

DEEP DIVE INTO THE COMMISSION ORGANISATION

10 May 2023

WITA Seminar



THE COMMISSION

- The term “*Commission*” is used in two senses.
 - Firstly, it refers to the “*Members of the Commission*” — i.e. the team of men and women (the college) appointed by the Member States and Parliament to run the institution and take its decisions.
 - Secondly, the term “*Commission*” refers to the institution itself and to its staff.

ROLE OF THE EUROPEAN COMMISSION

- The limits of Union competence are governed by the principle of conferral.
- The EU acts only within the limits of the competences that EU Member States have conferred upon it in the treaties. These competences are defined by the Treaty on the Functioning of the European Union (Exclusive, shared, coordination or support). Competences not conferred on the EU by the treaties remain fully with the Member States.
- While the principle of conferral governs the limits to EU competences, the use of those competences is governed by the principles of subsidiarity and proportionality.

ROLE OF THE EUROPEAN COMMISSION



- According to Art. 7 TEU, the Commission:
 - shall promote the general interest of the Union and take appropriate initiatives to that end; execute the budget and manage programs;
 - shall ensure the application of the treaties and of measures adopted by the institutions pursuant to them;
 - shall oversee the application of Union law under the control of the Court of Justice of the European Union;
 - shall execute the budget and manage programs
 - shall exercise coordinating, executive and management functions as laid down by the Treaties;
 - With the exception of the Common foreign and security policy... shall ensure the Union's external representation.
- Union legislative acts may **only** be adopted on the basis of a Commission proposal, except where the treaties provide otherwise.

THE COMMISSION: A POLITICAL BODY

- The European Council, acting by a qualified majority proposes to the European parliament a candidate for President of the Commission.
- This candidate must be elected by the EP by a majority of component members.
- The Council, by common accord with the President elect, adopt the list of the other persons whom it proposes for appointment as members of the Commission (one national per Member state).
- The President, the HRVP and the other members of the Commission are submitted as a body to a vote of consent by the EP and then formally appointed by the European Council.

THE COMMISSION: A POLITICAL BODY

- The Commission, as a body, is responsible to the European Parliament.
- The European Parliament may vote on a motion of censure of the Commission.
- If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he carries out in the Commission.

ORGANISATION OF THE COMMISSION AS A COLLEGE

- The President of the Commission shall:
 - (a) lay down guidelines within which the Commission is to work;
 - (b) decide on the internal organization of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
 - (c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

THE URSULA VON DER LEYEN COMMISSION



- Three layers:
 - 3 Executive Vice-Presidents and the HRVP/Vice-President;
 - 4 Vice-Presidents;
 - Members of the Commission.
- Executive Vice-Presidents and Vice-Presidents coordinate work across the Commission on behalf of the President for the six headline ambitions identified at the beginning of the mandate.
To this end:
 - Six Commissioners' Groups are created to help deliver on the political priorities of the Commission while focusing on cross-cutting issues, with a view to shaping coherent policies and building joint ownership.
 - Without prejudice to the decision-making process of the College and the responsibility of the collegial preparatory bodies, they shall ensure coordination and provide political steer for the development of initiatives and implementation of priorities.

THE URSULA VON DER LEYEN COMMISSION

Beyond its Chair, each Commissioners' Group is composed of the following members:

- **A European Green Deal:** Commissioners for Agriculture, Health and Food Safety, Environment, Oceans and Fisheries, Energy, Transport and Cohesion and Reforms;
- **A Europe Fit for the Digital Age:** Commissioners for Innovation, Research, Culture, Education and Youth, Internal Market, Justice and Jobs and Social Rights;
- **An Economy that Works for People:** Commissioners for Economy, Jobs and Social Rights, Cohesion and Reforms, Trade;
- **A Stronger Europe in the World:** Commissioners for Trade, Neighbourhood and Enlargement, Crisis Management and International Partnerships;
- **A New Push for European Democracy:** the Vice-President for Democracy and Demography, the Vice-President for Interinstitutional Relations and Foresight, Commissioners for Equality and for Justice;
- **Promoting our European Way of Life:** Commissioners for Innovation, Research, Culture, Education and Youth, for Health and Food Safety, for Jobs and Social Rights, for Equality and for Home Affairs.

