

THE EUROPEAN COMMISSION ATTRIBUTIONS AND FUNCTIONS

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Abstract: *This paper addresses a number of issues related to the phases that the European Union went through until now. It will present the constitution steps of the European union and the changes that have happened and also the procedure for the appointment of the members of the Commission and what responsibilities and rights they get for their roles. The paper also presents the European Commission attributions and functions such as the initiative function, the execution function, the supervision function, the representation function, the decision function.*

Keywords: *European Commission, European Parliament, legislative function, supervision function, execution function, decision function.*

I. Introduction

Historically the European Commission has gone through 3 major phases:

- The High Authority of the European Coal and Steel Community (1952-1958);
- The co-existence of the three institutions corresponding to the three European Communities (High Authority, EURATOM Commission and CEE Committee) (1958-1967) ¹;
- The Formation of the Single Commission following the (1965) 1967 - Fusion Treaty (Brussels) – until now. ¹

The name of the European Commission is known after the 1965 Merger Treaty in Brussels, when it was stipulated that the unification of the three existing Commissions should be made in a single institution, namely the Commission of the European Communities.

The Merger Treaty stipulates the Commission's independence from the governments, but sets its political responsibility towards the European Parliament, which can adopt a no-confidence motion against it.

II. The constitution of the European Commission

According to the treaty that established the European Community (Article 202), the European Commission has the power to execute the decisions adopted by the EU Council (this situation exists after the Single European Act, because until then, the Council was the institution with both legislative and executive

¹Marian Ștefănescu, "Ideea și integrarea europeană", Editura All, 2007, București, p. 131

powers). In order to oversee the exercise of executive power by the Commission, the Council created four types of committees which were composed of experts from each member state who were chaired by a representative of the Commission, depending on the degree of sensitivity of the sector in question.²

The Commission represents the Community executive body and has a supranational character that evolved with the progress of European construction. The Commission was thought as a Community body in each of the three constituent treaties of the European Communities, expressing the common and independent interest of the commission independently of the member states that are present.

The European Commission, the most original of the Community institutions, is currently composed of 27 Commissioners appointed by the governments of the Member States on the basis of their general professional competence. The number of members of the Commission may be amended by the Council acting unanimously. With a view to receiving new members within the European Union, the issue of amending the number of Commissioners remains open. In the literature, the view was expressed that each Member State should have only one Commissioner.

The Nice meeting of 11 December 2000 examined, among other issues, the future enlargement of the European Union and the issue of the composition of the Commission. In connection with this, it was agreed that Member States with two Commissioners would give up the second to 2005 in favor of the newcomers, but the number of Commissioners would not exceed 27 members.³

The status of Commissioner can only be held by citizens of the Member States, with the Commission having at least one citizen of each Member State, without the number of Commissioners having the nationality of the same state being greater than two. The Maastricht Treaty has made changes to the way the members of the Commission are appointed.

Thus, the governments of the Member States shall, by mutual agreement, after consulting the European Parliament, designate the personality which they intend to appoint as President of the Commission. In this way, the appointment of the President of the Commission gets a direct democratic legitimacy from the European Parliament. The governments of the Member States, in consultation with the designated President of the Commission, designate the other personalities whom they will appoint as members of the Commission.

The Amsterdam Treaty brought about a change in the content of the nomination of the President of the Commission, as the role of the European Parliament in this procedure was rising. The designation by the Member States of the envisaged person as President of the Commission is subject to the

²http://mmediu.ro/file/2_Procedura%20de%20comitologie.pdf

³Diaconu, Nicoleta, *Dreptul Uniunii Europene. Partea generală*, Ed. Lumina Lex, București, 2007, p. 139.

European Parliament's approval. Therefore, the simple consultation of the European Parliament provided for by the Maastricht Treaty is replaced by the need for its approval by the same institution.

The Commission is politically accountable to the European Parliament, which has the possibility to dismiss it, by adopting a motion of censure.

The members of the Commission shall exercise their functions in complete independence in the general interest of the Community. In fulfilling their duties, they do not request or accept instructions from any government or from any other body. The independence of the members of the Commission is also an obligation for the Member States, in the sense that each of them undertakes to respect this independence and not to seek to influence the members of the Commission in the performance of their tasks.

During the performance of their duties, the members of the Commission may not engage in any professional activity, whether remunerated or not.

Members of the Commission enjoy the privileges and immunities set out in the Protocol on the Privileges and Immunities of the European Communities of 1965: immunity from jurisdiction for acts performed in the exercise of Community powers (this immunity extends even after the cessation of Community functions, in accordance with maintaining responsibilities of former officials or community agents); Exemption from national taxes on salaries and other community money.

