8) within the Commission hierarchy for policy-making officials. Each grade is sub-divided into a number of 'steps'. Under the old system, staff would automatically expect to move up a step, and earn a salary rise, every two years. Consequently, staff could continue to gain pay rises without advancing through the grades.

The Kinnock reforms seek to tie salary rises much more closely to promotion on merit. The Commission is increasing the number of grades to 16. Meanwhile, the number of steps within each grade will be capped at 5. Officials will still gain a salary rise, based on performance, for every step. However, the increases will be much

smaller than those given for moving up a grade, and will progressively decrease the longer an official remains at the same level. In future, officials will only be able to increase their salary significantly by moving swiftly through the grades. The new system will also end the anomaly whereby an official can earn more from automatic rises at each step than by moving up the grades.

Most importantly, promotions will depend upon a transparent system of credits. All staff will undertake a regular career development review. Some officials are concerned that credits may be awarded on highly discretionary grounds, resulting in favouritism. But the Commission is establishing an appeal and review system to try and deal with this problem. Staff will also need to complete some management training before reaching the upper ranks.

The staff reforms will break down the rigid division between the four Commission 'streams' (these range from 'A' level top officials to 'D' level support staff, such as security guards). In the past, talented staff who joined the lower ranks of the Commission found it difficult to move into other streams. In particular, 'B' stream officials, who provide technical support to the 'A' grades, were unable to switch streams without having to take another exam, even though their jobs were often similar in content. The new system has just two streams, the administration function group (AD), equivalent to the old 'A'; and the assistant function group (AST), which embraces all the other streams. Officials who worked in the lower grades will enjoy enhanced promotion prospects, while the Commission is also making it easier to transfer into the AD stream.

As part of the Commission's reform programme, the EU has agreed to overhaul the generous pension scheme for the EU institutions, overcoming strong opposition from the staff unions. The EU has raised the statutory age of retirement to 63 for new recruits, while all staff under 50 with less than 20 years service will have to contribute longer to build up their full pension rights. The

Commission is phasing in later retirement ages for existing staff: those aged between 35 and 39 will retire at 62, for example. Meanwhile, the latest retirement age has been increased to 67 if “it is in the interests of the service”.

However, at the same time as raising the official retirement age, the Commission has tried to increase incentives for officials to take early retirement. The Commission has a low rate of early retirement and wants a quicker turnover in senior jobs so that it can promote fresh blood. Under the old scheme, staff were heavily penalised for retiring early. For instance an official who retired at 55 would lose around 30 per cent of the value of his or her pension. The Commission has greatly reduced the financial penalties in the new scheme. Furthermore, up to 8 per cent of staff retiring in any given year will be able to do so early without losing any pension rights. Staff aged over 55 will also be able to work part-time.

The Commission is introducing these incentives for staff to take early retirement at a time when EU policy is moving in the other direction. The member-states are committed to raising the employment rate of older workers to help reduce the rising costs of pension provision. The Commission does need to increase the turnover of staff to ensure that talented officials can move quickly up the ranks. But the decision to increase the incentives for early retirement could prove an expensive means of achieving this aim, and sets a bad example to member-states.

The Commission should instead focus on encouraging more staff who have 10 to 15 years of experience to move on to other jobs. A wide range of other employers, both in the private and public sector, value Commission experience highly. In particular, many national administrations would benefit from an influx of experienced former Commission officials. But the Commission retains too many staff, even once promotion prospects are no longer rosy. As one recently-departed official said: “The Commission is hard to join and even harder to leave. The whole culture encourages people to stay.” The

Commission's staff reforms should bring about greater turnover through curbing pay rises that are awarded simply for remaining in service. But the Commission should also reduce the array of perks, such as low taxation rates and ex-patriation and education allowances, which discourage staff from seeking other employment.

Such reforms would encourage more staff to leave voluntarily during mid-career. Meanwhile, the Commission also needs to overhaul further its procedures for dealing with under-performing or disaffected staff. The Commission's attempts to reform its disciplinary procedures have so far foundered on internal opposition, plus the difficulties of reconciling reform with an extensive body of EU case law. The disciplinary system is complex, which discourages busy managers from spending time and effort navigating the procedures. Staff unions have fought effectively against many disciplinary cases in the past. As a result, managers have tended to ‘park’ disaffected or incompetent staff in positions where they hope the individual will not cause too much damage. The current Commission is trying to provide more support to managers, to ensure that disciplinary procedures are followed through. It is working on a professional competence code and has set up an independent disciplinary board, headed by the former chair of the EU's Court of First Instance.

In the long term, the success or failure of these measures will depend on the willingness of Commission managers to use their powers. Too often, the prevailing culture within the Commission encourages officials to avoid the difficult and unpleasant aspects of management, such as dealing with poor performance. It is vital that the new set of commissioners perseveres with this reform effort and works closely with staff to devise a credible and efficient disciplinary system.

## Training

Although the calibre of Commission staff is generally high, many officials lack the right skills for performing some key tasks,

particularly those of financial control and management. Traditionally staff won promotion for their technical brilliance, or for the strength of their political contacts, and went into management posts for which they were ill-prepared. The Commission had an appalling record of providing training for its staff – one former official calculates that he received just one day of training in ten years of service. Neil Kinnock told a conference of the Chartered Institute for Public and Financial Administration in June 2003 that the Commission spent just 0.05 per cent of its budget on staff training in 1999.

