

Electing the President of the European Commission



Trinity Blue Papers in Public Policy

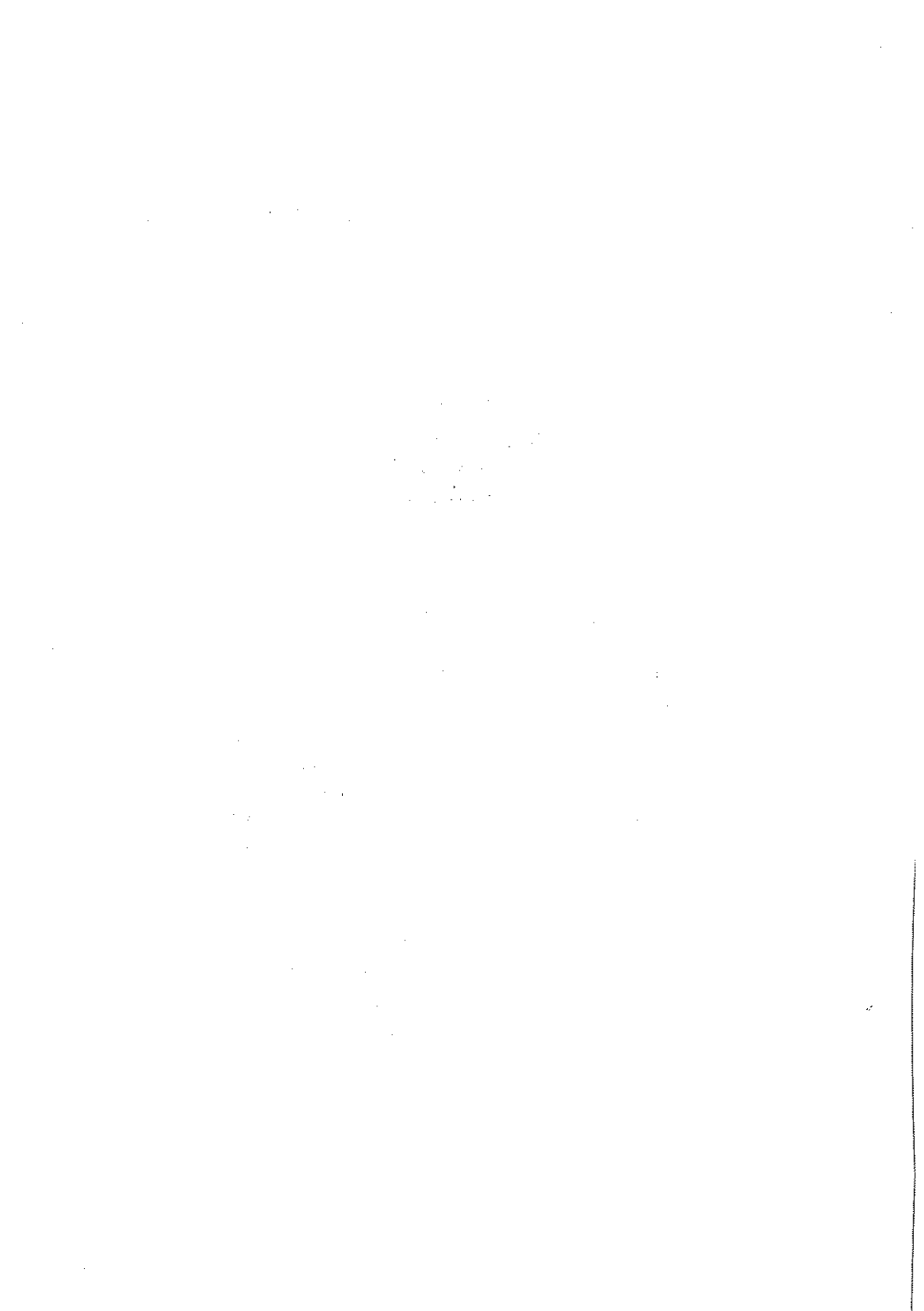
Trinity Blue Papers in Public Policy provide rigorous but accessible analyses of policy issues of major importance. Their aim is to build a bridge between the academic and policy communities, to stimulate informed debate and to assist all who have a concern with public policy by developing major policy options to a level that allows these to be given serious consideration.

All material in these papers may be freely cited with appropriate attribution.

All comments, criticisms and suggestions are gratefully received, and should be sent to:

Trinity Blue Papers in Public Policy
Department of Political Science
Trinity College
Dublin 2, Ireland.

Fax: +353 - 1 - 677 0546
Email: mlaver@tcd.ie



Electing
the
President
of the
European Commission

Michael Laver
Michael Gallagher
Michael Marsh
Robert Singh
Ben Tonra

The financial sponsorship of
the Department of the Taoiseach
is gratefully acknowledged

Trinity Blue Papers in Public Policy: 1

Published in 1995 by
The Department of Political Science,
Trinity College, Dublin 2, Ireland.

© Michael Laver, Michael Gallagher, Michael Marsh, Robert Singh, Ben Tonra

EXECUTIVE SUMMARY

- This paper is concerned with the legitimacy and accountability of decision-making in the European Union (EU).
- In the first half of the paper we argue that a straightforward and effective way to improve the legitimacy and accountability of EU decision making is to introduce popular elections for the office of European Commission President (ECP).
- These elections would engage European citizens directly and transparently in the affairs of the Union as it moves towards the twenty-first century, by involving them in a major election for high EU office.
- Other solutions either do not go far enough in terms of giving European citizens a say or are obscure, cumbersome and/or contrary to the EU method of doing business.
- In the second half of the paper we drive towards specific proposals for the popular election of the ECP. Three key elements of these proposals are:
 - the nomination process;
 - the election system;
 - protecting the interests of smaller member states.

Our conclusions on these can be simply stated.

Nomination

- Candidates for election as ECP should be nominated by members of national lower houses and MEPs.
- Candidates should secure the support of 5% of the members of 5 lower houses of parliament, one of which may be the European Parliament (EP).

Electoral system

- The election to the office of ECP would be a two stage process, with the first stage held two weeks before the second, and the second stage held on the same day as EP elections.
- The election would determine how many "presidential mandates" are won by each candidate. Each member state would have a number of mandates equal to its number of MEPs.
- The election would use a PR system, with candidates winning presidential mandates in each country in proportion to their share of votes cast in that country.
- A candidate winning a majority of presidential mandates across the EU in the first round of the election would be elected.
- If no candidate is elected in the first round, then the election would proceed to a second round run-off between the two candidates winning the most electoral mandates in the first round. The second round election would be held on the same basis as the first round and the candidate winning a majority of mandates across the EU would be deemed elected.

Overall

This proposed procedure is the best combination of fairness and familiarity in a European context. It combines a presidential voting system with which many European voters are familiar with a system of weighted representation identical to that already used in the EP.

While the short-term prospects of implementing this proposal may be remote, it does seem to us that serious consideration should be given to it by those concerned with the future of the EU. Without a broadening and deepening of public involvement in the affairs of the Union, this very future could well come under threat.

CONTENTS

1. INTRODUCTION	1
2. THE PROBLEM: THE DEMOCRATIC DEFICIT	3
2.1 The traditional critique	3
2.2 The post-Maastricht critique	6
3. THE POTENTIAL SOLUTIONS	10
3.1 State-centred reform	10
3.2 Reforms of the Community method	10
3.3 Solutions involving the European Parliament	11
3.4 Solutions involving a popular election	14
4. THE CASE FOR AND AGAINST POPULAR ELECTION OF THE EUROPEAN COMMISSION PRESIDENT	16
4.1 Arguments in favour	16
4.2 ECP elections and the EU's institutional balance	18
4.3 Further arguments against and their rebuttal	24
4.4 A proposal for the popular election of the ECP	28
5. ECP ELECTIONS AND THE EU STRUCTURE	29
5.1 A proposed sequence of events	29
5.2 Outstanding issues	29
6. NOMINATION OF CANDIDATES	31
6.1 Eligibility	31
6.2 Possible nomination procedures	32
6.3 A proposed nomination procedure	39
7. METHOD OF ELECTION	40
7.1 Electoral system	40
7.2 The protection of smaller states	45
7.3 A proposed method of election	52
8. LIKELY REACTION OF OTHER MEMBER STATES	52
9. SUMMARY OF MAIN ARGUMENTS	55



1. INTRODUCTION

There is little doubt that decisions taken in the name of the European Union (EU) are becoming ever more important to the daily lives of most of its citizens. EU experts and insiders may point to the inputs to these decisions made by elected Members of the European Parliament (MEPs), and by accountable members of national governments in their role as members of the European Council. There can be little doubt, however, that the EU continues to be seen by ordinary European citizens as a remote and faceless machine, whose most obvious political style is based upon deals cut by political elites behind closed doors. This perception applies equally to the European Council, to the European Commission, and to relationships between these. It is at the heart of what many observers have diagnosed as the EU's "democratic deficit".

The justification for this diagnosis can be seen in the EU's current institutional structures. In contrast to what happens at national level, the EU's administrative and decision-making process is not directly accountable to elected politicians serving as department heads, and thence to the people. Rather the department heads are Commissioners, each nominated by an individual national government and accountable at most to that government rather than to a broader European public. Chairing the College of Commissioners, the European Commission President (ECP) "emerges" from political horse trading between political elites. While the European Parliament (EP) had recently acquired the right to express a view on the candidate for ECP who emerges in this way, the formal accountability of the Commission to the EP, while a possibility in theory, in practice represents such a giant sanction that it has never been used and seems unlikely ever to be used. The democratic accountability of the Commission is thus at best indirect and opaque.

As the EU moves into the twenty-first century facing the prospect of momentous developments such as a single currency, enlargement to include former eastern European states, and a common defence policy, the legitimacy of its decision-making procedures will become more vital than ever. Failure to address the problem of the democratic deficit could ultimately threaten the development of the Union itself, if citizens of member states become unwilling to cede any further role to a pan-European administration they perceive to be remote and lacking in accountability.

One potential solution to this problem is to make the European Commission President directly and transparently accountable to European citizens by popular election. While in theory the constitutional role of the ECP under the Treaties is quite limited, we have seen in practice that both the symbolic role and the practical political power of a vigorous office-holder can be considerable. As the EU moves closer to centre stage in world affairs, furthermore, the symbolic role of the ECP as the personification of the Union could well become much more important than it is at present.

This solution tackles perceptions of a democratic deficit head-on, offering ordinary people an important symbolic role in the EU's decision-making process. It is not an obscure institutional rebalancing, but rather a

proposal that can capture the public imagination, in this way engaging the interest of citizens once more in the future of the EU.

In short, we are proposing a pan-European election to perhaps the most important single office in the EU. We feel strongly that this would fulfil two vital tasks.

- First, and crucially from the perspective of the democratic deficit, it would greatly enhance the European public's *sense of involvement* in decision-making at the heart of the EU.
- Second, the very act of holding a pan-European election to a *single* high office would stimulate the evolution of a "*European*" *public debate* on key issues facing the Union. (European Parliament elections, as is by now well-known, have become almost exclusively features of "national" politics in each member state.)

We construct this argument in seven stages. In Section 2, we diagnose the problem and review various critiques of the accountability of EU decision-making. In Section 3, we review various potential solutions, including "renationalising" the EU, increasing the role of the Parliament, and making the entire commission accountable by popular election. Having rejected each of these various alternatives, we concentrate in greater detail on an alternative that we feel is workable and effective. This alternative involves the popular election of the European Commission President. We evaluate the arguments for and against this alternative in Section 4, and show how such an election would fit into the EU's overall structure in Section 5.

Having argued in favour of electing the ECP, we move on to set out a blueprint for holding such an election. In Section 6 we consider the complex issues surrounding the nomination of candidates. In Section 7 we consider the method of election, which must deal both with how to elect a candidate for a single high office in a fair way, and with how to protect the interests of citizens of smaller member states from being swamped in an election by the interests of citizens of the larger states. In Section 8, we consider the political viability of our proposal in an assessment of its acceptability to other member governments. We note that most potential objections to the proposal would apply to most other solutions to the problem of the democratic deficit.

Overall, our proposal offers an exciting opportunity to give EU mass publics a greater say in the ever-more-important affairs of the Union. The proposal does not deal with an explicit rebalancing of EU institutions – survey research shows most citizens to be worryingly ill-informed about these at present. Rather it involves people in a direct and transparent way to involve members of the public in the affairs of the Union, in a manner that could well lead to them becoming much better-informed about these affairs.

For these vital reasons, and while the short-term prospects of implementing our proposal may seem remote, serious consideration should be given to it by those concerned with the future of the EU. Without a broadening and deepening of public involvement, the very future of the Union could well come under threat.