The procedure for the appointment of the members of the Commission shall be as follows:

- Member State Governments designate by common agreement the person whom they intend to appoint as President of the Commission
- the same governments, in agreement with the President already established, designate the other persons whom they intend to appoint as members of the Commission
- the President and the members of the Commission, appointed in accordance with the above procedure, are subject to the approval of the European Parliament as a collegiate body
- after approval in Parliament, the President and the members of the Commission are appointed by the governments of the Member States by common accord
- The Commission's independence also derives from the principle of collegiality in taking decisions and the responsibility for their fulfillment. These are imputable to the college and not to each individual commissioner. Collegiality implies that the Commission's political accountability to Parliament is collective. When a European Commissioner of French origin (Ms Edith Cresson, former Prime Minister of France) was accused of corruption, a few years ago, the whole Commission presented her resignation to Parliament, a decision that was accepted.

The powers of the Commission are listed in art. Number 155 of the Treaty of Rome and are reiterated in the Treaties of Maastricht and Amsterdam. These competents are:

- Guardian of the EU Treaties;
- Initiative powers, formulates proposals, recommendations and opinions. On the basis of the opinion, the Commission recommends the European Council to start accession negotiations with the EU;
- Execution and management function. It exercises the implementing powers conferred on it by the Council;
- Decision function. Participates in the adoption of acts by the Council and the Parliament;
- Control function. It has the prerogatives to comply with the obligations imposed by the Community acts: it observes the competition rules by the economic agents; Verifies and pronounces sanctions in cases that concern the financial interest of the community; State on state aid in the member countries; Ensure the application of safeguard clauses;
- It fulfills the Union's internal and external representation function. The Commission has long held a quasi-monopoly on the function of initiative within the European Union, since the Council could not rule on matters falling under Community competence only on the basis of a Commission proposal. This monopoly was challenged by the European Parliament, which wants to have this right just the same as national parliaments have in their own countries. The Maastricht Treaty clarifies this by introducing the co-decision procedures that allow the European Parliament to reject the Commission's text after a third reading.

III. The European Commission attributions and functions

According to Community law specialists, the functions performed by the Commission are mainly:

- the initiative function;
- the execution function;
- the supervision function;
- the representation function;
- the decision function.

Unlike the situation in a national state, where the right of legislative initiative is exercised by the government and the parliament, at Community level, that right rests mainly with the European Commission, in some cases by way of exception, also coming to the Council of Ministers of the European Union Parliament. Until the adoption of the Single European Act, the Council held both the legislative and the executive powers, and the Commission could not take enforcement action until the Council had been empowered.

In practice, however, especially in the field of the common agricultural policy, there was a need to adopt a large number of implementing measures at Community level, which made it impossible for the Council to resolve them in a timely manner. The requirements relating to the effectiveness of Community action have led the authors of the Single Act to amend Article 145 EEC (European Economic Commission) in order to confer on the Commission executive powers.

From now on, the Commission is primarily responsible, with the previous rule being reversed: the Council is no longer the executive that can delegate its competence to the Commission, but the latter is the executive, except where the Council expressly reserves this right.

An essential attribute for the Commission is the monitoring of the application of Community Treaties both by the Council and by the Member States. By virtue of this attribute, the Commission may initiate certain legal procedures to determine whether the Council or the Member States are fulfilling their obligations under the Treaties. The European Commission also fulfills a significant representative role, being empowered under the provisions of the Treaty of Rome to represent the interests of the Community at international level.

In order to ensure the functioning and development of the common market, the Commission carries out the following tasks:

- sets out a set of guidelines setting out the objectives, priorities and lines of action envisaged in the field of trans-European networks; These guidelines identify projects of common interest;
- implement any action that may prove necessary to ensure interoperability of networks, particularly in the field of technical standards harmonization;
- can support projects of common interest supported by Member States and defined in the guidelines referred to in the first indent, in particular in the form of feasibility studies, loan guarantees or reduced interest rates; The Union can also contribute to the financing of specific transport infrastructure projects in the Member States through the Cohesion Fund.
- proposes legislative acts to the Council and the EP (European Parliament)
- Manages / implements EU policies and budget
- seeks to comply with Community law (together with the Court of Justice)
- represents the Union at international level, particularly in the case of trade negotiations between the EU and other countries
- publish annually, at least one month before the opening of the EP session, a general report on the work of the Union. The EP will discuss the report in public.

The action of the European Union takes into account the potential economic viability of the projects.

The Member States should coordinate with each other and in cooperation with the Commission policies taken at national level that may have a significant impact on the achievement of the objectives referred to in Article 170.