The Kinnock reforms are designed to improve the Commission's training record. In future, staff will have to undergo management training before they can assume a senior position. Just as importantly, staff are being trained in the new financial control systems (see chapter 4). The Commission has increased the average number of days that staff spend training each year from just three in 1999 to eight in 2002, and this figure should reach ten days in 2004.

The Commission is also doing more to encourage its staff to acquire training and experience beyond the confines of Brussels, whether in national administrations or in the private sector. A number of senior managers have attended top European business schools while on secondment from the Commission. The Commission should benefit from its staff learning new techniques and working methods on secondment. It operates a generous unpaid leave scheme, which allows officials to take external posts nominally for a period of up to three years. However, this time limit is often not enforced. Some officials pursue an entirely new career with the added security of a guaranteed Commission post to return to should they need it. At present, around 550 officials are on personal leave – and some of them have had 12 years of such leave. Another problem is that the Commission does not recognise external experience as an important part of career development. As a result, the most able officials have little incentive to acquire new skills in other organisations.

The Commission is working on new guidelines which should more clearly define the rules for officials who take secondments. The new Commission should go further and make secondments a key part of its internal reform efforts. It should require that officials undertake two exchange visits with member-state administrations, or relevant private-sector organisations, before qualifying for promotion to a management position. Such a reform would ensure that staff are better informed about the national administrations, and also keep abreast of new practices. Officials would be less vulnerable to acquiring a world-view that is shaped entirely by the EU institutions. Equally, member-state officials would gain a far better understanding of the workings of the Commission if they participated in exchanges in greater numbers.

### **A more flexible and diverse culture**

The ultimate aim of the Commission's staff reforms is to foster a far more flexible working culture within the administration. To achieve this aim, the Commission needs to increase the diversity of its staff, both in terms of their specific skills and their backgrounds.

On the basis of the wide range of nationalities working within its directorates-general, the Commission can claim it is a very diverse organisation. Yet in terms of gender, skills and outlook, Commission officials are surprisingly homogeneous. The Commission draws heavily on a pan-European elite, epitomised by the graduates of the Bruges-based College of Europe. Bruges alumni share a common federalist-tinged ideology and, informally, operate a powerful network within the Commission. The Commission will always primarily attract those who believe in some form of European ideal. However, officials should not make the mistake of believing their views are representative of the EU as a whole.

On other measures of diversity, the Commission scores poorly. The number of women at the most senior levels, that of director-general or director, has increased since 1999, but still only totals 13 per

cent. Just four women occupy director-general or deputy-director general positions, compared with 53 men. Only 17 per cent occupy middle management positions. Few staff are drawn from Europe's many ethnic minorities.

<sup>13</sup> *The smaller Council and European Parliament secretariats use the same recruitment procedures as the Commission.*

The EU's recruitment system remains an obstacle to greater diversity among its staff.<sup>13</sup> Applicants must undertake a rigorous admissions exam, the '*concours*'. The *concours* tests detailed knowledge of EU law rather than a candidate's aptitude for a particular Commission post. Applicants who have passed through post-graduate institutions such as the College of Europe tend to prosper in this system. As a result, the Commission has too many officials with legal training, but too few with other key skills. For example, the competition DG has recently stepped up recruitment of officials with an economic background following Court of Justice criticism of the poor quality of its economic reasoning in several recent merger and anti-trust cases.

The Commission is beginning to use specialised *concours* to attract people with specific skills such as information technology, auditing and personnel management. It has abolished a cap on recruiting personnel older than 45. The Commission has also created a central personnel office for all the EU institutions to ensure common standards and to reduce recruitment expenditure. The Commission has the difficult task of balancing two separate requirements for its recruitment policies: the need to provide a fair and transparent recruitment process for applicants from more than 25 countries; and the need to encourage greater diversity through more flexible entrance criteria.

The new Commission should make a greater effort to recruit staff in mid-career. The rigid *concours* is an inadequate way of assessing the experience and skills of such applicants. Instead the Commission should adopt an interview procedure for mid-career recruits, albeit one overseen by the central recruitment office, to ensure that some

common standards are applied. Staff recruited in this fashion should be offered fixed-term contracts, which would make it easier for the Commission to sack them should they prove unsuited. With more staff on short-term contracts, the Commission could increase the overall flexibility of its personnel policies. However, it would have to introduce such a policy in a highly sensitive manner, making clear that no existing contracts would be altered. An effective Commission requires staff on a mixture of employment contracts: a core of permanent officials, many recruited at the beginning of their careers through the *concours*, who are fully committed to the institution and thoroughly versed in its working practices; and those on short-term contracts recruited to provide skills or experience which the Commission lacks.

For all the difficulties, the new Commission will have an unparalleled opportunity to change the working culture within the services. In the next few years a fresh generation of officials will arrive from the new member-states. Over the next six years, the Commission will hire some 3,900 new staff, an increase of 14 per cent in total staffing levels.<sup>14</sup> At the same time, a large proportion of staff will reach retirement, particularly among officials from the founding member-states. The early retirement scheme could lead to as many as 600 officials leaving each year.