2. THE PROBLEM: THE DEMOCRATIC DEFICIT

Public disenchantment with European Union decision-making is easy to document. In December 1994, for example, only 39% of those polled by the Eurobarometer expressed satisfaction with the way democracy worked in the EU while 48% expressed dissatisfaction. More worryingly for those concerned for the future of the Union, and as Figures 1-3 clearly show, support for the EU in general and for its institutions in particular is now steadily declining.

Modern Europe faces many and varied problems that may have something to do with this malaise – the intractability of unemployment and crime, for example, or the inability of European states as a group to deal with foreign policy crises such as Bosnia. When we start to look for systematic institutional causes, however, we find at the heart of the problem a “democratic deficit” that is best understood as a syndrome rather than as a single disorder.¹ It is a syndrome with a number of related though distinct political, legal, constitutional and attitudinal features, consistently identified in the academic literature. These include:

- poor public identification with Europe;
- lack of popular participation in decision making;
- limited understanding of the institutions and policies of the European Union;
- inadequate dissemination of information;
- the absence of a truly European political system.

A central feature of this syndrome has been a perceived failure of the institutions of the European Union to reflect *and above all to be seen to reflect* the will of European citizens. As a result, Europeans can feel disfranchised and alienated, sometimes hostile toward the Union’s institutions and the decision-making system that these represent.

At least two well-developed institutional critiques of EU decision-making can be identified. We can think of these as the “traditional” and the “post-Maastricht” critiques.

2.1 The traditional critique

The traditional critique begins from the premise that there is a poor division of executive and legislative powers between the institutions of the Union. This problem is made worse as decision making in crucial policy areas is ceded from national political systems to the EU itself. The extension of Qualified Majority Voting (QMV) within the Council of Ministers further exacerbates the problem. As long as national ministers hold a veto over Union

¹ Karlheinz Neunreither, ‘The Syndrome of democratic deficit in the European Community’ in Geraint Parry (ed.) *Politics in an Interdependent World*, Edward Elgar, 1994.

legislation, the national parliaments to which they are directly answerable may be said to exercise some vestigial control over EU decision-making, at least in the sense of being able to block changes that they judge to conflict with national interests. Once individual ministers can be outvoted under QMV, however, this form of control is undermined.

The federalist response to this problem has been to advocate a greater legislative role for the popularly elected European Parliament, and steps have been taken in this direction in the wake of the Maastricht Treaty. A more state-centred response advocates the reincorporation of national parliaments into the Union's legislative process, or some structured mechanism to facilitate greater input by parliaments into national decision-making.²

2.1.1 The federalist response. This is the response to the problem of the democratic deficit with which people are probably most familiar. It implies strengthening the EP's legislative armoury by developing and extending powers of assent, consultation and co-decision. In particular, the argument is made that the EP's legislative role should equal that of the Council.

Eurobarometer survey evidence shows that there is a strong balance of support in favour of such solutions. People favour European unification as a general principle and support the EC/EU specifically. They feel Parliament should be stronger, and favour all sorts of specific increases in the EP's role in the European decision making process. However, several *caveats* must be entered against a simplistic interpretation of this evidence. The first is that support for various aspects of the Union shows a trend of decline over time (Figures 1 - 3).³ The second is that people are profoundly ignorant about European matters. For example in the most recently published Eurobarometer poll on the matter at the time of writing, taken in December 1994, only 28% of Europeans felt they were well informed about EC affairs. In Spring 1993 (the last time this question was asked), only 41% could name the European Parliament unaided as an EC institution and only 41% knew who elected its members. Moreover more people (incorrectly) thought the EP had the final say on legislation than thought the final say lay with some other institution. Arguably, they would not feel the same way about EU institutions if they were better informed. The third *caveat* is that generalised support for the EU might be rather soft and not hold up to real public debate.

In institutional terms, the federalist response implies the further development of a legislative process which is already notable both for its Byzantine complexity and for an entire body of European case law devoted to legislative procedure. Moreover, the very modest additional powers won by the European Parliament since popular elections in 1979 (through the Single European Act, the Treaty on European Union and various inter-institutional agreements) have come nowhere near to addressing the fundamental

² Karlheinz Neunreither, 'The Democratic Deficit of the European Union: Towards Closer Cooperation between the European Parliament and National Parliaments' in *Government and Opposition*, vol.29, no.3, 1994, pp.299-314.

³ These and subsequent tables incorporate the most up-to-date Eurobarometer data published at the time of writing.

problem. The result has led some to comment that there is "neither more democracy nor more legitimacy . . . only more complications . . .".⁴

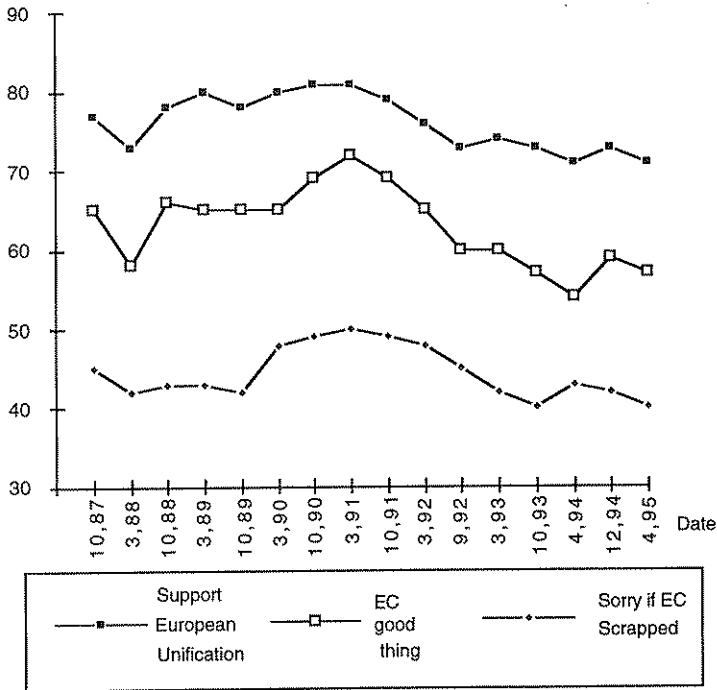


Figure 1: Percentages of voters holding various attitudes towards EC 1987-94

2.1.2 *The state-centred response.* There is almost unanimous agreement among member states that national parliaments should be given a greater role in the supervision of European legislation. If member governments were to introduce much more effective mechanisms to ensure that national parliaments were informed and consulted about developments in policy-making at EU level, then some expression might be given to this aspiration. This is of course a matter for national political systems.

Failing this, another response involves the development of structures to bring together different groups of national and European parliamentarians, such as the Conference of European Affairs Committees (COSAC).

More radical proposals include re-nationalising policy-making and eliminating or strictly limiting the use of QMV in the Council. At heart, such

⁴ David Davis, *Frankfurter Allgemeine*, January 17, 1995.

proposals call into question the nature and direction of the existing Union – a debate beyond the purview of this paper. Yet other proposals involve new institutional developments. For example, a third legislative chamber might be composed of national parliamentarians. This and other similar suggestions pose the fundamental problem of further complicating an already complex legislative process. For this reason we do not feel that they are realistic.

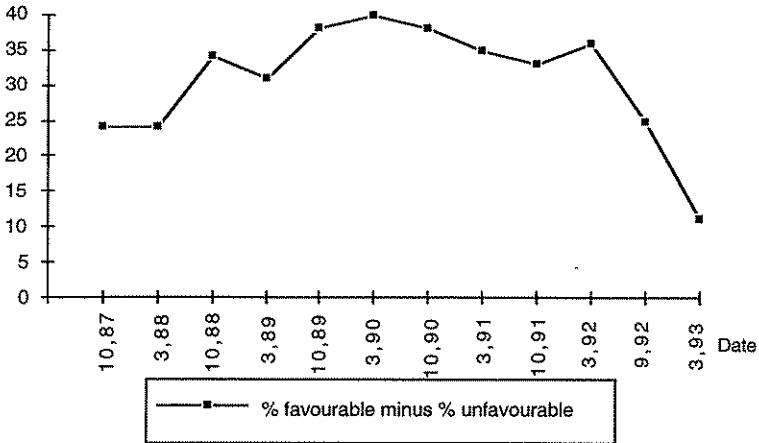


Figure 2 Changes in balance of impressions of European parliament 1987-93

2.2 The post-Maastricht critique

The ratification crisis surrounding the Maastricht Treaty brought what had previously been a rather remote intellectual debate crashing down about the ears of public policy makers, commentators and academics. A common theme of the ratification crisis in a number of member states was a profound sense of public dissatisfaction with a policy system which made little or no reference to electorates. Even more crucially, there was widespread popular unhappiness with leaving key decisions in the hands of a relatively anonymous set of civil servants, lawyers and diplomats. In the course of public debates on Maastricht, damning indictments were made of "faceless Brussels bureaucrats" apparently engaged in a process of inaccessible decision making.⁵

The Maastricht debate may of course have exaggerated public disenchantment with the EU to a certain extent. It is clear that domestic political concerns influenced both the debates and the votes on the Treaty.⁶

⁵These appeared, for example, in separate reports from the French Senate and National Assembly.

⁶Mark Franklin, Michael Marsh and Lauren McLaren. Uncorking the Bottle: Popular Opposition to European Unification in the Wake of Maastricht, *Journal of Common Market Studies* Vol 32 (4) pp. 455-472

The evidence of successive Eurobarometer surveys, indeed, suggests not so much that the Commission is seen in the popular imagination as a faceless, overbearing bureaucracy as that it is not seen at all. Only 18% of those surveyed in the Spring 1993 Eurobarometer could even name the Commission as an EU institution (41% could name the European parliament). In December 1994, around 50% claimed to have heard or read something about the Commission in the mass media. On balance, their view has been "favourable", (Figure 3) but the trend is downwards, reflecting the general swing of feeling against Europe identified earlier.

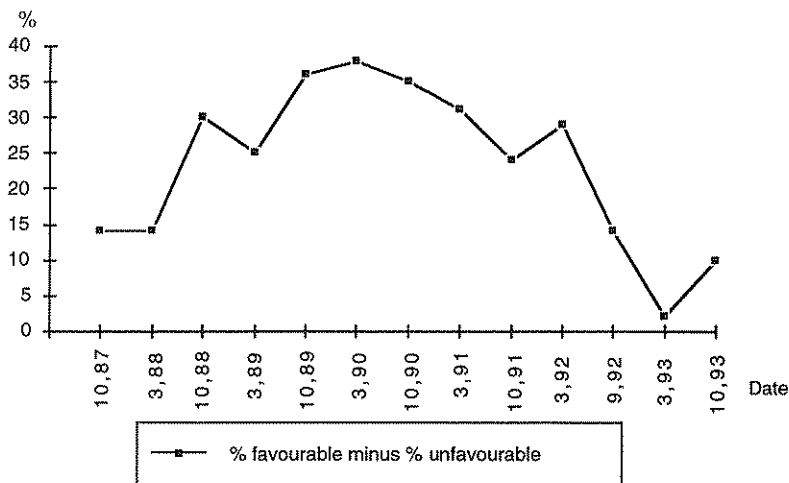


Figure 3: Changes in the balance of impressions of European Commission 1987-93

However invisible the Commission, its President becomes more visible after a period in office. In 1989, only 13% of those surveyed by the Eurobarometer could name Jacques Delors as Commission President. Similarly, in December 1994, only six percent could name Jacques Santer. By the end of Delors' term of office, however, 39% could name him as ECP. While this compares unfavourably with the 94% who could name their national prime minister, it is more than twice the percentage who could name the Commission as an EU institution.

Whatever else it did, however, the Maastricht ratification process shifted the terms of the debate on the democratic deficit. With a move towards intergovernmental decision-making (seen in the three-pillared architecture of the EU) the question of democratic control was made more acute. If the EP was to have little or no role in the Common Foreign and Security Policy, or in the fields of Justice and Home Affairs, the question arose as to which institution *could* exercise democratic oversight in these matters. This exacerbated existing questions about the democratic context of decision-making more generally. Within this broader debate on democratic

accountability, the role and legitimacy of the Commission, and in particular the necessary distinction between the Commission's political and administrative functions, was brought sharply into focus.

2.2.1 The Commission's administrative function In the first instance the "problem" of the Commission may be seen as one of administrative accountability. The Commission has often been criticised as a remote, self-interested and clumsy bureaucratic actor. To counter this impression, efforts have been made to restrict the Commission's legislative activism, to open up its pre-legislative role and to make it more user-friendly in its dealings with the public. For example, the doctrine of subsidiarity has been invoked to require greater proof that policy areas are in need of Union legislation. The Commission also now makes extensive use of Green papers to set out policy proposals prior to drawing up legislative drafts. It has also sought, with more limited success, to open its own deliberative processes to public scrutiny through provisions for greater freedom of information.⁷

2.2.2 The Commission's political function. The Commission is a hybrid institution. While it is indeed an administrative bureaucracy, the Commission is also a political executive. Its role is not only to implement existing laws and policies but it also has the exclusive right to initiate legislation.