Other Vice-Presidents and Commissioners may participate in relevant meetings of the Groups and contribute to the work upon their request or invitation by the Chairs.



A New Push for European Democracy

THE ACTORS: COMMISSIONER'S CABINET

- Members of the Commission have their own cabinet to assist them in their work and in preparing Commission decisions:
 - Chief of staff (senior level);
 - Deputy chief of staff (fairly senior level);
 - Members who follow the field of action of the Commissioner and other areas of activity of the College;
 - Members of the Commission shall have their own cabinet to assist them in their work and in preparing Commission decisions.
- Each member of the Commission works in close relationship with the services under his/her responsibility:
 - On the basis i.a. of his/her letter of mission, he gives policy orientations to the Director General;
 - He receives proposals from the Director general;
 - He meets on a regular basis with the Director general and the senior staff.

THE ACTORS: COMMISSIONER'S CABINET

- The cabinets have a key role to prepare the decisions of the Commission:
 - the « chef de cabinet » meet every Monday under the chairmanship of the President's cabinet and the support of the Secretary General and go through the agenda of the meeting to clear the situation, identify issues which can be adopted without debate and others for debate;
 - a « special chefs de cabinet » meeting may be organized when the proposal is complex and may entail politically sensitive issues.
- The cabinets are in close contact and organize, if need be, bilateral meetings between Commissioners to discuss specific matters of concern.

THE ACTORS: SECRETARIAT GENERAL OF THE COMMISSION

- The Secretary-General:
 - is under the direct authority of the President and assists him/her in preparing the proceedings and meetings of the Commission and also assist the chairperson of any working groups set up by the President;
 - ensures that decision-making procedures are properly implemented and that effect is given to the decisions taken by the Commission;
 - ensures the necessary coordination between departments in the preparatory stages and checks that the rules for submission of documents are complied with;
 - takes the necessary steps to ensure that Commission instruments are officially notified to those concerned, published in the Official Journal of the European Union and that documents of the Commission and its departments are transmitted to the other institutions of the European Union;
 - is responsible for official relations with the other European institutions subject to any decisions by the Commission to exercise any function itself or to assign it to its Members or departments;
 - monitors the proceedings of the other European institutions and keeps the Commission informed.

THE ACTORS: LEGAL SERVICE

- **The Legal Service:**
 - is under the direct authority of the [President of the Commission](#). The [Director-General of the Legal Service](#) or, if he is absent, the Deputy Director-General attends the Commission's weekly meeting;
 - assists the institution in exercising its functions, which mainly include drafting legislation, international negotiations, role as guardian of the Treaties, powers to implement EU legislation;
 - is empowered to represent the Commission in the Courts of the [Court of Justice of the European Union](#) and the [EFTA Court](#), before the [WTO](#) and other arbitration tribunals, as well as in any other court such as a national court.

THE ACTORS: COMMISSION DEPARTMENTS

- The Commission is organized into policy departments, known as Directorates-General (DGs), which are responsible for different policy areas (for instance Trade, Agriculture, Climate or Competition).
- DGs develop, implement and manage EU policy, law, and funding programmes. In addition, service departments deal with particular administrative issues. Executive agencies manage programs set up by the Commission.
- The Directorates-General and equivalent departments shall normally be divided into directorates, and directorates into units.
- The Commission may, in special cases, set up specific structures to deal with particular matters and shall determine their responsibilities and method of operation.
- In the event of a disagreement it shall append to its proposal the differing views expressed by these departments.