<sup>14</sup> *The Commission argues this is disproportionately low, given that the EU's population will increase by 20 per cent and the number of official languages by 80 per cent. The Commission forecasts its salary bill will stay static at 1.7 per cent of the EU's total budget despite the increased staff numbers.*

The new recruits are likely to come from a wider than usual range of backgrounds, attracted by salary levels considerably above private sector rates in their native countries. The Commission will inadvertently stimulate a 'brain drain' from Eastern Europe, with many new member-states losing lawyers, accountants and economists, as well as public officials with experience in EU matters. The Commission will need to work closely with the administrations in the new member-states to ameliorate the damage caused by this inevitable exodus of able professionals. It will also need to monitor carefully the arrival of the

new recruits on its internal working culture. Some parts of the Commission reacted with hostility to the arrival of officials from Sweden and Finland after the last enlargement in 1995. The predominately English-speaking new recruits brought with them Nordic notions of transparency, public service and team-work. Some found that their ideas were not always welcome throughout the Commission. A few faced such hostility that they resigned in disgust. The Commission must ensure that the latest wave of recruits receives a more generous welcome.

## 4 A credible and efficient executive

### Just say no

The Commission's inability to say no to new tasks and responsibilities is at the root of many of its current problems. In the last two decades, the Commission has taken on an ever-expanding repertoire of activities without a matching increase in resources. Its transformation from a policy innovator to a spending bureaucracy was a direct cause of the fall of the Santer Commission. The Commission was simply not equipped to spend large amounts of money; it lacked both trained personnel and reliable accounting systems. The Santer Commission became mired in allegations of fraud and mismanagement because of the absence of effective financial and management controls. The committee of independent experts which investigated fraud and mismanagement within the Santer administration – appointed by the European Parliament – found no evidence of any attempt by the Commission “to assess in advance the volume of resources required when a new policy was discussed among the Community institutions”.<sup>15</sup>

<sup>15</sup> *Committee of independent experts, 'First report on allegations regarding fraud, mismanagement and nepotism in the European Commission', March 1999.*

At the same time, the Commission has faced increasing difficulties in fulfilling its responsibilities in core areas such as the internal market or competition policy. It has suffered a series of damaging reverses over competition cases in the European Court of Justice, in part because overstretched officials are failing to carry out procedures correctly. For instance, the Court of Justice quashed a €273 million fine imposed on a group of shipping companies in September 2003, because the Commission had not supplied the companies with full and timely details of its case against them. The Commission is also



<sup>16</sup> See *'Internal Market Scorecard', European Commission, No 12, May 2003.* struggling to police the internal market adequately. It is justly critical of the member-states' record of implementing single market rules and regulations.<sup>16</sup> But resource constraints mean the Commission can only begin disciplinary proceedings against member-states in a limited number of cases each year. It takes on average two years for the Commission to resolve a case and the backlog is growing. In May 2003, the Commission had 1,600 infringement cases outstanding against member-states.

The Prodi Commission took office determined to rectify these problems. Prodi insisted that he would not consent to taking on new responsibilities unless the Commission was provided with adequate extra resources. The Commission president asked the European Parliament to "remember how often we have been made into a laughing stock because we deal with things that are absolutely ridiculous, which defy common sense and conflict with the interests of our population".<sup>17</sup>

<sup>17</sup> Quoted in Nick Clegg, *'Doing less to do more: a new focus for the EU'*, CER, September 2000.

But the Commission has failed to live up to this promise. Prodi refused to run a programme to monitor mobility in European higher education in autumn 2000, but there are few other examples of the Commission turning down new responsibilities. Moreover, the Commission admits that an exercise designed to find its 'negative priorities' – those policies or spending programmes it should not be managing – proved a complete failure. As one commissioner explained: "No-one wants to admit that their jobs are not necessary".

The Commission is not solely at fault for this failure to curb its peripheral activities. The Council and European Parliament must also shoulder part of the blame. These two institutions ask the Commission to take on extra responsibilities with little consideration as to whether it is equipped for the new tasks. MEPs frequently request the Commission to undertake a plethora of

small-scale projects, reflecting the concerns of their constituents – or sometimes those of Brussels' many lobbyists. For example, MEPs successfully lobbied for the justice and home affairs DG to take action against sex tourism – although only the member-states, not the Commission, have the police and legal powers that are required for tackling this problem. Similarly, the Commission spent €20 million between 2000 and 2003 on an EU project to combat violence against children, young people and women (DAPHNE). The Commission has recently requested that the project be extended until 2008, despite its lack of expertise in dealing with social problems and the token size of the budget.

On the rare occasions when the Commission has identified projects it no longer wishes to manage, it has often backed down after running into member-state opposition. The enterprise directorate-general decided that it could not justify allocating a unit of nine officials and a budget of €4 million to town twinning projects. However, the Commission's decision to close down the unit brought a hail of protest from town mayors and regional governments. Local politicians subsequently lobbied their national governments on the issue. Under intense political pressure, the Commission in the end decided to make only a modest reduction in its twinning unit to seven officials.

But the Commission should ultimately shoulder the blame for its own administrative difficulties. Its inability to say no represents a political failure. The Commission has timidly accepted each new task foisted on it by the Council and Parliament, perhaps fearing the perception that it is no longer a central part of the European project. The Commission should also stop expending scarce political capital on campaigning for new responsibilities. Most recently, the Commission battled unsuccessfully within the Convention on the Future of Europe to acquire more powers over EU foreign policy and the euro. The Commission cannot credibly ask for new powers and programmes while it is unable to manage effectively its existing portfolio.