The Commission is obliged under the treaties to take an holistic approach. Its mission is to identify and vindicate the interests of the Union rather than simply to aggregate or reconcile diverse national interests. It is this function, however, which gives rise to controversy. It is in this role that the Commission is seen to lack any popular mandate to make overtly political decisions. It may thus be said that the Commission exercises power without responsibility.

Where can we find the Commission's democratic legitimacy for its political role? To date this has derived from the appointment of members of the Commission by national governments and from its collective accountability to the European Parliament. Most traditional federalist models have focused upon this latter linkage, looking for ways in which the Commission's accountability to Parliament can be made more direct and transparent. Ultimately these models see the Commission as a cabinet-like executive, deriving its legitimacy from a parliament in much the same way as happens in national parliamentary government systems.

This approach falls foul of the objection outlined above, however, in that it presumes the development of the EU into a state-like political system. Meanwhile, the Commission is left at a significant distance from European citizens, its democratic legitimacy derived only indirectly, through national governments and the European Parliament.

One simple way out of this dilemma would be radically to reduce the Commission's political role, for example by withdrawing its exclusive right to initiate legislation. However such an approach tears at the basic constitutional fabric of the Union. It has been precisely the political role of the Commission

⁷ Juliet Lodge, 'Transparency and Democratic Legitimacy' in *Journal of Common Market Studies*, vol.32, no.3, September 1994, pp.343-367

that has been so crucial to the success of the EC/EU over the past fifty years. The "essential ingredient of success" of the Union has been the Commission's ability to define, to pursue and " . . . to champion the interests of the Union as a whole."⁸ It is the political role of the Commission that has at least in part resulted in a Union that is greater than the sum of its parts.

The central purpose of this current paper can now be clearly stated. How can the vital political role of the Commission be made more directly accountable to Europe's citizens?

⁸John Bruton, *Irish Times*, 30 March 1995; John Temple Lang and Eamonn Gallagher, *The Commission*. Dublin, Institute of European Affairs, 1995.

3. THE POTENTIAL SOLUTIONS

We argued above that there are two main ways to address the problem of popular alienation from the Commission. The first is state-centric. This approach, in whole or at least in large part, entails the effective abandonment of the Community "method". The second approach involves reforms and improvements in the Community method of doing things.

3.1 State-centred reform

State-centred reform involves: "re-nationalising" policy in many areas; returning decision-making to national governments; and largely eliminating the supranational nature of the Commission and the Union. Setting aside arcane ideological arguments, let us consider the practical implications of a state-centric approach.

- The efficiency of the Union would be compromised since its ability to draw up, agree, implement and enforce policy depends largely upon its supranational features.
- State-centred reform implies enhancing the role of national governments in international decision-making, which might worsen the democratic deficit since it would remove much policy formation into the realms of closed intergovernmental negotiations.
- This approach threatens institutional paralysis, as decision making based upon multilateral discussions between member states would become ever more problematic with successive enlargements.
- Diplomatic practice suggests that the state-centred approach would emphasise traditional power relationships. With no defining "Union" voice represented by the Commission, the fact that some states are far more powerful than others would mean either that policy would be based upon the reconciliation of divergent national interests, to the inevitable disadvantage of smaller Member States, or that policy would be reduced to a vacuous lowest common denominator of broad agreement.

Many of these criticisms have already surfaced in relation to the two intergovernmental pillars established under the Maastricht Treaty. In their respective reviews of the operation of the treaty to date – required in advance of the 1996 Intergovernmental Conference – both the Commission and the Parliament levelled these criticisms against decision-making in the area of the Common Foreign and Security Policy as well as both Justice and Home Affairs.

3.2 Reforms of the Community method

The alternative to retreating from a *Communautaire* approach is to reform the Community method so as to generate greater accountability. The logic of this

approach is “not to replace representative institutions, but to supplement them and help remedy their deficiencies.”⁹

The potential solutions considered below are based upon several assumptions, discussed in greater detail in Section 1. These are:

- a democratic deficit not only does exist but is seen to exist by European citizens;
- this democratic deficit undermines the potential of the Union and must therefore be addressed;
- the democratic deficit has less to do with institutional balance than with the democratic nature of individual institutions;
- the democratic accountability and legitimacy of the Commission have emerged as central issues in this debate;
- the Commission lacks effective democratic legitimacy for its role as a political executive;
- this role is necessary for the success of the Union.

Our task is to identify ways to increase the democratic legitimacy of the Commission’s role as a political executive. Such legitimacy derives from a popular mandate. This may come indirectly via a representative institution such as the European Parliament, which is itself the product of a popular mandate. It may come even more indirectly via the European Council, comprising national governments, responsible to national parliaments, these responsible in turn to citizens. Or it may come directly and transparently from European citizens themselves.

3.3 Solutions involving the European Parliament

There are a number of advantages in using the European Parliament as the source for the Commission’s democratic mandate.

- Since 1979, the EP has been popularly elected. Thus it might be said that any institution deriving its legitimacy from the EP would have a sound basis in the direct popular mandate given to the Parliament.
- Members of the European Parliament (MEPs) constitute an expert constituency at the heart of the Union’s decision making process. They would therefore be an ideal electorate, capable of assessing the record and programme of any person aspiring to office in the Commission. This is already acknowledged, and Parliament now

⁹Vernon Bogdanor and Geoffrey Woodcock, “Europe and Sovereignty”, *Parliamentary Affairs*, Vol. 44 No. 4, October 1991, p. 492.

engages Commissioners-in-waiting in something like nomination hearings prior to their formal investiture, while Parliament's views have had a direct impact on the content of the portfolios of individual Commissioners.

- Strengthening linkages between the EP and the Commission, thereby giving the EP a realistic sanction, would arguably be a logical development of their existing relationship. Under the Maastricht treaty, Parliament won additional rights to install the College of Commissioners formally and to be *consulted* on the selection of the Commission President. This was added to the Parliament's existing treaty-based right to dismiss the entire College of Commissioners. Additional linkage might be considered, for example, by having Commissioners *individually* rather than *collectively* ratified by parliament.

To set against these advantages, the European Parliament suffers considerable weaknesses as the potential source of a democratic mandate.

- All major studies have come to the conclusion that national issues predominate in elections to the European Parliament.¹⁰ Voters typically use EP elections to pass an interim judgement on their government by penalising or rewarding national performance rather than parties' or Members' European record. The transnational party groups under whose banner parties nominally contest the election have only very modest relevance to the campaigns. The European manifestos drawn up by these groups play at most a minor role in the contest. The transnational groups themselves are made up of national party delegations. Decision making within such groups is typically the product of inter-party brokerage based more upon national party interests than upon common ideological positions. Finally, there is a significant protest vote in EP contests.
- Parliament is not absolutely representative of its electorate. There is, for example, no common electoral system. Thus while a plurality system operates in most of the United Kingdom, proportional representation systems operate in almost every other European country. This means that British Liberals suffer a major disadvantage compared with, for example, their German counterparts.
- There is a popular lack of interest in EP elections, resulting in low levels of participation. In member states where voting is not

¹⁰Note in particular: Karlheinz Reif (ed) *Ten European Elections*. Aldershot: Gower, 1985 and Cees van der Eijk and Mark Franklin et al *Choosing Europe*. Ann Arbor: University of Michigan Press, 1995. See also Vernon Bogdanor, "Direct elections, representative democracy and European integration", in *Electoral Studies* Vol 8(3), 1989, pp205 - 216, and Galen Irwin, Issues in the European Elections of 1994, in *Electoral Studies* Vol 14 (2) June 1995.

compulsory, participation rates are consistently and significantly lower than for national elections – dropping as low as 36 percent in the UK for the 1994 EP elections. This highlights the failure of EP elections to engage European voters in the affairs of the Union.

Notwithstanding these reservations, the fact remains that the EP is currently the Union's only popularly elected body. It thus clearly suggests itself as a source of democratic mandate for key Union institutions. In relation to the Commission, this mandate could derive from the election of the entire College of Commissioners by Parliament, or from the election simply of the Commission President.

3.3.1 Election of the entire College of Commissioners by the EP The Parliament could elect the entire College of Commissioners on the basis of a majority vote, effectively choosing between alternative Colleges presented to them by putative Presidents of the Commission. This would treat the College of Commissioners as being directly analogous to a cabinet in a national parliamentary democracy and would in the same way require the creation of a majority coalition in the EP upon which a College could rely. Alternatively the College might be constructed from an election based upon a list system which would ensure that the College proportionately represented the political groups within the Parliament.

In either case, this would entail the loss of states' rights to nominate members of the Commission. Moreover, without either highly restrictive rules on the composition of a proposed College, or the election of individual Commissioners from national panels, such a model would almost certainly ensure that any particular College would contain no national from at least some Member States, with small member States likely to find themselves at a particular disadvantage.

3.3.2 Election of the Commission President by the EP Alternatively, the Parliament could provide a democratic mandate just to the President of the Commission rather than to the Commission as whole. This has the added advantage of maintaining states' rights to nominate to the College of Commissioners.

This model, however, has a number of weaknesses that reduce its effectiveness as a solution to the problem of the democratic legitimacy of the Commission.

- Based in an institution with a limited public profile, it is very unlikely that a contest for the Presidency conducted in the EP would generate sufficient public interest to address the democratic deficit seriously.
- Based upon an electorate of MEPs and the inevitable political bargaining that would be part of such a process, the election of the Commission President by the EP would be subject to allegations both of elitism and of a basic lack of transparency.

- If European voters did actually become engaged with a contest for the Presidency of the Commission in the EP, then it might be objected that EP elections would be distorted into indirect elections for the Presidency, so that other important functions of the Parliament would be undermined.

For these reasons, if our purpose is to engage the European public in a open and transparent process of legitimising key decision-makers, to link European citizens directly to the policies and decisions of the Union, to generate a broader popular debate on the direction of the Union and to contribute to the creation of a genuine European policy, it is our view that a Commission mandate deriving from the Parliament is inadequate.

3.4 Solutions involving a popular election

A popular election offers a number of potential advantages in establishing the democratic legitimacy of the Commission.

- It would create a line of direct and unambiguous accountability between elected and electors.
- The election campaign would engage public opinion around unequivocally European issues. Unlike EP elections in which local issues often predominate, elections relating to the Commission would be more tightly focused around a small set of individuals. Such campaigns would be much less likely to translate into mini-referenda on the performance of national governments.
- A popular election to the Commission would contribute to a much greater mobilisation of European parties and interest groups. Collaboration between the national members of the European party groups in a broad campaign based upon a common manifesto would be essential for success, and would thus greatly encourage the evolution of a "European" political system.

For these reasons, a pan-European popular election seems likely to generate a genuinely "European" popular mandate for the Commission, rather than an aggregation of indirect national mandates, which is the most charitable construction of the present situation.

There are two possible models for establishing a popular mandate for the Commission from European citizens. The first involves the popular election of the entire College of Commissioners. The second involves the election of the President only.

3.4.1 Popular election of the College of Commissioners The entire College of Commissioners might be popularly elected on either a pan-European or a national basis.

On a pan-European basis, citizens might be asked either to vote on a list of individual Commission candidates or might alternatively be asked to

choose between entire slates or teams of Commissioners brought together collectively to contest an election. Only in the latter case would it be possible to ensure that a citizen of each member state was included in every slate.

On a national basis, citizens might elect their own national commissioner(s). This would minimise, if not eliminate, the sense of collegiality and of European vocation which is a marked and valued feature of the College of Commissioners. Such a contest would also become a series of disparate national elections fought largely on national issues.

Whether elected on a European or national basis, the complexity of such a model is unattractive, while it would also break the link with member governments. This is often a useful (and always a delicate) feature of the Commission's ability to mediate national interests and to anticipate special sensitivities.¹¹

3.4.2 Popular election of the Commission President Proposals involving indirect election by the European Parliament and those involving the popular election of the entire College of Commissioners all face the substantial theoretical and practical problems outlined above. We consider a more compelling option to be the popular election of the European Commission President. This option combines the simplicity, transparency and democratic accountability necessary to instil a greater sense of the EU's legitimacy among its citizens, with sufficient continuity of institutional arrangements not to throw the formal workings of the Union into disarray.

A popularly elected ECP would enjoy the legitimacy that derives from an election focusing public interest on European issues to an extent that popular elections to the EP have been unable to achieve. Popular election would give electors the unequivocal right to choose the head of the EU's executive. This solution might not eliminate the democratic deficit entirely, but it represents an effective, practical and relatively cost-free method of substantially reducing it. For this reason we elaborate the arguments for and against the proposal for popular election of the European Commission President in some detail in the following section, before moving on to develop a more detailed administrative blueprint for our proposal.