THE ACTORS: COMMISSION DEPARTMENTS

- In order to ensure the effectiveness of Commission action, departments shall work in close cooperation and in coordinated fashion in the preparation or implementation of Commission decisions.
- Before submitting a document to the Commission, the department responsible shall, in sufficient time, **consult other departments which are associated or concerned by virtue of their powers or responsibilities or the nature of the subject, and shall inform the Secretariat-General where it is not consulted.**
- The Legal Service shall be consulted on all drafts or proposals for legal instruments and on all documents which may have legal implications.
- The Directorates-General responsible for the **budget, personnel and administration** shall be consulted on all documents which may have implications concerning the budget and finances or personnel and administration respectively.
- The Directorate-General responsible for **financial control** shall likewise be consulted, as need be. The department responsible shall endeavour to frame a proposal that has the agreement of the departments.
- In the event of a disagreement it shall append to its proposal the differing views expressed by these departments.

THE ACTORS: THE CASE OF DECENTRALISED AGENCIES

- Over 30 decentralized agencies. They have their own legal personalities, are set up for an indefinite period and are distinct from the EU institutions.
- Decentralized agencies contribute to the implementation of EU policies. They also support cooperation between the EU and national governments by pooling technical and specialist expertise and knowledge from both the EU institutions and national authorities.
- They cover areas very widely distinct areas like food, medicine, justice, transport safety, drug addiction and the environment.
- For instance, ESMA or REACH are entitled to elaborate technical standards or decisions **to be submitted to the Commission for endorsement.**

COMMISSION DECISIONS PROCESS



- Commission decisions are taken:
 - (a) at meetings of the Commission ; or
 - (b) by written procedure; or
 - (c) by empowerment; or
 - (d) by delegation.
- The Commission must, as a general rule, meet at least once a week. It shall hold additional meetings whenever necessary. Members of the Commission are required to attend all meetings.

THE DECISION MAKING PROCESS

- **The Commission has to manage all the responsibilities entrusted to it by the treaties. It must also have a vision of the priorities:**
 - **Every 5 years**, at the beginning of a new Commission term, the President of the Commission sets out the priority areas to be focused on during that term. These areas are derived from the Council's strategic agenda and from discussions with the political groups of the European Parliament, carefully designed to bring benefits to citizens, businesses and other stakeholders in the EU.
 - **Every year**, the President of the Commission comes to the European Parliament to present the achievements of the Commission during the previous year and the forthcoming priorities or initiatives for the year to come in the speech on the State of the Union. A Commission work program is published at the same time.
 - Policy is based on evidence and best available practice. For all major legislative and policy defining initiatives, Commission departments prepare an impact assessment to analyze the likely economic, environmental and social effects of the proposals.
 - Depending on its level of political importance, an initiative is either agreed on by the Commission during the Commissioners' weekly meetings, using the oral procedure, or by written procedure.