The new Commission president must make a habit of saying no. The president should pledge to curb unnecessary programmes and resist the temptation to ask for new powers; then it would be harder for national governments or MEPs to force the Commission to undertake tasks for which it is ill-suited. Only by focusing on its core tasks and responsibilities can the Commission cope with enlargement, and win the battle to restore its own diminished credibility.

### **A spending dilemma**

Even if the Commission successfully curbed its peripheral activities, it would still be prone to accusations of inefficiency, especially in areas where it directly controls EU money. The Commission oversees the EU's €100 billion annual budget, although it shares responsibility with the member-states for dispersing agricultural support and the structural funds, which account for around 80 per cent of the total. The Commission also runs many spending programmes directly, such as those which fund EU research projects or assistance to developing countries.

The European press has widely reported on mismanagement and fraud in the EU budget. But these reports need to be put into perspective. Most of the cases reported each year by the Court of Auditors derive from problems at the national rather than the European level. In its 2002 annual report, the EU Court of Auditors noted "difficulties...in the areas of expenditure where the Commission and member-state administrations share management. Progress in these areas depends on making improvements in the administrative and control systems set up by member-states."

But the Commission's accounting problems are particularly visible. And the Commission often compounds existing suspicions by clumsily trying to downplay the importance of its budgetary difficulties. As Michaele Schreyer, the budget commissioner, recently said in a speech to the EU's anti-fraud agency, OLAF: "An organisation whose effective controls show up irregularities is seen

as riddled with fraud. But if institutions do not publish irregularities nobody speaks about them. That is hardly an incentive to be frank in communication."

The fact that national administrations are equally culpable for EU budgetary mismanagement does not excuse the Commission's own incompetence. Nor does the failure of others diminish the damage that cases of fraud and mismanagement inflict on the Commission's reputation. The Commission took on an increasing number of spending programmes during the 1980s and 1990s, but made no attempt to overhaul its antiquated audit and accounting procedures. The Commission estimates that the annual volume of its internal financial transactions increased from just a few thousand in the 1960s to 620,000 in the late 1990s, and more than 1,000,000 in 2003. But its internal control systems remained unchanged. Fraud and mismanagement were the inevitable results.

Under Prodi, the Commission has sought to overhaul completely its budgetary and financial management rules. It has abolished centralised 'ex-ante' spending controls – that is, the requirement of each directorate-general to seek prior approval for spending requests. The old system was incredibly slow and cumbersome. Officials frequently sought ways to circumvent it, for example by creating fake accounts, to ensure that money was paid when needed (see below). Now DGs are responsible for their own spending and must compile their own accounts. The Commission has appointed some 300 new auditors to help with this work.

At the end of each financial year, each director-general compiles an 'annual activity report' and 'declaration' detailing his or her expenditure for the year. The declaration attests to the accuracy of the information contained in the activity report, and also records any reservations the director-general may have about the quality of financial controls. A central financial service, based inside DG budget, provides support to the rest of the Commission and helps to maintain common financial standards. Meanwhile, a new internal



audit service acts as the Commission's watchdog, ensuring that the DGs are spending their budgets in a proper fashion. Most ambitiously, the Commission is to become one of the first public administrations in the world to employ corporate style 'accrual' accounting from 2005. This means the Commission will in future account for all its assets, including the property and technical equipment it owns, and not just for the cash transactions.

The Commission has also clamped down on the use of external spending agencies, known by the French acronym BATs (*bureaux des assistances techniques*). Officials employed BATs as a means of bypassing central financial controls. But the Commission lacked proper systems for the scrutiny of BATs. Commission rules also required that more than one member-state participated in the BATs, which led to the creation of obscure partnerships and the dubious use of middle-men.

<sup>18</sup> Court of Auditors, 'Assessing the Phare and Tacis nuclear safety programmes', November 16<sup>th</sup> 1998.

For example, the Commission employed a series of BATs to help manage its €800 million Phare and Tacis nuclear safety programmes in the former communist countries of Eastern Europe. After repeated allegations of mismanagement, the

European Court of Auditors conducted a special investigation into the programme in 1998. It concluded that the Commission had wasted large sums of money without improving the safety of nuclear plants. In particular, the Court criticised the Commission's decision to "transfer excessive responsibility to third parties...especially consultancies which were paid fees 15 to 20 times higher than those paid to East European experts with equivalent qualifications".<sup>18</sup> Commission officials now have to retain management control for devolved expenditure, although directors-general continue to express concern about controlling transactions via third parties (see below).

A number of internal critics, however, have questioned the success of the budgetary reforms. In 2002 Marta Andreasen, the

Commission's chief accountant, compared its accounting system to the collapsed US company Enron. Andreasen pointed out that the Commission did not even employ basic accounting tools, such as double-entry bookkeeping.<sup>19</sup> She also criticised the fact that staff received little training in the Commission's accounting system. The Commission suspended Andreasen for speaking out on these issues without permission, a breach of employment guidelines. The Commission insists that Andreasen is not a whistleblower, since she has not uncovered new evidence of fraud or mismanagement – in fact she was employed to help sort out these problems (see box on page 53). Moreover, Andreasen has undermined some of the power of her case by allowing her evidence to be choreographed and politicised by eurosceptic British MEPs. But the Commission has played directly into the hands of its critics by taking too long to resolve the Andreasen case. At the time of writing (March 2004), she had been suspended for more than a year without having faced disciplinary action.