¹¹Des Dinan, *Ever Closer Union*. London: Macmillan, 1994. p212.

4. THE CASE FOR AND AGAINST POPULAR ELECTION OF THE ECP

4.1 Arguments in favour

The substantial arguments in favour of popular election of the European Commission President can be simply stated.

4.1.1 Democratic accountability Elections are the key mechanisms in liberal democracies for ensuring the accountability of those responsible for initiating and implementing decisions. The remoteness of EU institutions can be dramatically reduced by providing European citizens with the opportunity to express their preferences directly in the choice of the ECP, ensuring that this key EU actor is held clearly accountable at regular intervals.

4.1.2 Legitimacy Public acceptance of any agency's authority to act is central to its stability and effectiveness. It is this sense of the legitimacy of EU decision-making which is widely perceived to be inadequate. Whatever the personal merits of the successful candidate, the current elite bargaining process by which the ECP is selected will invariably result in a nominee who is seen as a compromise between powerful national interests, rather than as the best person for the job. This undermines the standing of the office and compounds the sense of remoteness that surrounds the Commission.

Popular election would make future ECPs the clear winners of a transparent process, giving a new and much-needed legitimacy to the office and, indirectly, to the Commission as a whole. As a result, the ECP's prestige and status would improve, both inside and outside the EU.

4.1.3 "Esprit communautaire" Popular election will for the first time in the EU's history dramatically assist the engagement of a "European" electorate around a genuinely European election. In contrast to elections to the European Parliament, the ECP election would be much more than a series of discrete referendums on the performance of national governments. We set out a nomination procedure below that is expressly designed to achieve a pan-European field of candidates. This procedure can be finely tuned in ways that we suggest to ensure that these elections do not become a series of "national" contests. The election campaign will demand that candidates set out a vision of the EU and a policy agenda for the future. Furthermore, by holding ECP and EP elections simultaneously as we propose below, the "European" character of the latter will also be enhanced.

Obviously, it is possible that some candidates might fight the election on an anti-European platform. But elections legitimate the office to which the election is held precisely by giving opposing views a voice, rather than by suppressing these and pretending that such opposition does not exist. Elections with no possibility of opposition would, for this reason, be worse than useless. In this very important sense the possibility of an anti-European voice in ECP elections should be welcomed rather than feared.

4.1.4 Political coherence The nature of both the nomination and election process, elaborated in greater detail below, will help simplify and rationalise the fledgling European party system. The logic of the nominating and election procedures will compel the emergence of broadly-based political groupings at a supranational level, consolidating and advancing the development of the EP's party system and adding coherence to intra-EU bargaining.

4.1.5 Citizenship and education The popular election of the ECP will help create a popular sense of the EU as a working polity. It offers an opportunity not only to involve European publics in an important democratic election but also to inform citizens about the nature of the evolving EU system and the benefits of EU citizenship. The election campaign should provide European voters with new and valuable opportunities to acquire information about the Union and to clarify and express their views about its future.

4.1.6 Simplicity and clarity Although administrative procedures for the election will be logistically complex, both the concept and the method of election will be easy for mass publics to understand. For this reason, their vital symbolic importance will be evident to all. The novelty of participating in the first genuinely European election, indeed the first ever genuinely multinational election to high office, should result in a turnout significantly higher than for EP elections (although this may of course settle down once ECP elections become an established feature of the European electoral landscape).

4.1.7 Agenda formation and simplification The election outcome will set a clear agenda for EU institutions and policy-makers. The successful candidate's platform will establish a set of policy priorities which can form the basis for subsequent activity by the Commission. The election should offer a unique opportunity for EU elites to acquire hard information about the attitudes and opinions of Europeans on matters affecting the Union.

4.1.8 Competence The newly-energised office of the ECP will attract "quality" candidates, almost certainly prominent and experienced national and EU politicians. By ensuring peer review at the nomination level, the process of candidate selection will serve as a deterrent to inexperienced or frivolous candidacies whilst preserving the opportunity for minority political groupings to present a nominee, and minimising the likelihood that candidates will be inattentive to the interests of the broad range of member states, including the smaller states.

To sum up, popular election should do much to dispel the image of EU decision-making as a system of deals between unelected, unaccountable figures, distant from mass publics. It will make an already-important office clearly accountable to EU citizens. It should also mobilise European party groupings in election campaigns in which European issues and their national implications are paramount, precisely the outcome that was hoped to result from, but was never achieved by, EP popular elections. To the benefits of

accountability and legitimacy, therefore, will be added a Europeanisation of the decisions confronting the European electorate.

4.2 ECP elections and the EU's institutional balance

It could be argued that, while popular elections to the ECP would increase the involvement of the European electorate in the EU decision-making process, these would at the same time have a damaging effect on the institutional balance, both between different EU institutions and between the EU and member governments. On this view, there are inherent dangers in tampering with the EU's delicately-evolved institutions. This is seen as especially worrying at the present time, for several reasons: existing anxieties about the EU among its citizens; the addition of Austria, Sweden and Finland to membership in 1995 (and the prospect of further widening); and intergovernmental disagreement on both the institutional framework and future policy direction of the EU.

We argued in Section 1 of this paper that any attempt to tackle to problem of the democratic deficit will inevitably mean changing the institutional balance in the EU, since the democratic deficit is an intrinsic part of the current institutional balance. Obviously, however, it would be pointless to change the institutional balance for the worse, so this objection must be taken very seriously. It must be addressed at two levels, that of formal institutions and that of practical power relationships.

At the level of institutions, we propose no rebalancing of the formal powers of any EU institution or officer, so the question can be simply answered. The potential of any institutional reform to change practical power relationships is a far more complex issue, however. The key question here is whether the popular election of the ECP would in itself affect the institutional balance in unwelcome ways by adding to the legitimacy of that office. (It is very hard to see how popular election could actually reduce the legitimacy of the office so we do not consider this possibility.)

A popularly elected ECP might claim a more powerful mandate and on this basis seek to expand existing powers and resources, even in areas to which the election campaign made little or no reference. Popular election might also cause a personalisation of EU politics, encouraging the development of an "imperial" approach to the presidency.

Our answer to these questions must inevitably be somewhat speculative, since there is no precedent for introducing elections to an international presidency from which to draw conclusions. We do have two sources of inspiration for an answer, however. The first is the introduction of direct elections to the European Parliament in 1979. The second concerns popularly elected presidents at national level. We explore each of these avenues, before coming to some general conclusions about the institutional implications of introducing election to the office of ECP.

4.2.1 Lessons from the European Parliament. The introduction in 1979 of direct elections to the European Parliament did not change the formal powers granted to the original Assembly. Such changes required treaty amendment and thus unanimous agreement from the member states. This did not occur

until the Single European Act of 1987. What, however, was the practical political impact of popular election?

- First, popular election directly legitimated the Parliament's existing treaty-based powers – just as our proposal suggests for the Commission.
- Second, it legitimated additional powers that the Parliament had won prior to direct election. Parliament's battle for additional powers had begun at its very first session as a nominated Assembly. In 1970 and 1975 the Parliament won joint budgetary control. In 1980 the European Court of Justice ruled, on the basis of existing treaty provisions, that the Council of Ministers could not act without receipt of Parliament's advisory "opinion".
- Third, and over time, direct election strengthened the political hand of the EP in ongoing institutional debates within the Community. On every occasion since direct election when institutional balances have been considered (whether through Intergovernmental Conferences or various inter-institutional agreements) Parliament has demanded and won additional powers.

The lessons we learn from Parliament's experience thus cut both ways. While the introduction of popular elections to the Parliament were indeed followed by increases in its powers, it is very difficult to tie these changes to the introduction of direct elections. During the 1958-1979 period, when Parliament was nominated not elected, its powers also increased. It is therefore likely that, even if the Parliament had remained a nominated body, its demands for additional powers would have been relentless and probably successful. To the extent that direct elections gave popular legitimacy to the EP's claims for new powers, it is of course hard to argue that this has not been a welcome step on the way towards addressing the EU's democratic deficit.

4.2.2 Lessons from national presidencies. Critics of popular election often have in mind examples of strong national presidencies, such as those of France or the USA. They sometimes point to the French Fifth Republic as an example of how changing the mode of election to a presidency can dramatically transform its *de facto* influence, even without any alteration in the express constitutional powers of the office.¹²

Comparisons with national political systems are hazardous. The EU is not a state; the ECP is not the head of a government; the EU's balance of executive, legislative and judicial functions is unique. Furthermore, national presidential systems vary dramatically in design and practice, although we can draw some broad conclusions. National presidents typically possess three different types of power:

- *formal* constitutional and legal power;

¹²See Jack Hayward (ed.), *De Gaulle to Mitterrand: Presidential Power in France* (London: Hurst, 1993).

- *symbolic* power associated with office of head of state;
- *de facto* power resulting from the interaction of formal and symbolic power.

Even though we propose no change in the ECP's *formal* powers, popular election would clearly increase the *symbolic* stature of the office. This, indeed, is a central purpose of the proposed reform. Would popular election in this way also increase the ECP's *de facto* power?

Although some presidents (for example those of Austria and Ireland) are similar to the ECP in having few formal powers, the combination of popular election and even these limited powers (such as the right to grant requests for a dissolution of parliament) can make them influential players in certain circumstances. The general patterns we observe are summarised in Table 1.

Table 1: Political power of heads of state in 22 democracies

	Executive Power	
	Weak	Strong
Monarch	Australia Belgium Canada Denmark Japan Luxembourg Netherlands New Zealand Norway Sweden UK	
President elected by parliament (or special convention)	France IV Germany Israel Italy	Switzerland
President elected by voters (or electoral college)	Austria Iceland Ireland	Finland France V USA

Source: Arend Lijphart. *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries* (New Haven: Yale University Press, 1984), p. 88.

As Table 1 shows, while some popularly-elected presidents are strong, popular election certainly does not guarantee a strong president, indicating that popular election is only one factor in a president's potential power. Most constitutional observers agree that "while direct popular election doubtlessly establishes an independent legitimacy, this constituent factor alone is not, *per*

se, of consequence."¹³ Real constitutional powers and a favourable constellation of partisan forces are also required for the creation of a presidency that is powerful in practical as well as symbolic terms.

The few national presidents who exercise significant political power do so largely because the branch of government they head is powerful as a whole. Unlike the ECP, US and French presidents are not only heads of state but also heads of government (*de jure* in the former case, *de facto* in the latter).

In the case of the EU, experience has already shown that a dynamic ECP can achieve much by taking full advantage of a formal role in policy initiation to set at least part of the political agenda. However, the institutional design of the EU currently places strong limits on this power.

- The ECP has no exclusive legal powers (such as decrees, vetoes, budgetary authority).
- The Commission itself is important but subject to many checks and balances: the Council; the EP; the CJEU; and member governments.
- Individual Commissioners cannot be either selected or dismissed by the ECP although it is true that, in assigning positions to Commissioners, the ECP can favour some over others.
- The continued importance of intergovernmentalism leaves most of the real power in the hands of member governments; thus the ECP presides over an institution which "cannot fulfil its functions without the cooperation of national governments".¹⁴
- The fragmentation of the EU's institutions and the weakness of political party groupings at the EU level combine to make the EU system a very amorphous one to dominate.
- The ECP can be removed from office if the European Parliament passes a vote of no confidence in the Commission as a whole.¹⁵
- The ECP's role in external relations is limited; international agreements require negotiation by the Commission, consent by the Parliament, and conclusion by the Council (Art. 228 EC).

This array of constraints means that it is unlikely that an elected ECP would be able to build on a popular mandate to develop a presidency that is in any

¹³Giovani Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes* (London, Macmillan, 1994), p. 97, note 1.

¹⁴T.C. Hartley, *Foundations of European Community Law* (Oxford: Clarendon Press, 1994) 3rd Ed., p. 13.

¹⁵Arts. 144 EC, 24 ECSC, and 114 Euratom. The European Court can also compel a Commissioner to retire on grounds of serious misconduct or because he no longer fulfils the conditions required for the performance of his duties. See Arts. 160 EC, 12a ECSC, and 129 Euratom. (Note that the US President can only be removed in the most extreme circumstances, and only by a very complex procedure.)

sense akin to the strong presidencies found in France or the USA. Changes from the Fourth Republic in France to the Fifth Republic involved major formal institutional rebalancing in favour of the president in addition to a change in the method of election.

Ultimately, the legitimacy and strength of the ECP could only increase if the President was able to mobilise public opinion. In this important sense, any increase in the real, as opposed to the symbolic, role of the ECP would derive, not from popular election *per se*, but from the fact that popular election had led to a mobilisation of interest in European affairs among the citizens of Europe. This increase of popular interest in EU affairs is precisely the purpose of the reforms we propose.