The Commission, in close cooperation with the Member States, may take any useful initiative to promote such coordination. Besides the above-mentioned tasks, the Commission also has the task of community representation and negotiation. The Commission also has competence in the management of the Community Structural Funds, such as the European Agricultural Guidance and Guarantee Fund (EAGGF), the European Regional Development Fund, the European Social Fund. The European Cohesion Fund is another fund in which the Commission is involved.

The functions that have experienced a more pronounced evolutionary process are those involving the Commission's participation in the regulatory power within the Community process (for example the decision-making and execution function).⁴

The European Commission has the role of "Guardian of the Treaties". It therefore has the authority to ensure the correct application of EU law by individuals, Member States and other European institutions. In exercising its powers, the European Commission may impose sanctions on natural persons and businesses if they are in breach of Union law. It can also initiate infringement proceedings against Member States, inviting them to remedy the situation within a well-established timeframe. The European Commission may refer the case to the Court of Justice for infringement of Union law by Member States or by other European institutions.⁵

As the executive body of the European Union, the Commission's powers relate to the following types of issues:

1 The legislative oversight function: - monitors the compliance, interpretation and correct application of the Treaties (Community law), together with the Court of Justice of the European Communities.

The original treaties mandate the European Commission to ensure that they are enforced and to this end grant both specific powers and the task of bringing legal action against the State not applying the Treaties. By exercising this function of overseeing the mandate to comply with the provisions of the Community Treaties, the Commission was called the "guardian of the Treaties"

In order to fulfill its role as "guardian of the Treaties", the Commission may request information from states, businesses or individuals for preventive or information purposes. The Commission also enjoys a power to impose sanctions (fines or penalty payments), in particular for companies that violate competition rules.

2 The legislative initiative function: - The European Commission has powers in the legislative sector, for example in adopting general regulatory acts

⁴<http://www.europeana.ro/>

⁵<http://ec.europa.eu/>

- regulations and directives. The EU Council can only adopt legislation on the basis of a Commission proposal, which gives the Commission the legislative initiative. The Commission's participation in the EU's legislative power is mainly achieved through the following three ways:

- Drafting proposals for normative acts which are then approved by the European Council or the Council together with the Parliament
- The adoption of regulations or directives addressed to the Member States;
- The adoption of implementing regulations, which develops and materializes primary law (this is the competence provided for in Article 145 TEC whereby the Council may assign to the Commission the execution of the legislative acts which it adopts, the implementing regulations may be drafted directly by the Council, And the European Commission)

These proposals must reflect the interests of the entire Union and its citizens, not of a particular Member State or industrial group. Before proposing new legislative initiatives, the Commission assesses the potential economic, social and environmental consequences that they may have, by carrying out impact assessments to outline the advantages and disadvantages of different policy options.

For some legislative proposals, the Commission also consults two consultative bodies, the Economic and Social Committee (ESC) and the Committee of the Regions (CR) or asks for opinions from national parliaments and governments. In addition, for the technical substance of the proposals, the Commission consults with different experts, through different committees or working groups, and also organizes public consultations.

The Commission departments produce the draft legislative act which is usually presented at the Commission's weekly meeting (Wednesday), the presentation being made by the Commissioner responsible for the area in question. The decision is usually taken by consensus or, if not, by a simple majority (at least 14 of the 27 commissioners must agree with it). Consensus is preferred, as the Commission's proposal will later require the approval of the Council and the Parliament, and a decision that does not reach consensus in the Commission from the outset is likely to pass from the other two institutions.

3 The execution function: - The Commission exercises the implementing powers conferred by the Council of the European Union - implementation of the European Union budget, application of Community legislation, programs and policies.

The Commission is the executive body of the European Union with high responsibility for policy implementation and coordination. It manages the annual budget of the European Union and the Structural Funds budget, aiming to eliminate the economic gap between the richest and the poorest areas of the

Union. In some vital areas , Such as competition, agriculture or trade, the Commission's decisions will no longer be submitted to the Council of Ministers in accordance with the Treaties.

In the framework of the executive board, the Commission has two types of competences: its own decision-making powers and powers delegated by the Council. The first case concerns the measures necessary to implement Treaty provisions such as: measures approved by the Commission in the fields of agriculture, Competition, public enterprises and undertakings with "special rights". The Commission also decides to modify or suppress State aid, acts in the field of monopolies to eliminate commercial discrimination and has the freedom to execute the budget in the limits and destinations of appropriations .