<sup>19</sup> *EU Observer*, 'Commission accounts system lambasted from the inside', March 4<sup>th</sup> 2003.

The Commission was similarly embarrassed by the decision of Jules Muis, the head of internal audit, to step down early from his post. Muis will retire in the spring of 2004 after just three years in the job. Muis, who filled a similar post for the World Bank, has regularly criticised the pace and direction of the reforms, although he insists that is not the reason he is leaving. Muis told the European Parliament's budgetary control committee that internal controls remained "piecemeal" and that too few staff were qualified in audit techniques. In a private letter to Neil Kinnock, written in July 2002, Muis warned that DG budget was "haunted by a profound lack of qualified staff, a host of vacancies/absentees in crucial functions and an entrenched mindset". More damningly, Muis claimed in early 2003 that the 2001 accounts were unsound and that the Commission had knowingly "overstated the quality of its accounts". Muis's allegations undoubtedly helped raise the political temperature when MEPs came to examine the Eurostat scandal later in 2003 (see below).

It is far too soon to assess comprehensively whether the budgetary reforms will improve the Commission's financial management record. However, the Commission has left itself exposed while it makes the leap from medieval accounting practices to 21<sup>st</sup> century standards. Andreasen and Muis are correct in arguing that the Commission's accounting system will not be reliable until the reforms are completed in 2005.

Meanwhile, the new system of internal financial controls is already causing teething problems. Top-level officials are now responsible for both authorising expenditure and preventing fraud. As a result, many officials have become overly cautious when authorising projects, sometimes at the expense of effective policy implementation. Some officials are wary of signing off their own accounts for fear of being held responsible for any problems that emerge, even if they are beyond their direct control. More generally, critics claim that the new control systems are not a remedy for all the Commission's budgetary and management ills. Officials complain that the new controls are demotivating, because they now have to spend so much time justifying their existence rather than doing their jobs.

The Commission's own synthesis of the annual activity reports bears out some of these criticisms.<sup>20</sup> The synthesis report provides a useful snapshot of the state of the reform programme, and the Commission deserves credit for publishing such a transparent analysis of its inner workings. The report confirms that the

<sup>20</sup> *Synthesis of the annual activity reports and declarations of the directors-general and heads of services*, European Commission, July 24<sup>th</sup> 2003.

directors-general are struggling to digest the reforms. In particular, the directors-general have expressed concern about their responsibility for financial and management controls, particularly when a third party – such as an agency or member-state – shares spending powers.

The Commission attempted to rectify these problems by proposing a new system of financial responsibility for officials in July 2003. The guidelines define the personal financial responsibility of officials for

mismanagement or fraud. They detail in what circumstances officials can be held liable for financial losses to the EU budget. The guidelines also provide for the recovery of money when an official has caused financial loss as a result of gross negligence.

The next Commission will need to monitor the financial control system carefully, and should treat its annual activity reports as an early warning system for potential problems. But it should also think about the wider question of whether the Commission should remain a major spending authority, or whether external agencies could manage certain tasks better.

The Council and the Parliament continue to hand the Commission new spending programmes. For example, the justice and home affairs directorate-general recently gained responsibility for structural funds expenditure on border controls, although that DG has no experience of managing spending programmes. For the Commission, spending will remain only one task among many – and one it is not especially well equipped to carry out, despite the budgetary reforms.

The Commission should begin to establish external agencies that are dedicated to managing major spending programmes. These agencies would be able to recruit staff with the requisite skills, and introduce their own customised financial systems and controls. Over time, these agencies would develop a body of expertise the Commission sorely lacks. The Commission, along with the Council and Parliament, would maintain responsibility for setting the overall budget and the policy goals of the agencies, and would monitor their performance.<sup>21</sup>

<sup>21</sup> See Alasdair Murray, *Closing the delivery deficit: the future of economic governance in the EU*, CER, October 2002.

The Commission has taken some first tentative steps towards setting up spending agencies. In 2002, the Commission established offices to manage its buildings in Brussels and Luxembourg as well as a 'paymaster's office' to oversee staff pay. The previous year, the Commission set up an agency – EuropeAid – to manage the EU's

development spending. EuropeAid has begun to improve the financial management of development projects. However, it is not responsible for all of the EU's aid and member-states continue to criticise the Commission's overall handling of development spending.

### The Eurostat scandal

The problems at Eurostat, the Commission's statistical arm, are worth examining in greater detail. They provide stark evidence of weaknesses in the Commission's system of financial controls and chain of accountability.

Senior officials, including the director-general, are accused of colluding with a series of external contractors to inflate the value of Commission contracts. The excess money was then deposited in a series of accounts, although for what purpose is not yet clear (apart from some evidence that it helped fund a Eurostat staff volleyball team). The officials involved most likely used the funds to help speed up other Commission financial transactions, such as buying in new research, rather than for personal gain. The case closely resembles previous examples of a practice known as 'enveloping': officials create irregular reserves, with the complicity of trusted contractors, to circumvent the Commission's painstaking financial controls. At the time of writing (March 2004), investigators could not confirm how much money had gone missing, although reports suggested that the sum was in the region of "several" million euro.