4.2.3 *Would a more legitimate ECP change the EU institutional balance for the worse?* The preceding arguments make it clear that popular elections to the ECP, without any changes in the formal powers of and constraints on the office, are unlikely to cause any massive increase in the *de facto* power of the ECP, sending the EU decision-making system haywire. Nonetheless, it can be plausibly argued that the introduction of popular elections to the Presidency of the Commission would shift the institutional balance somewhat in favour of the ECP. In very general terms, as we argued in the preceding section, this is an inevitable and desirable consequence of direct elections that make the office more legitimate. It is hard to see how an increase in the legitimacy of the ECP would damage the office in any significant way. Such changes in the institutional balance might potentially take effect both within the Commission, and between the Commission and other EU institutions.

Within the Commission, the ECP would have a mandate that individual Commissioners would lack. Already, the ECP is assumed to take a broad view, whilst Commissioners attend to narrower briefs. Popular election might encourage the ECP to intervene more often and more widely in policy, and the autonomy of individual Commissioners could be undermined. Although the possibility of presidents ignoring or marginalising particular commissioners exists at present, the likelihood of it occurring could be greater with popular election.

However the ECP will still be forced to work with commissioners he or she has no power to dismiss, commissioners nominated by national governments whose role in the Council will remain as powerful as ever. The ECP may be able to use *influence* over Commissioners that results from a popular mandate, but will have no increased formal *authority* over them. Furthermore, ECPs would be unlikely to risk alienating Commissioners, including Commissioners nominated by small members states, whose support they would surely need in the future, whose resignation would be politically damaging, and who would retain the backing of national governments in any confrontation with the ECP.

We would therefore expect a popularly-elected ECP to lead the Commission more actively in policy initiation than at present, though without the resources, incentives or ability either to dominate or to ignore other Commissioners.

Considering the institutional balance between the Commission and other EU institutions, is there something that could result from the election of

the Commission President which might damage a Union that is greater than the sum of its parts?

Would, for example, a popularly elected ECP be less sensitive to the needs of smaller and weaker member states? We think not. Even now there is nothing, institutionally, that requires the ECP to be sensitive to national concerns. Neither the Commission nor the ECP may be held accountable to the Council or its member states. Instead, this sensitivity is based upon the political incentives facing an ECP who wishes to maintain consensus within the College of Commissioners; who needs to build successful coalitions in the Council of Ministers; and who has an inclusive, holistic, vision of the Union's interest. Popular election will arguably place an ECP under an even greater obligation to pursue an inclusive, holistic agenda (since the office would now be directly accountable and responsible to European citizens). At the same time it would not diminish the ECP's obligations within the College of Commissioners nor within the Council. Preservation of the current institutional structure would thus offer exactly the same incentives for the ECP to be sensitive to the small states as at present.

Would the popular election of the ECP undermine the principle of states nominating the rest of the College of Commissioners? It is hard to see how this might happen. The arguments in favour of a nominated College of Commissioners are quite compatible with those in favour of an elected ECP. Indeed it was argued in the European Parliament's Bourlanges/Martin report on the 1996 IGC that maintaining the rights of member states to nominate Commissioners, in the face of pressures for enlargement, requires a strengthening, or "presidentialization", of the office of President. On this argument, introducing popular elections to the office of ECP could actually safeguard the rights of member states to nominate commissioners.¹⁶

Would popular election of the ECP undermine other fundamental aspects of the role of the Commission, for example, putting the Commission's right of initiative into question? We cannot, of course, isolate our proposal from a broader discussion of the Commission's role and function. However, these arguments are already being made, and many of them are currently based upon the Commission's lack of democratic legitimacy for its role as a political executive. This proposal should thus be seen as consolidating the Commission's existing role in the EU decision-making system rather than radically altering it.

4.2.4 Conclusion. The intention of introducing popular elections to the ECP is to increase the involvement of European mass publics in EU decision-making. Any reform of EU institutions is bound to change the institutional balance to some extent. Assuming no changes in the formal powers or composition of either the ECP or other EU institutions, it seems to us that a popularly-elected ECP will not be very much more powerful than at present, but will be somewhat more powerful by virtue of his or her enhanced legitimacy. This is more likely to alter the institutional balance *within* the Commission than that *between* the Commission and other EU actors. The precise balance would

¹⁶The Parliament proposal, of course, suggests that strengthening the office of President should occur through election by the Parliament (Resolution on the Functioning of the Treaty on European Union, A4 0102/95, 21.ii)

depend on the election outcome, the composition of the Commission, EP and Council, and the skills, goals and popularity of the ECP. But the net effect of involving European mass publics directly in the choice of such a central EU actor seems unlikely to undermine the core relationships at the heart of the Union's decision-making system. The legitimacy of the office of ECP would almost inevitably be enhanced, of course. To the extent that the *de facto* power of the ECP would increase as a result, this would arise directly from a mobilisation of public interest in, and support for, particular EU policy objectives, an outcome that should be eagerly anticipated rather than feared.

4.3 Further arguments against and their rebuttal

Proposals for reform of EU institutions invariably attract critical comment. Having dealt with the issue of institutional rebalancing, therefore, it is important for us to consider other objections that might be raised against popular election of the European Commission President. We do not ultimately believe that the criticisms outlined below are persuasive, since they are for the most part based upon inappropriate models of presidential systems or inaccurate assessments of the EU's constitutional and institutional design and evolution. After we state each of the main objections to electing the ECP, therefore, we note what we consider to be a convincing answer to it.

4.3.1 Bias towards larger member states It could be argued that an electoral system for an EU-wide election may be biased in favour of the larger member states, in both the nomination and the election stages. For candidates seeking nomination and election, it could be argued that the logical course will be to hunt where the largest ducks are, in terms of parliamentarians and voters respectively. On this argument, even if candidates from smaller EU states manage to secure nomination, the electoral logic of a European-wide contest implies a disproportionate influence for larger states, as candidates focus their campaigns upon Germany, France, Italy, Spain and the UK. According to this line of attack, some if not all small EU states will be effectively ignored in a popular election.

We have been acutely aware of the above arguments in designing our proposed system for electing the ECP. Both the nomination and the election procedures we recommend involve explicit safeguards for smaller states. These are intended to ensure that the eventual election results does not simply reflect the interests of the larger states. We believe that candidates are very unlikely to pursue a strategy of concentrating their election campaign on large states, for four reasons.

- They will confront many issues that generate disagreement between larger member states. The priorities and policy preferences of voters in the different larger states are neither homogeneous nor consistent.
- They will confront many divisions between sections of opinion within each of the larger member states. No candidate can possibly hope to make a successful appeal to all of any single state's voters.

- A candidate will need to attract votes from at least some smaller states in order to achieve a winning majority. Unlike the US electoral college system, the electoral system we advocate guarantees smaller EU states an important influence upon the outcome.
- The importance of political groups in procuring the nomination and running the campaign, and the existence of partisan divisions within EU states, ensures that the main lines of competition in the election will be between political groups, not between states.

4.3.2 Expense It might be argued that the cost of a pan-European presidential campaign would be prohibitive. A truly competitive candidacy would require a substantial campaign budget, while potential sources of such funds raise distinct problems. Subsidising campaigns from EU funds would create a more level playing field for candidates, but the idea of paying to elect a remote figure in Brussels might not be popular among EU voters. In the absence of public subsidies, an unregulated free market in campaign finance might be expected to have distorting effects. First, the campaign would be biased in favour of candidates able to raise substantial funds privately, with clear disadvantages for certain minority groups and interests. Second, the prestige and importance of the election would provide corporate and other lobbies with powerful incentives to contribute to the campaign of the person expected to be the winning candidate, raising the danger of a clientelistic system in which candidates end up as the captives of unrepresentative interests and lobby groups.

We believe, however, that the issue of cost is exaggerated, for three main reasons.

- Although the absolute cost may prove substantial, the relative cost given the number of voters is likely to be small. The per capita cost of US presidential elections is negligible, for example, at less than one dollar per eligible voter, however huge the absolute figures might seem.
- The provision of partial or complete public subsidies of the campaigns is a realistic option. The majority of EU member states engage in public financing of contestants in national elections and even the US partially subsidises its presidential campaigns with minimal public disquiet. The unique character of the ECP election reduces the likelihood of significant opposition to public financing.
- The potential for candidates to become captives of corporate lobbies is minimal. The scale and complexity of the EU economy, the plurality of interests that might want to donate to campaigns, and the limits upon donations that appropriate EU regulations could easily establish, would ensure that corporate contributions could be neither dominant nor decisive.

4.3.3 Exclusion of mass public from the nomination process It could be argued that popular election may raise expectations, only to dash them as it becomes clear that the mass public can realistically play no part in the nomination of candidates. The result could be that the public at large would be confronted by presidential candidates who were previously quite unknown to them. The public's exclusion from selecting the nominees thus transforms a "faceless bureaucrat" problem into a "faceless politician" problem. This would be unlikely to increase turnout in EU elections. Public exclusion from the candidate selection process also raises the danger of nominees being decided by a process of backroom deals among elites, perpetuating public perceptions of the democratic deficit.

Criticisms of mass EU elections in terms of elitism and exclusion seem to us to be misplaced, for three main reasons.

- The proposal adds a new and important election to a largely election-free regime, enhancing rather than diminishing popular participation in EU affairs. Although the mechanics of the process are sophisticated, the voting procedures we propose are easy to understand.
- The potential lack of initial name recognition for nominees does not seem likely to stop candidates in the television age from getting themselves across quickly to EU citizens in the election proper. The extensive attention given to previously little-known presidential nominees, whether Clinton in the US or Jospin in France, shows that this objection is not valid. That the unelected Delors should quickly become a household name in EU states suggests that his potential successors through popular election would meet very few difficulties on this score.
- It will of course be true that the eventual candidates selected, and especially those running in the second ballot we propose, will not come from the same countries as most voters. Initially, there may be some sense of distance between voters from one country and politicians from another who are seeking their votes. But the Europeanisation of popular attitudes to EU affairs is one of the key objectives of the reforms we propose; the very process of holding elections for the office of ECP should build a stronger sense of linkage between voters and politicians from different member states.

4.3.4 Only symbolic effects In the absence of substantive changes to the formal "constitutional" powers of the ECP, it could be argued that popular election would represent little more than a symbolic ritual lacking meaningful political consequences. There might even be a risk that this would alienate voters even more from the affairs of the Union.

We feel, however, that the unique character of both the election and the office seem almost certain to ensure that the contest will be more than a

merely symbolic exercise. Electors choosing the ECP will have a chance to indicate the broad policy agenda for the EU. The election will give the Commission both a political colour and a democratic legitimacy that it presently lacks. This will provide a strong incentive for Europeans to vote in elections that hold out a realistic possibility of influencing the EU's political agenda. It will focus public interest on EU issues, giving them a salience and excitement that are manifestly lacking at present, presumably increasing voter turnout. It is thus difficult indeed to see how introducing popular elections could increase any sense of alienation that people might feel from the affairs of the EU.

At one level, all mass elections are symbolic; no single voter is ever likely to change the outcome of any given election. Despite this, people do turn out to vote in such elections as part of a process of participating in popular decision-making. In doing this, they confer vital legitimacy on the regime with jurisdiction over their daily lives. We argue throughout this paper that EU decision-makers must not only be accountable, *but must be seen to be accountable*. Involving mass publics in the choice of key EU decision-makers is one way to introduce such transparent accountability. Thus, even if the election of the ECP was a purely symbolic exercise (and we have argued above that it is much more than this), then the symbolism of the election would contribute greatly to the public's sense of participation in EU decision-making, and address the problem of the democratic deficit in this very important way.

4.3.5 The danger that ECP elections might be hijacked by anti-EU candidates. It is clearly possible that such an important European election might be contested by one or more candidates fundamentally opposed to the European ideal and all that this stands for. We know from election results and opinion polls around Europe that anti-EU feeling is quite deeply entrenched among a significant minority of European voters. There is no reason why a candidate appealing to such voters should not stand for election as ECP, giving vent to potentially destructive forces.

Anti-EU sentiment in sectors of the European electorate is, however, simply a fact of political life that will not go away if elections are not held. Such opinions are clearly legitimate. Not only are they worthy of respect in any democratic system but to suppress them, or to provide no European forum for their expression, is strategically very short-sighted. As we have argued already, elections confer legitimacy on a system precisely when their results are not a foregone conclusion. When elections demonstrate that voters have chosen one option over one or more alternatives, then the chosen alternative is legitimated and strengthened.

In short, it is to be hoped rather than feared that anti-EU sentiments find some expression in all European elections, including elections for the office of ECP. By engaging such strands of opinion in public debate, issues are confronted rather than swept under the carpet, and the entire Union is strengthened in the process.