Secondly, the Single Act (Article 202 of the EC Treaty) provided that, without exception, the Council would confer on the Commission the implementing powers of the regulations it establishes, the modalities of which are laid down in a decision called "Comitology" July 1987 (simplification of consultation, management or regulatory procedures intervened 12 years later on 28 June 1999).⁶

4 The representation function: he Commission is empowered in the field of internal and international representation of the European Union, negotiating international agreements between the European Union and other countries, allowing the European Union to speak "with one voice".

The European Commission has internal and external regulatory powers of the European Union, thus fulfilling its representation functions. Internal representation is ensured by the fact that ambassadors across the EU of different countries present their accreditation letters and the President of the Commission. Foreign representation is carried out through Delegations with rank Embassy in third party countries, as well as through Offices in the EU Member States.⁷

Finally, it is the responsibility of the Commission to deal with external relations issues that fall within the scope of Community, especially commercial, competencies. In these cases, the Commission is the one negotiating agreements and then ensuring that they are respected, although the Council must also ratify them. The European Parliament's power to refuse the Commission and even to dismiss it at any time after its appointment seems to represent a real democratic contribution to the process by which the EU executive is appointed. However, it cannot reject an individual candidate, but

⁶ Gilles Ferreol , Yves Jean Boloel-Benoist, Marc Blanquet, Dominique Breillat,Noel Flangeul ,*Dicționarul Uniunii Europene* , Editura Polirom ,Iași, 2001,p. 41.

⁷Ioan Alexandru, *Drept administrativ european*, Ediția aII-a ,București, Universul Juridic, 2010,p.314

only the College appointed in block, means that this power is less useful than it seems, undermined by its own finality.⁸

As regards **the function of representing** the EU's external interests, it is the Commission that defends and promotes the Union's interests in the international negotiations conducted in the WTO or OECD. The Commission has negotiated, for example, the Cotonou Agreement on Aid for Development and trade relations between the EU and developing countries in the African, Caribbean and Pacific (ACP). The Commission is responsible for the way in which it carries out its work before the EP, which can dissolve it with 2/3 of the votes of its constituent members (censure motion). The Commission is obliged to explain and justify its actions before the EP and when asked to provide written or oral answers to EP questions.

5 The decision function: - The Commission has its own decision-making power and takes part in the adoption of acts by the European Council and the European Parliament.

The Commission has both implementing powers and decision-making powers. It may draw up regulations, issue directives or adopt decisions, these powers being conferred directly on it by the provisions of the Treaties or by the delegation of competence by the Council.

The Commission enjoys a high degree of autonomy in the exercise of its powers, particularly in the field of competition policy and control of the implementation of common policies (agriculture, transport). The Commission can also administer protectionist measures - these are temporary measures constituting exceptions to the Treaties, being adopted by the Member States in agreement with the Commission to overcome some particular difficulties. The Commission, after consulting the Monetary Committee, may authorize a Member State whose capital market is in difficulty to adopt safeguard measures the conditions of which are defined by the Commission. In the event of an imbalance in the balance of payments, the Commission may authorize a Member State to take the measures considered necessary to remedy the situation.⁹

IV. Conclusions

The European Commission is among the most important Community bodies, representing the executive body of the European Union. The European Commission plays a key role in expressing the Community interest and ensuring its achievement in a very general way. It embodies the "European idea", as its members, although appointed by national governments, have no obligation towards them, being loyal only to the interests of the European Union.

⁸Steven P. McGiffen, *Uniunea Europeană-Ghid Critic*, Monitorul Oficial, București, 2007, p.22

⁹Diaconu Nicoleta, *Dreptul Uniunii Europene*, Ed. Lumina Lex, București, 2007, p.154

In addition to legislative powers, the Commission is also the guardian of the European Treaties, controlling their application. It also ensures the formulation and implementation of Community policies, manages the Community budget and programs with the help of national administrations.

The Commission represents the Union in international negotiations in all areas, except in the field of the Common Foreign and Security Policy, where the Union's Foreign Minister intervenes.

The Commission's role is to ensure compliance with the Treaties, to initiate legislative projects and to implement Community policies. The Commission administers the budget of the European Union and the Community assistance programs of the European Union, including those supporting countries outside the Community.

Unlike the situation existing in a national state, where the right of legislative initiative is exercised by the Government and the Parliament, at Community level, that right rests mainly with the European Commission, in some cases, by way of exception, also coming to the Council of Ministers of the European Union Parliament.

The Commission is politically accountable to the European Parliament, which has the possibility to dismiss it, by adopting a motion of censure.

In regards to the members of the Commission, they shall exercise their functions in full independence in the general interest of the Community in the performance of their duties, by not requiring or accepting instructions from any government or from any other body.

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