Commission officials raised concerns about financial practices at Eurostat as far back as the late 1990s. The EU's fraud investigation unit, OLAF, began six separate investigations, while Eurostat itself conducted four internal audit enquiries. However, the Commission only took concerted action in the spring of 2003, after French prosecutors started a formal enquiry into Eurostat's financial relationship with Planistat, a French statistics consultancy. OLAF claimed that it had uncovered a "vast enterprise of looting" – a phrase which quickly became common currency in media coverage.

The Commission commenced disciplinary proceedings against three senior officials, including director-general Yves Franchet, and launched a formal internal investigation. In July 2003, the Commission told the European Parliament that "serious wrongdoing on a much more widespread scale than previously thought may have taken place".

In September 2003, the Commission published the results of an internal auditors' investigation into Eurostat. The report claimed that the vast majority of the suspect financial transactions had taken place before the Prodi Commission took office and began its reform programme in 2000. Moreover, the report concluded that the "period from 1999 to 2003 is marked by progressive improvements in the management of Eurostat".<sup>22</sup>

<sup>22</sup> 'Eurostat briefing note based on second interim progress report by Internal Audit Service', European Commission, September 24<sup>th</sup> 2003.

The Commission is probably correct that the Eurostat scandal does not reveal any new problems with its budgetary controls. But the scandal does confirm some serious flaws in the Commission's internal chain of accountability, and its failure to implement at least some of the much-trumpeted reform programme. The Commission should draw several important lessons from the Eurostat affair:

- ★ Why was Yves Franchet, Eurostat's director-general, still in his post after 16 years, despite Prodi's commitment to the mandatory rotation of DGs at least every five years? The Commission has claimed that Franchet remained at Eurostat to manage the introduction of eurozone statistics. However, the euro formally began life in 1999 and Franchet was only asked to stand aside in 2003. The Commission should not make exceptions to its mandatory rotation rule.
- ★ The case highlights uncertainty about who is responsible for pursuing evidence of fraud and mismanagement. The

Commission's internal auditors reported concerns about financial irregularities in 2000. The EU's anti-fraud office, OLAF, subsequently began a series of separate investigations into Eurostat cases. But it appears to have taken more than a year before OLAF informed David O'Sullivan, the Commission's secretary-general, of the problems. O'Sullivan told the European Parliament in July 2003 that he had known about some of the cases for almost a year before they were brought to the attention of the commissioners. OLAF had urged him not to pass on information about the investigation. O'Sullivan insisted he had not passed on any details for fear that commissioners might be perceived as interfering with the OLAF investigation. As a result, it was May 2003 before the Commission began its own investigation into the problem and July 2003 before officials were suspended.

- ★ The case echoes the conclusion of the committee of independent experts which investigated fraud and mismanagement in the Santer Commission, that in the Commission "no-one is willing to take [political] responsibility". Pedro Solbes, the then (now moving back to Spain) economics and monetary affairs commissioner, was nominally responsible for overseeing Luxembourg-based Eurostat. However, he has said that he should not be held responsible for "things that I did not know about". Prodi has strongly supported the commissioner, telling MEPs that Eurostat had not passed on vital information to Solbes and as a result the Commission was unaware of the gravity of the situation. The Commission's own code of conduct, drawn up shortly after the committee of independent experts reported, states that "commissioners shall assume full political responsibility" for the operation of the directorates-general. However, the code fails to define the scope of this responsibility.
- ★ The Eurostat affair has also exposed problems with OLAF, the EU's independent fraud office. OLAF spent three years on investigations into Eurostat before any officials were moved

from their posts. Prodi's description of OLAF pursuing the investigations at "too leisurely" a pace is an understatement. OLAF also appears uncertain about to whom and when it should supply information on the cases it is investigating. Both the Commission and the European Parliament have complained that OLAF left them in the dark about the seriousness of the situation at Eurostat.

The new Commission will need to find solutions to the problems exposed by the Eurostat case, building on an action plan unveiled by Romano Prodi in November 2003. In particular, it must clarify the relationship between the Commission, its services and OLAF. The Commission has promised a new code of conduct to ensure a better flow of information between OLAF and the other EU institutions. The secretary-general will furnish regular updates of any internal investigations. Moreover, the Commission has said it will tighten the rules on political responsibility. For instance, directors-general will be required to inform their commissioner of any internal management or budgetary problems at least twice a year. However, MEPs have expressed concerns about the Commission's failure to propose measures to deal with cases in which the director-general fails to inform his or her commissioner of a problem. Equally, the Commission has provided no guidance on the responsibility of commissioners to seek out information from their directors-general.<sup>23</sup> The European Parliament has particularly criticised Pedro Solbes for his tardiness in asking questions about the Eurostat senior management.

<sup>23</sup> See 'News report', *European Parliament*, November 18<sup>th</sup> 2003.

The Commission's new guidelines should take account of the weaknesses raised by MEPs. However, even an improved code of conduct will inevitably leave some areas open to interpretation and cannot cover all future problems. If the Commission is solely responsible for writing and implementing the code of conduct, it will remain vulnerable to accusations of bending its own rules. Thus the new Commission should revive a plan of Neil Kinnock's for an

independent EU committee on standards in public life. The committee should have the power to examine individual cases, such as Solbes' responsibility towards Eurostat, and to interpret and recommend changes to the code of conduct. The Kinnock plan failed because of opposition from the European Parliament and the Council of Ministers. The next Commission president should make the standards committee a key element in the ongoing programme of reform. The president should, if necessary, establish the committee on an ad hoc basis, with the aim of shaming the other institutions into meeting the Commission's own high standards.