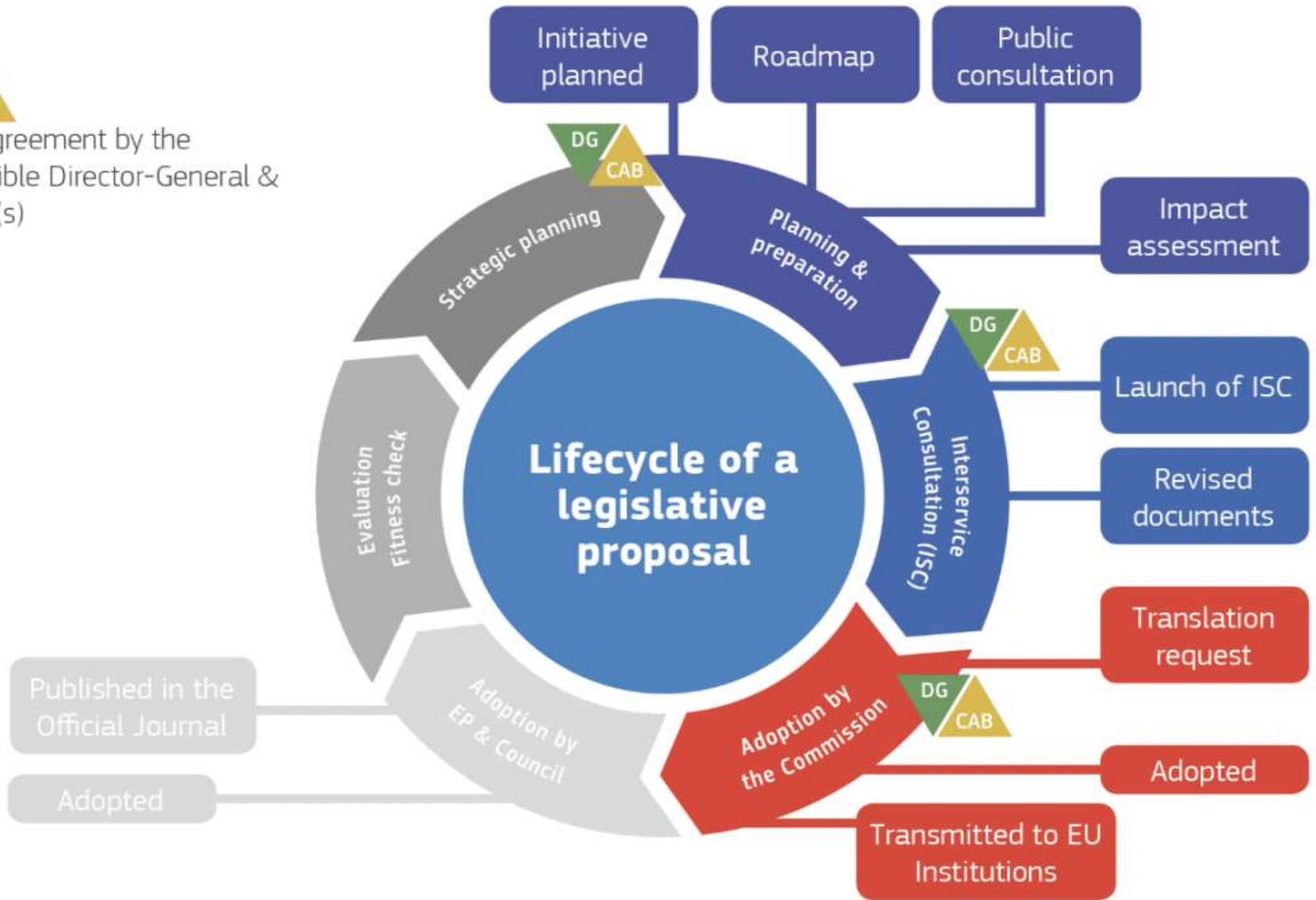
THE DECISION MAKING PROCESS

How the Commission decides

- The draft is prepared by the DG under the responsibility of the Commissioner in charge. Other Commissioners/DGs may be associated. Once the draft text is finalized, having taken into consideration all of the input received on the initiative, it is submitted for inter-service consultation. All departments having an interest in the matter are consulted.
- Depending on its level of political importance, an initiative for a new policy or law is either agreed on by the Commission during the [Commissioners' weekly meetings](#), using the oral procedure, or by written procedure.
- **Oral procedure** involves a debate and agreement on the initiative by the Commissioners. Such a debate is prepared either at a special “chefs de cabinet meeting” or during the ordinary preparatory meeting of the Chefs de cabinet.
- Alternatively, the Commissioners can give their consent to a new initiative in writing, using the **written procedure**. This can only be sought after the agreement of the legal department and any departments consulted during the planning and proposing stage. It is managed at Cabinet level.



*Prior agreement by the responsible Director-General & Cabinet(s)



THE DECISION MAKING PROCESS

[Link: European Commission Agenda](#)

Contacts

King & Spalding International LLP

<https://www.kslaw.com/>