4.4 A proposal for the popular election of the ECP

Taking everything into consideration, therefore, we feel that both the electoral and the institutional objections to popular election of the ECP are unpersuasive. The ECP's position will almost certainly be enhanced. However, not only do powerful checks exist on the office, but the benefits that a democratic and legitimate ECP brings to the EU are very considerable. EU citizens will be involved in choosing the figure at the heart of the EU system, a person with huge symbolic significance. In so doing, they will be bringing public awareness and some political accountability to the Commission, currently among the least-known of EU institutions. In the process of having an election campaign for this single important office, an office with direct formal responsibility for policy initiation, it seems inevitable that the European agenda will be debated in a manner that has failed to materialise in what remain the "national" elections to EP seats, currently the EU's only popular elections.

We therefore propose the introduction of popular elections
to the office of European Commission President.

This proposal moves some way towards addressing the basic problem of public alienation from the EU in general, and ignorance of the Commission in particular, whilst preserving a strong measure of institutional continuity for both EU and governmental actors. It allows for a more coherent and accountable pattern of policy initiation and implementation, a necessary and desirable development for an increasingly complex EU. As we now show, popular elections to the office of ECP can easily be integrated into the structure of EU decision-making.

5. ECP ELECTIONS AND THE EU STRUCTURE

In Sections 6 and 7, we elaborate upon two key features of any electoral process, the nomination of candidates and the method of election. Obviously, it is only once these have been fully-specified that any final evaluation can be made of a proposal for the popular election of the ECP.

Before we do this, we outline how popular elections to the office of ECP could be integrated relatively easily into the EU's decision-making structures. The elections can be introduced while making no change whatsoever to the composition of the Commission or the formal powers of the president. Every member state retains the right to have at least one Commissioner, who remains the nominee of the national government of the state concerned.

The mechanics fitting the popular election of the ECP into the existing EU process are thus straightforward, requiring little change in current practice.

5.1 A proposed sequence of events

The sequence of events we envisage is as follows:

- Elections of the ECP and EP will be held simultaneously.
- Following these elections, national governments will nominate their commissioner(s) *in line with existing procedures*.
- The newly-elected ECP will allocate portfolios within the College of Commissioners *in line with existing procedures*.
- The EP will ratify the College of Commissioners as a whole, after EP committees have had a chance to interview nominee commissioners *in line with existing procedures*.

5.2 Outstanding Issues

The preceding discussion leaves some questions of detail outstanding. These are relatively minor in comparison to the main issue of popular election, but they nonetheless need attention. It is sufficient here to note them.

5.2.1 Renomination If the ECP is allowed to seek renomination for a second term (or more), there is a danger of manipulating the office for electoral gain. However, if denied the possibility of renomination, the possibility of a lame duck president arises. The former danger seems slight, however, and is outweighed by the additional incentive to attentiveness to small states which renomination would require.

5.2.2 Impeachment Popular election of the ECP could be argued to require an alteration in existing procedures to protect the possibility of the impeachment of the ECP for misconduct or abuse of powers. If so, the grounds, procedures, and institutions for so doing need consideration.

5.2.3 *Death/resignation of ECP.* Some procedure would need to be devised in the event of the death, resignation (or indeed impeachment) of the ECP. One option would be to identify a deputy ECP at the time the ECP was elected (indeed one could even be elected as part of the ECP ticket). A further chain of succession would need to be identified in case of the death, resignation or impeachment of both ECP and deputy-ECP. Alternative options include negotiation by national governments, as at present, or election by the EP.

5.2.4 *Judicial scrutiny* It may be desirable to submit both the ECP's election and potential institutional conflicts to judicial scrutiny/review by the Court of Justice of the European Union.

6. NOMINATION OF CANDIDATES

Any nomination procedure can logically be considered to comprise two elements: the eligibility of individuals for nomination as candidates; and the procedure by which eligible individuals are nominated as candidates. We consider these separately.

6.1 Eligibility

One set of problems to be resolved concerns the technical rules defining who is eligible to become President of the Commission. A minimal requirement would be that all nominees must be within a prescribed age band (for example, between 30 and 65, or simply over 18) and a citizen of a member state of the European Union. Many states impose additional requirements on candidates for national parliamentary elections—for example, that they have no criminal record, are not certifiably insane, and are not undischarged bankrupts. Should such additional requirements be imposed on candidates for election to ECP?

6.1.1 *Arguments in favour of additional restrictions on eligibility*

- They might guarantee a “clean” record for the incoming president, with no skeletons in the cupboard waiting to be discovered.
- It would be anomalous if someone not considered legally suitable to stand for parliamentary elections in a member state could compete for votes in the same country for election as President of the Commission.

6.1.2 *Arguments against additional restrictions on eligibility*

- It would be anomalous, and could cause tensions between member states, if a candidate from one country, eligible under national rules to stand for any election in that country, was debarred from President of the Commission elections because of tighter rules in another member state which had been incorporated into eligibility rules for President of the Commission.
- Sufficiently tight rules governing nomination, in effect restricting nomination opportunities to reasonably broad-based groups and political parties, should rule out the danger of candidates with major blots on their record, as such groups are unlikely to nominate a candidate with dubious credentials in the first place.
- Imposition of anything more than minimal requirements could give rise to potentially long-running litigation by excluded would-be candidates taking case to Court of Justice, with many ensuing complications.

6.1.3 Overall

We favour minimal requirements to ensure that the elections are as open as possible and feel that the nomination procedure will take care of the problem of potentially unsuitable candidates.

6.2 Nomination procedures

As with any election, nomination procedures must balance two conflicting principles. They must simultaneously ensure that candidates with genuine appeal are not ruled out by unduly restrictive requirements, and that the nomination requirements are not so lax that the "serious" candidates end up struggling to make themselves heard amidst a sea of "joke" candidates. Arguably both elections with too few, and those with too many, candidates, make it difficult for voters to make a free and considered choice.

Given that one of the purposes of popular election is to give the people of Europe a feeling that they are participating in an exercise that gives them a genuine choice, the problem of too few candidates is perhaps more important than the problem of too many. A set of nomination procedures so restrictive that only two or three candidates were able to enter the contest would have the effect of making many political parties, interest groups and above all ordinary citizens feel just as much excluded as at present, and would give the impression that the election was something of a "carve-up" between the major power blocs.

We feel that the nomination procedure – the procedure for getting good candidates and offering voters a real choice – is quite possibly the single most important institutional feature of any proposal for popular elections to the office of ECP, and therefore devote some time below to exploring a range of options. The options we explore below are: nomination by electors, subject to a minimum number of signatures; nomination by electors, subject to a deposit; nomination by national governments; nomination by national parliaments; nomination by national parliamentarians.

6.2.1 Nomination by electors, subject to a minimum number of signatures This is the practice for parliamentary elections in a number of EU member states. Such proposal at EU level would probably involve requiring candidates to be supported by a certain number of electors in a certain number of countries—say, 1,000 electors from each of 6 countries (a very open condition), or 50,000 signatures from each of 8 countries (clearly a higher threshold), or a fixed percentage (e.g. 0.5 per cent) of the registered electorate in a certain number of countries.

The advantages of this method are:

- it ensures that candidates with genuine appeal can enter the contest;

- it appears more fair and democratic than requirements involving money;
- it is familiar to voters in several countries (in Austria and Italy, for example, parliament is often presented with petitions and referendum proposals backed by tens or hundreds of thousands of signatures, and in France candidates for elections need to present a certain number of signatures to become eligible);
- the very act of gathering signatures generates news and raises the profile of the election.

The disadvantages are:

- if the requirement is to be taken seriously, the signatures need to be checked, and this takes a lot of time, labour and money;
- US experience shows that this requirement does in fact favour those with most resources, as wealthy candidates or activists can hire "signature-gathering agencies" who for a fee undertake to gather the required number of signatures.

On balance, we feel that this proposal, if it is to be rigorously implemented with a careful check of signatures, is too cumbersome to be workable, with insufficient countervailing advantages.

6.2.2 Nomination by electors, subject to a deposit of money Under this proposal, candidates would be nominated by voters, but the constraint would be a cash deposit rather than a minimum number of signatures. The deposit would be returned to candidates who reached some specified threshold (e.g. 5% of the votes). The sum required might be anything from £1,000 up to, say, £100,000.

The advantages of this method are:

- it is already familiar and accepted in some countries, namely United Kingdom and Ireland;
- it is a powerful disincentive for fringe and eccentric candidates who might swamp the election if not discouraged;
- it is easily policed – verification of a cash deposit would be much easier than verification of a large number of signatures in several countries.

The disadvantages of this method are:

- it looks (and indeed is) elitist if the level of the deposit is pitched too high, yet has little effect if it is pitched too low;

- it seems to favour the “big battalions” with easy access to finance and thus perpetuates the image of a carve-up from which significant numbers of EU citizens are excluded;
- there is the possibility of a legal challenge from aspiring candidates who can’t afford to risk such a large sum (NB the constitutionality of the Irish electoral laws requiring a deposit from candidates has been seriously questioned);
- it might encourage wealthy individuals with little or no genuine electoral support to enter the race on the reasoning that they will obtain a lot of publicity for what for them would be a minimal investment.

Overall it seems to us that the disadvantages of the procedure being seen as elitist clearly outweigh rather minimal advantages.

6.2.3 Nomination by governments. This is the most conservative option for nominating candidates for election to the ECP, as it would mark the least possible change from the status quo. The nomination of one government could be sufficient, or it might be stipulated that nominations must be backed by a number of governments, say three or four. If the former option were chosen then, to prevent a potentially damaging or farcical situation in which each government nominated one of its own citizens thereby turning the election into a kind of “war between the nations”, it might be stipulated that no government could nominate one of its own citizens. Alternatively, it might be stipulated that a candidate needs to be nominated by only one government, but that unless he or she is nominated by at least three governments, he or she may not be nominated by the government of his or her country.

The advantages of this procedure are:

- it ensures that the eventual winner is acceptable to at least some governments, and would guarantee a degree of cross-national acceptability;
- it ensures, given the kind of criteria that governments are likely to take into account, that the winner is likely to have the required level of expertise in dealing with the demanding job of ECP;
- the minimalist nature of the change increases the chance of this option being acceptable to members of the European Council, a very important practical consideration since national governments may well not want to lose all control of the process of selecting the ECP;

- it leaves the door open to the possibility that, if an election held under these terms works well, it might pave the way for a wider nomination process at subsequent elections.

The disadvantages of this procedure are:

- it would remove a good deal of legitimacy from the election;
- it might seem simply to continue the perceived carve-up between 15 leaders. There is indeed a danger that leaders would thwart the rationale of popular elections by coming up with only one name, thus depriving voters of any choice—though it might also be argued that leaders would in practice be forced to give voters a real choice to avoid widespread criticism that would ensue if they did just agree one name among themselves;
- it would in effect exclude those political forces that don't happen to find themselves in many national governments at the crucial time;
- it would perpetuate the unsavoury image of horse-trading between national leaders, with support for one country over a particular nomination perhaps being given in exchange for concessions somewhere else;
- since the unsuccessful candidates must be nominated by governments, this would mean that the eventual President had been opposed, at least at the nomination stage, by a number of governments, which could affect relations between the Commission and the European Council.

Overall, this option could be considered if other nomination procedures were not acceptable, but would damage the prospects of the election being generally seen as opening up the EU's political system and helping to redress the democratic deficit.

6.2.4 Nomination by national parliaments. The proposal is broadly similar to nomination by governments, except that either one parliament or more (two, three or four) would be required to pass a resolution nominating a candidate. In practice, since governments must control a majority in their respective parliaments in order to be able to govern, the advantages and disadvantages of this procedure are in practice very similar to those that apply to nomination by governments. This option might seem on the face of things to be a little more open and democratic, since members of parliaments have been popularly elected by the people, unlike most governments.

A variation would be to require a qualified majority (say, 66 or 75 percent of votes cast) in order to make a nomination. This would have the advantage of separating nominations to ECP candidacies quite clearly from

governmental legislative majorities, but would raise the possibility of no candidate being put forward by a certain, or indeed any, parliament. It would certainly mean that the vagaries of local parliamentary politics would have a huge impact on nominations, which would be a major disadvantage.

Overall, there seems little to commend this proposal over that of direct nomination by governments.

6.2.5 Nomination by parliamentarians. This option would make parliamentarians the nominators. These could be national parliamentarians, members of the European Parliament, or both. The general idea (regardless of which specific option is chosen) has a number of advantages:

- parliamentarians are unambiguously identifiable individuals, and there is no problem of checking their signatures in the way that arises in the case of nomination by the electors at large;
- parliamentarians have a democratic legitimacy as representatives of those who elected them.

Three possibilities are elaborated below: nomination by national parliamentarians; nomination by MEPs; nomination by both.