Meanwhile, OLAF should draw up its own code of conduct, complete with an indicative timetable for investigations. OLAF should provide both the Commission and the European Parliament with regular updates of its investigations, even if names and other details are removed to protect the independence of its work. However, OLAF should reject a Commission request to handover responsibility for pursuing internal investigations of "minor significance". The Commission's desire to oversee some investigations is understandable (although the Commission would allow OLAF to decide which cases to open). It has come under intense criticism for acting too slowly in the Eurostat case. However, OLAF's failure to follow up cases such as Eurostat represents a management rather than a structural problem. Franz-Hermann Brüner, OLAF's director, has chosen to devote resources to chasing high profile cross-border frauds, such as cigarette smuggling, rather

<sup>24</sup> *The Commission proposed making OLAF independent in 1999, but the European Parliament rejected this plan.* than problems within the EU institutions. The Commission's plan would revive bad memories of the Santer administration. Even if the Commission built in adequate safeguards to its investigations, the suspicion would linger that its real aim was to cover-up mismanagement.

In the longer term, OLAF should become an external agency of the EU, rather than an autonomous arm of the Commission.<sup>24</sup> OLAF is dependent on the Commission for human and budgetary resources.

Many of OLAF's officials are on secondment from the Commission, especially from DG budget, and ultimately return to that department to continue their careers. As a fully independent agency, OLAF would be able to recruit truly independent investigators, who would not depend on the Commission for promotion.

## Whistleblowers

The Commission has introduced new staff regulations designed to improve the way in which it deals with whistleblowers. In the past, Commission officials – most notably Paul van Buitenen – have brought cases of fraud and mismanagement to public attention, only for the Commission to then take disciplinary action against them. Van Buitenen only returned from a leave of absence to work in the Commission in the autumn of 2003, some four years after his evidence of financial mismanagement helped bring down the Santer Commission.

The Commission has insisted that it took disciplinary action against van Buitenen because of his failure to follow proper procedures for reporting fraud and mismanagement allegations. It claims that as a result sensitive information reached the public domain, and thus threatened to prejudice any judicial case arising from the original complaints. To the wider public, however, the Commission's heavy-handed approach to such whistleblowers looks like a cover-up.

The Commission has tried hard to clarify the rules governing whistleblowers to ensure that those who uncover fraud or mismanagement can report the problems without fear of disciplinary action. It faces a problem common to all large organisations: how to balance the need to encourage officials to report wrongdoing with the need to protect certain standards of confidentiality. The new staff regulations include an obligation to report evidence of suspected fraud to OLAF. They will also clarify in what exceptional circumstances external reporting – such as passing information to MEPs or the



press – is justified. The new regulations permit this only when all internal channels, including reporting to superiors and OLAF, have been exhausted, but no appropriate action has been taken. Only at that point can an official turn to the president of the Court of Auditors, the ombudsman, the Council or MEPs. On paper, the proposals look fair. But how the Commission handles whistleblowers is as much a cultural as a procedural problem. Disciplinary action should be a last rather than a first resort.

### A communication problem

The Commission has an image problem. Even if it successfully pushed through all the reforms suggested in this paper, the perception that it is incompetent or corrupt would probably linger. The Commission concluded in the follow-up to its 2001 governance white

<sup>25</sup> *European governance: a white paper*, European Commission, July 2001.

paper: “The success of the reform in strengthening the Commission will be measured to a great extent by the confidence the institution is able to inspire in the outside world. The confidence depends to a large extent on the citizen’s ability to ascertain exactly what the Commission does and how it does it.”<sup>25</sup>

If the Commission is to revive its reputation and status, it needs to improve relations with the media. However, as a supranational organisation, the Commission is not well placed to do so. The Commission struggles to convey a single message to a fractured European media, which is still predominately organised on a national (or regional) basis. The Brussels press corp is vast and highly diverse, rivalled in size only by that in Washington. The same overworked Commission officials have to communicate a message to journalists from highly specialised trade magazines, which may be interested in the finer aspects of agricultural or industrial policy, as well as to the most powerful global media groups, such as CNN and the BBC. On a typical day, the

Commission must answer questions in its press briefing on subjects ranging from the latest transatlantic trade dispute to fishing quotas in the western Mediterranean. As one former senior spokesman said: “The Commission is unable to process news, or even rebut inaccurate stories, in a manner suited to dealing with a 24-hours-a-day-media.”

The Commission also pays a price for making information freely available at all stages of the policy-making process. Many of the scare stories which pepper the EU’s press are exaggerated versions of ideas contained in preliminary, consultative documents. For example, Anna Diamantopoulou, the social affairs commissioner, came under sustained attack for publishing a paper suggesting a directive might outlaw the use of ‘sexist’ images in the media. The Commission subsequently decided that such an idea was impractical, but the political damage had already been done.

This is not to argue that the Commission should start learning the dark arts of political ‘spin’, as practiced in countries like Britain or America. Such techniques require a deep understanding of the political and cultural context to be at all effective – which is probably impossible when dealing with 25 countries. The Commission should be responsible for explaining its own decisions, but not for advocating the benefits of European integration, a task better left to the member-states. It should stick to supplying straightforward information, but try and provide more context to help journalists produce interesting copy.

The Prodi Commission has made a number of useful reforms to its press and information service, and in particular to its team of spokesmen. It brought the spokesmen’s group back under central control, to ensure greater uniformity of message. It also opened up the daily press briefing, White House style, to live cameras – despite opposition from seasoned Brussels journalists who feared it might end their cosy relationship with the spokesmen. But the next Commission should make further reforms.

The spokesmen team is woefully under-resourced. Most directorates-general have just one press representative.<sup>26</sup> As a result, the Commission offers information that is ill-prepared and frequently too technical in content, reinforcing the view of Brussels as an anonymous bureaucracy. In contrast, a national ministry in a country

<sup>26</sup> *The competition, external relations and consumer affairs DGs have two spokesmen.* such as the UK has a team of five or more spokesman to field queries and ensure the government's message is heard. In the Commission, *stagiaires* – the EU's junior interns – and secretaries often have to fill the gaps.

The new Commission should switch resources from the sleepy information units within individual directorates-general, which have more staff than the main press office, to the front-line spokesmen team. Each DG should create a much more professional press office, with a team supporting a chief spokesman and at least one capable deputy. If the Commission had the resources to prepare and deliver its message effectively, it would be able to set its own news agenda. Above all, the Commission needs to break out of its siege mentality and react less defensively to internal and external criticism.

## 5 Summary of recommendations

### This paper recommends that:

- ★ Each member-state should appoint one voting commissioner to ensure that the Commission remains both legitimate and credible in the eyes of the European population.
- ★ The dialogue between commissioners and national parliaments should be strengthened. Each commissioner should present and answer questions on the Commission's work programme in his or her national parliament every year.
- ★ The European Parliament should make better use of existing powers to ensure that the European Council is held to account for its choice of Commission president. MEPs should subject the proposed president to a confirmation hearing and signal their willingness to reject any candidate who fails to impress.
- ★ The Commission should use its right of initiative more sparingly. One foolish proposal can overshadow a dozen valuable initiatives and harm the Commission greatly.
- ★ The Commission president should make full use of his or her powers to ensure that an enlarged Commission can function effectively. In particular, the president should be prepared to reshuffle or even sack under-performing commissioners. The president should give commissioners the opportunity to contribute to debates within the college, but be ready to move to a vote to conclude them swiftly.

- ★ The Commission should merge a number of directorates-general (DGs) into ‘super-DGs’. A senior commissioner should lead each of these, while more junior commissioners would take responsibility for the individual DGs.
- ★ The Commission should free up resources, and make an important gesture to the principle of subsidiarity, by abolishing peripheral directorates-general such as the 600-strong DG for education, culture and sport. The next Commission should adopt a more robust approach to the ‘peer group’ review of resources.
- ★ The Kinnock staff reforms are a welcome step towards overhauling the Commission’s antiquated personnel policies. But the Commission needs to become even more flexible when recruiting and training staff. In particular, the Commission should recruit more mid-career officials on fixed-term contracts. The Commission should also require all staff to work for at least two periods in member-state administrations or relevant private sector organisations before qualifying for promotion to a management position.
- ★ The Commission needs a greater turnover of staff to ensure that talented officials can move quickly through the ranks. However, its decision to increase incentives for early retirement is costly and sends out the wrong signal at a time when EU policy is moving in the other direction. The Commission should instead focus on encouraging more staff that have 10 to 15 years of experience to move on to other jobs. In particular, it should reduce the array of perks, such as low rates of taxation and education allowances, which act as a major disincentive for staff to seek other employment.
- ★ The new Commission president must make a habit of saying ‘no’. The president should pledge to curb unnecessary programmes and to resist the temptation to take on new

responsibilities. National governments and MEPs would then find it harder to force the Commission to undertake tasks for which it is ill-suited. Only by focusing on its core tasks and responsibilities can the Commission make a good job of managing a 25-country EU, and win the battle to restore its credibility.

- ★ The Commission should begin to establish external agencies that are dedicated to managing major spending programmes. The agencies should recruit staff with the requisite skills, and develop their own systems and financial controls. Over time, these agencies would develop a body of expertise that the Commission sorely lacks.
- ★ The Commission should create an independent EU committee on standards in public life. The committee should have the power to examine individual cases, and to interpret and recommend changes to the EU institutions’ codes of conduct.
- ★ The EU’s anti-fraud office, OLAF, should draw up its own code of conduct, complete with an indicative timetable for investigations. In the longer term, OLAF should become an external agency of the EU, rather than an autonomous arm of the Commission.
- ★ The Commission’s relationship with the press is crucial to ensuring that it can revive its reputation and status. The Commission should switch resources away from the sleepy information units within individual directorates-general to the front-line spokesmen team.

★



**Centre for European Reform  
29 Tufton Street  
London SW1P 3QL UK  
T: 00 44 20 7233 1199  
F: 00 44 20 7233 1117  
[www.cer.org.uk](http://www.cer.org.uk)  
[info@cer.org.uk](mailto:info@cer.org.uk)**

**March 2004  
ISBN 1 901 229 52 1 ★ £5/€8**