6.2.5.1 Nomination by national parliamentarians. The requirement under this option would be that nominees would need the backing of a certain percentage of legislators from a certain number of countries. (This would avoid the unacceptable bias that using raw numbers would create—since, for example, it is much easier to obtain the backing of 20 MPs in the United Kingdom, with 651 MPs in all, than in Luxembourg, with only 60 legislators). Nomination rights would be confined to members of the lower house, since not all countries have an upper house while, even where upper houses exist, they are in most cases not popularly elected. In general terms, then, nominees would need the backing of $x\%$ of MPs in each of y countries.

The question of how high or high low we should set the values of x and y depends upon the nature of the nomination process we wish to specify.

Setting both x and y at very low levels—for example, requiring nominees to get the backing of 5% of MPs in each of 3 countries—would open the door, potentially at least, to a flood of candidates; in fact these figures could in theory permit the valid nomination of 100 different candidates.

Setting high values for both x and y would restrict the number of candidates—for example, requiring candidates to secure the nomination of at least 20% of MPs in each of 7 countries might limit the final field to only three or four, depending on what alliances were created.

Setting x high and y low, for example requiring candidates to get the backing of 30% of MPs in 2 countries, would encourage powerful regional candidacies.

Setting x low and y high, for example requiring the support of 2% of MPs in 12, or even 15 countries, would encourage pan-European groupings, even

quite small ones such as the Greens (or minority religious groupings or the radical right). In short, we can tinker with x and y to produce the type of field of candidates we feel most appropriate.

As we argued at the beginning of our discussion of nomination procedures, we believe that these procedures should err (if they must err) on the side of openness. Consequently, we feel that no political forces that have reasonable grounds for believing themselves to have a degree of broad support across the EU should find themselves excluded by unduly tight nomination requirements. On the other hand, the nature of the election will require the successful candidate to secure support from voters right across the EU, so it is not unreasonable to ask would-be candidates to demonstrate *a priori* backing in a good range of countries.

This suggests that nomination should require a modest degree of support in each of a significant number of parliaments. If nomination were to rest with national parliamentarians, then it seems reasonable to suggest that candidates should need to be nominated by at least 5% of MPs in each of at least 5 member states.

The advantages of this procedure are:

- candidates must build up pre-nomination backing from at least 4 countries besides their own country;
- it safeguards the interests of smaller states, since a fixed proportion of the legislature of a smaller state represents fewer voters, who therefore each have more impact on the nomination process, than the same proportion of the legislature of a larger state;
- although in theory it could lead to a profusion of candidates, in practice the major transnational party groupings are highly unlikely to run more than one candidate each;
- it would ensure that all significant shades of political opinion have a chance to be represented in the election.

The disadvantages of this procedure are:

- it might prevent non-party figures from standing and thus leave matters under control of the political parties at a time when the standing of parties right across Europe seems to be falling—but this may be a price that has to be paid for ensuring that the election has some kind of structure. Candidates will need some kind of party backing for their campaigns in member states anyway, so if they can't secure it at the nomination stage they would be unlikely to fare well in the election;

- it allows no role for the European Parliament, and since the EP's consent would be needed for such a change to the EU's institutions, this omission reduces the likelihood of the scheme being accepted.

6.2.5.2 *Nomination by MEPs.* Rather than give nomination powers to national MPs, MEPs might be awarded this prerogative. Nominations would require a certain percentage of MEPs. In practice, the percentage would probably have to be fixed at a fairly low level; even a 5% level would, given the current composition of the EP, allow only four of the party groupings to make nominations, so a figure of 3% might be appropriate.

The advantages of this procedure are:

- it gives additional power to the EP, whose consent will be needed if the scheme is to be adopted;
- it makes EP elections more meaningful.

The disadvantages of this procedure are:

- the schedule of elections means that the nominators would have to be members of the outgoing EP, who were elected nearly five years ago and whose mandate has more or less expired; nomination of the ECP in 2004 is undoubtedly too remote to make an impact on 1999 EP elections, reducing the extent to which MEPs would represent popular views on the matter;
- the EP as an institution may be too remote from the public to generate the same sense of involvement as the requirement that the nominators be national parliamentarians.

6.2.5.3 *Nomination by both national parliamentarians and MEPs.* This would combine the two previous procedures, delivering most of the virtues of both. Candidates would have to be nominated by x% of MPs in each of y parliaments, one of which may be the European Parliament. For example they might need 5% of members of 5 parliaments.

These may seem to be very low levels but any significantly higher threshold would, on current levels of representation, make it difficult for any but the three main blocs (Socialists, European People's Party, and Liberals) to nominate candidates.¹⁷ On current patterns of representation in European national parliaments and the EP, the criteria we propose would enable five EP groupings to make nominations as they stand – Socialists, EPP, Liberals, Communists and Greens. Some consolidation within the diverse secular conservative groups might also result in an additional conservative

¹⁷Note that such a change such might also give an incentive for smaller groups to consolidate in order to take advantage of the possibility of making nominations.

candidacy. These criteria therefore seem to us to be capable of generating a representative range of candidates for any election to the office of ECP.

6.3 A proposed nomination procedure

Overall, this final option seems to best meet the key requirements of openness, fairness and practicality, with relatively few disadvantages.

We therefore propose that candidates for election to the office of European Commission President be nominated by 5% of MPs in each of 5 parliaments, one of which may be the European Parliament.

7. METHOD OF ELECTION

Our analysis of possible methods for electing the ECP is driven by two overriding criteria. The first is that the system chosen must be seen to be transparent and fair by the bulk of European voters; the second is that the interests of small states should not be swamped by those of their larger European neighbours. Our discussion is thus divided into two parts. First we consider issues relating to the electoral system that must be decided when designing elections to any single powerful position such as a presidency. Second we consider an additional feature of such elections in an EU context – the need to reconcile the majoritarian tendencies of elections on the one hand with the need to protect the interests of small member states on the other. These latter considerations apply in any federal election but apply with particular force in the EU.

7.1 Electoral system

There is a wide range of electoral systems that could be used to fill a presidency, and there is an extensive literature on the merits and problems associated with various schemes. We feel that the chosen method should maximise the qualities of *fairness* and *transparency*, two simple criteria that are not always in perfect harmony. Some methods of election promoted as best reflecting voters' preferences are so complicated that only a minority of voters can really understand what is going on when the votes were counted. This obviously defeats much of the point of the exercise. On the other hand, the most simple and straightforward method of electing the President of the Commission may not deliver an outcome that is widely seen as "fair".

With only one position to be filled, no type of proportional representation (PR) electoral system can be used on a pan-European basis. However, one of the schemes that we discuss for safeguarding the position of small states does incorporate a strong element of PR. We look below at four main systems of election to a single position, the first two of which we will dismiss as unsuitable, and the latter two of which we regard as feasible possibilities for adoption.

7.1.1. Simple plurality (first-past-the-post). In this system, used for parliamentary elections mainly in Britain and some of its former colonies, voters cast their ballots by placing an "X", or some other suitable mark, beside the name of their favoured candidate on a ballot paper that carries the names of all the candidates. Whichever candidate receives the most votes is declared the winner.

The advantages of this system are:

- it is simple and straightforward, everyone can understand it;
- it delivers a quick result, probably the day following the election;

- it is familiar to voters in the United Kingdom as the method they use to elect parliament and MEPs.

The disadvantages of this system are:

- it does not necessarily produce a result that will be seen as fair. The defects of this electoral system are well rehearsed and need not be repeated here. With only two candidates, this method of election is reasonable enough, since it is certain to give one of them a majority. But with more candidates—and President of the Commission elections could be contested by anything up to, say, 10 candidates—it is highly unlikely that any candidate will receive over 50% of the votes. The first-placed candidate, indeed, may receive as few as 20-30% of the votes, and would have little legitimacy if deemed “elected” with such a low level of support. Voters for all of the other candidates would see their votes wasted.
- it is an electoral system that is widely seen throughout Europe (excluding the United Kingdom) as unfair, which is why it is so little used.

Overall, the widely-perceived disadvantages of this scheme are so great as to rule it out as a method for bringing fairness and accountability into EU decision-making.

7.1.2 The Borda count This system entails voters ranking candidates in order of preference. Candidates then receive “points” for each position in a voter’s ranking. For example, if there are 6 candidates, a first preference will be worth 6 points, a second preference 5 points, a third preference 4 points, and so on. The winner is the candidate who receives the highest score.

The advantages of this system are:

- it ensures that the full range of voters’ preferences are taken into consideration;
- it prevents the election (unlike the simple plurality system) of a candidate who might have the most first-preference support but is not acceptable to a majority of voters, since it rewards a candidate who is broadly acceptable to a wide range of voters rather than one who is very attractive to a minority of voters and highly unattractive to the rest.

The disadvantages of this system are:

- it looks complicated; many voters might see the counting process as some kind of mysterious black box into which the votes disappear,

after which "experts", after conducting some arcane counting process, tell them who has won;

- it presents voters with tactical dilemmas, e.g. do you give your second choice a high preference in the hope that he or she gets elected if your first choice is unsuccessful, or a low preference to reduce the danger of him or her overtaking your first choice?;
- the process of counting the votes is time-consuming, entailing millions of calculations to work out how many points each candidate has been awarded;
- no country in the EU (or indeed outside it) uses this electoral system;¹⁸ maybe some country will experiment with its use some time, but the election of the President of the Commission is hardly the place to initiate such an experiment.

Overall, the complexity, lack of transparency and unfamiliarity of this system render it not a serious contender for the election of the ECP.

7.1.3 The alternative vote In this procedure, voters rank the candidates, placing "1" beside their first choice, "2" beside their second choice and so on. The first stage of the counting process consists of adding up all the first preferences. If no candidate receives a majority of the first preferences, then the lowest-placed candidate is eliminated, and his or her votes are distributed among the remaining candidates, according to the second preferences marked on each. If still no candidate has a majority, the process is repeated until one candidate does have a majority. Voters are asked "who is your first choice?", as in option 1, but they are also asked, "If your first choice candidate is unsuccessful, who would your second (and third ...) choice candidate be?"

The advantages of this system are:

- it ensures that the eventual winner will have a majority of votes;
- it means that those who vote for candidates who ultimately win little support don't feel their votes have been wasted, as these votes pass on to stronger candidates;
- the principle is easy to grasp;
- it is familiar to voters in one EU country (Ireland).

The disadvantages of this system are:

¹⁸Although it will be familiar to very many European voters as the method by which the Eurovision Song Contest is decided!

- the counting process will be protracted if several hundred million ballot papers have to be examined not just once but several times as the count proceeds through its various stages;
- there may be problems of co-ordinating the counting process in 15 different countries—needing one overall returning officer to declare which candidate is lowest-placed, and hence due for elimination, at each stage;
- it could cause confusion or even resentment if a candidate faring well in one country is nonetheless eliminated, due to the overall EU voting pattern, ahead of candidates faring less well in that country;
- it is an unfamiliar method of choice for voters (and counting staff—hence the risk of delays, confusion and errors in counting of votes) in 14 of the 15 member states.

7.1.4 The two-ballot system Under this system, there is a first ballot in which voters are presented with a list of candidates and indicate their first choice candidate, as in the simple plurality system. If no candidate wins a majority in this first ballot, a second ballot is held, a fortnight or so later. This second ballot could be confined to the top two candidates (as in French presidential elections) or to all candidates who exceed some pre-set threshold (for example, in French parliamentary elections, 12.5% of the total electorate, with the top two candidates being allowed to proceed to the second ballot if fewer than two meet this condition). Of these two options, the first—confining the second ballot to the top two from the first ballot—seems preferable.

There are several advantages of this system .

- The counting process is as simple as for simple plurality voting, much more straightforward than for either the alternative vote or the Borda count;
- It gives those who vote for unsuccessful candidates a second chance to make their vote count;
- The period between the two rounds of voting will be valuable in familiarising voters with the two leading candidates. Inevitably, with such a large and disparate electorate and a potentially large field of candidates, many voters will simply not know much about the candidates at the time of the first round. The two-ballot system, unlike the alternative vote, does not compel voters to deliver a definitive judgement first time around; instead, it allows time for the two leading candidates to establish a clear identity in the minds of the voters.

- It is an electoral system familiar to voters in Austria, Finland, France, and Portugal as the method by which their president is elected.

The disadvantages of this system are:

- it would require voters to make two trips to the polls—which would be expensive and create the danger of a low turnout on the second occasion with resulting legitimacy problem for winner, though this could be overcome by scheduling the second round for the same day as an EP election (see below);
- there is a danger of the outcome looking arbitrary if the second-placed candidate only just edged out a third-placed candidate who seemed better placed to defeat the first-placed candidate in a straight contest;
- there may be a lack of incentive to vote on the part of supporters of candidates who seem likely to poll poorly; unlike with the alternative vote, their votes would be wasted.

An additional important point to consider concerns the timing of the two rounds of the ECP election in relation to the EP election. There are two possible models for "simultaneous" ECP and EP elections.

- Model A would see the first round taking place 2 weeks (or perhaps 3 weeks) before the EP elections, with the second decisive round taking place on the same day as the EP elections.
- Model B would see the first round taking place on EP election day and the second round 2 (or maybe 3) weeks later.

A complicating factor in both models—indeed for the idea of popular elections generally—is that at present EP elections do not take place on the same day in every country. Hence it would be highly desirable to establish one day as EP election day in all 15 countries.

Model A has certain advantages over model B. The main difficulty with model B is that it might be difficult to sustain interest among electors, once the first round and the EP elections had taken place, so turnout at the second round could be disappointingly low. In addition, the political parties across the EU, which inevitably will be the main agents mobilising voters, might lose enthusiasm once the EP elections are over.

With model A, on the other hand, the entire electoral process would build up to a climax with both decisive elections—the EP elections and the second round of the ECP elections—taking place on the same day. Voter turnout in this election will be as high as it is ever likely to be for an EU election.

Our recommendation is thus for model A, that the first round of voting should take place a short time (two weeks, the same as in French presidential

elections, seems a reasonable period) before the EP elections, with the second round occurring on the same day as the EP elections.

7.1.5 Summary Of the four options outlined above, the simple plurality and Borda count systems should be discarded as unfair, unfamiliar or unworkable. Of the remaining two, the alternative vote is almost certainly fairer than the two-ballot system, but the two-ballot system is more familiar, is probably easier for voters to understand, is more logistically feasible in a multinational election, and is also easier to combine with our recommended scheme for ensuring candidate responsiveness to the interests of every member state (discussed in the following section).

7.2 The protection of smaller states

The issues relating to the protection of smaller states are general and will arise whichever electoral system is chosen. The essential problem is that, if the outcome is decided only on the basis of the number of votes received by the various candidates, the eventual winner might be someone whose support is confined to a few large countries. During election campaigns, candidates might therefore decide to concentrate their efforts on the larger countries (especially Germany, Italy, the United Kingdom, France and Spain) and to more or less write off the rest—for example, the German electorate alone is about the same size as those of Austria, Belgium, Denmark, Finland, Greece, Ireland, Luxembourg, Netherlands, Portugal and Sweden all put together. This could affect the legitimacy of the President of the Commission (if his or her support was confined to a small number of countries) as well as his or her behaviour while in office (or, at least, perceptions of this behaviour) if the President is eligible for reelection.

While it is true that all votes are equal in most national elections, there are some cases of elections where the rules are designed to ensure that a large number of smaller units are not overridden by a small number of larger ones, and/or that candidates have every incentive to appeal to a broad spectrum of supporters as possible. Indeed, in federal systems generally care is usually taken to ensure that no component part has reason to fear being brushed aside as of no significance.

For example, in the US Senate each state has two Senators, regardless of size, which obviously means that smaller states are over-represented in relation to their population. In US presidential elections the electoral college system means that votes in one state may count for more than votes in another (although the practical effect in this case is to make votes in large states more valuable than those in smaller states, which is of course not the aim in the ECP election). In Switzerland many referendum proposals, to be passed, need the support not only of a majority of voters but also of a majority of the 23 cantons, which protects the interests of the smaller cantons. Likewise in Australia, constitutional change requires the approval in a referendum both of a majority of votes and a majority of the states. In Nigeria, past rules for presidential elections have required that the winning candidate

must win at least 25% of the votes in at least two-thirds of the states, to prevent candidates appealing only to a small number of states.

Perhaps most relevant of all, the principle of over-representation of smaller states is already accepted by every institution in the EU. Within the EP, Germany has 99 MEPs for its population of 80 million (so each MEP represents about 806,000 people), while at the other end of the scale Luxembourg, with 390,000 people, has six seats (one MEP for each 65,000 people). Within the Commission, even the largest state has only two Commissioners and even the smallest has one. Within the Council, when it comes to voting by qualified majority Germany has ten votes (one for each eight million people) and Luxembourg two (one for each 195,000 people). So devising rules that give special protection to the smaller states would not breach any general EU principle—in fact, one could say that a general EU principle would be breached if no such protection were provided.

Ultimately, of course, there can be no guarantee that a President appointed or elected under any set of rules will be responsive to the views of any or all member states. This applies especially to a President who does not intend to seek re-election (or, at present, re-nomination). All that can be done is to give the President every incentive to be responsive and to trust, as at present, in the sense of responsibility of the incumbent.

Below, however, we consider three specific schemes designed to ensure that a popularly-elected President has an incentive to remain responsive to the concerns of every member state, especially the smaller ones. These are: setting a minimum threshold of votes to be won in each country; weighting the votes of voters in smaller countries more than those of voters in larger countries; and, our preferred option, an electoral college.

7.2.1 Setting minimum thresholds of votes in each country to be achieved by winning candidates. It is possible to insist that the elected candidate must achieve a minimum level of support in each (or a wide spread) of countries. For example, it could be required that the elected candidate must win at least 20% of the votes in each country (a very demanding threshold); at least 15% of the votes in at least ten countries; at least 10% of the votes in at least eight countries; etc. To anticipate the problem that could arise if no candidate meets the threshold (which would conjure up the "nightmare scenario" of having to re-run the whole election, with the risk that no candidate will reach the threshold on the rerun either) it could be specified that, if no candidate reaches the threshold, then this requirement is dropped.

The main advantage of this system is it ensures that no candidate can "write off" all of the small countries and ignore their interests. There are, however, several disadvantages.

- It is difficult to decide exactly what threshold should be set without knowing how many candidates there will be. If there are many candidates, with votes fairly evenly spread, even the front-runner might not reach the threshold. If there are very few candidates even one who has scarcely bothered campaigning in a country might reach a low threshold such as 10%.

- There is a problem of lack of legitimacy for a winner who was outpolled by another candidate who was then debarred for failing to reach the threshold.
- The principle is unfamiliar to voters, with no parallel in elections to any national parliament.
- Particular complications arise from particular electoral systems—if the alternative vote or the runoff system is used, for example, on what “count” do candidates need to achieve the threshold?

Overall, while this proposal may seem attractive at first sight, there are probably too many technical problems for it to work effectively in practice.

7.2.2 Weighting the votes Each vote cast could be weighted according to some pre-determined set of numbers. The most obvious scheme would weight votes according to each member state’s population per MEP.¹⁹ For example, over the EU as a whole, the population is 366 million and the number of MEPs is 626, giving a ratio over the whole EU of 585,000 people per MEP. The largest state, Germany, has 80 million people and 99 MEPs, which is a ratio of 806,000 people per MEP. To calculate the multiplier for Germany, we divide 585,000 by 806,000, giving a figure of 0.73—this is the figure by which the value of each vote cast in Germany must be multiplied. In contrast, Luxembourg has 6 MEPs for 390,000 people, a ratio of 65,000 people per MEP. Hence its multiplier is 585,000 divided by 65,000, which equals 9.0. Each vote cast in Luxembourg is multiplied by this number. In Ireland there is one MEP for every 235,000 people, so each Irish vote is multiplied by 585,000 divided by 235,000, i.e. 2.5. The same operation would be performed for all the other countries, according to the ratio of people per MEP, a factor that is consistently higher as we move from the smaller to the larger countries. The effect

¹⁹The numbers of representatives that each country has in the European Parliament are as follows:

Germany	99
United Kingdom	87
Italy	87
France	87
Spain	64
Netherlands	31
Greece	25
Belgium	25
Portugal	25
Sweden	22
Austria	21
Denmark	16
Finland	16
Ireland	15
Luxembourg	6
Total	626

will be to ensure that a vote cast in the small countries counts for more than a vote cast in the large countries.

For example, if a candidate wins 10,000,000 votes in Germany, this counts as 7,300,000 (10,000,000 multiplied by 0.73); if a candidate wins 20,000 votes in Luxembourg, this counts as 180,000 (20,000 times 9); if a candidate wins 400,000 in Ireland, this counts as 1,000,000 (400,000 times 2.5).

The advantages of this system are:

- it would reduce the risk of candidates overlooking some countries out of a belief that their electoral significance is minimal;
- the weighting process is not a new idea, and is already applied in other institutions of EU;
- the precise numbers used in the weighting process are not arbitrary—they are exactly the same as those used to decide how many members each state should have in the EP.

The disadvantages of this system are:

- it may be fair and already in operation for the composition of the EP but it looks very complicated, hard to explain to those not already familiar with workings of EU and with a reasonable grasp of mathematics;
- the idea that “some votes count more than others” is liable to cause resentment and goes against most commonly held understandings of the concept of democracy (“one person one vote”, so why should one Luxembourgish have nine votes?);
- the over-representation of the populations of small countries in the EP is not widely known to the EU public, whereas the implementation of this scheme makes the under-representation of voters in large countries entirely transparent;
- the precedents may not convince large countries—they might feel that their under-representation in other EU institutions is already unfair and not a reason for compounding the problem by formalising their under-representation in the popular election of the President in this way.

Overall, whatever its merits, we feel that this scheme is not feasible politically, because the violation of the “one person one vote” principle is altogether too blatant. Furthermore, what is aimed at by this option can be achieved much more straightforwardly by the final option.

7.2.3 An electoral college, or quasi-college An electoral college would entail the election of delegates from particular regions – in this case EU member states – pledged to support a particular candidate. These delegates convene in the college and vote for candidates for the office at issue. The device of the college allows the interests of smaller regions to be protected by giving these more than their “fair” share of delegates, rather than by weighting the votes of electors directly. The problem with a real electoral college in this context, with real delegates who actually met, is that this would lose the principle of popular election of the President and would open up the possibility of horse-trading among delegates, with all of the associated unsavoury connotations of smoke-filled rooms and the like, in the very likely event of no candidate winning an overall majority of first preference votes.

The scheme we propose for a quasi electoral college would obviate these problems as follows. Candidates would compete for what could be called “presidential mandates” within each country. The number of mandates awarded to each country would be the same as each country’s representation within the EP. It would be vital not to make these winner-takes-all elections within each country, as is the case for presidential elections in the USA, for then candidates would have every incentive to concentrate on the large states. In this event anyone winning Germany, the UK, France and Italy would, by taking all the 360 mandates in those countries, be assured of an overall majority.

The mandates should, instead, be awarded by proportional representation in accordance with each candidate’s voting strength in each country. There are a number of seat allocation formulae that could be used for deciding how the mandates within each country should be awarded to the candidates in relation to the votes they won. Examples of these formulae are d’Hondt (widely used in European countries that employ PR-list electoral systems for elections, but with a tendency to over-represent the larger parties) and Sainte-Laguë (generally accepted to be the fairest system).

For example, suppose that in an election with 4 candidates, the votes in Ireland were distributed as follows: candidate A 45%, candidate B 25%, candidate C 20%, candidate D 10%. Then the application of either of these two formulae would result in A being awarded 7 of the 15 Irish mandates, B being awarded 4, C 3 and D 1.

The trans-European counting process will then concern not raw votes but the number of mandates the various candidates had won across the EU. If the runoff electoral system were to be adopted, then the top two candidates would be deemed to be those who had won the greatest numbers of mandates, not necessarily the greatest number of votes.

The advantages of this system are:

- it is entirely in line with existing principles of representation within EU institutions, and needs no tortuous arguments to establish any fresh principle. In effect there will be two elections (President and EP) taking place on the same day for the same number of seats/mandates in each country;

- the principle of proportional seat allocation by means of a party list-type system is familiar to the public in 13 of the 15 member states, all of which use such a system for EP elections and/or national parliamentary elections;
- it over-represents the purely numerical significance of small states without blatantly giving votes of a different value to electors in different countries, as does the option of weighted voting;
- it gives every candidate an incentive to compete for votes in every state;
- it makes all candidates, and indeed voters, aware that this really is a pan-European election, not a series of unrelated national elections (as EP elections still tend to be).

The disadvantages of this system are:

- one implication (not everyone would see it as a disadvantage) is that it effectively rules out the alternative vote as a possible electoral system and means that the electoral system involving a runoff between the top two candidates would have to be chosen;
- it could lead to a legitimacy problem if in the second, decisive, round, the winner on a count of mandates wasn't the "winner" in terms of raw votes or if in the first round the third-placed (and hence eliminated) candidate in terms of mandates had actually won more votes than one or both of the higher-placed candidates.

Overall, we feel that the option of a "European College" offers most of the advantages of protecting the interests of smaller states, without suffering most of the disadvantages. It should also be noted that the recommended nomination procedure, discussed above, will also tend to help smaller states by requiring a percentage of legislators in a number of member states. (Five percent of the Luxembourg legislature is probably easier to achieve as a practical proposition than five percent of the German or British legislatures.)

7.3 A proposed method of election

We now combine our consideration of the method of election, which led us to recommend a two-stage runoff system, with our consideration of the need to protect the interests of small states, which led us to recommend a quasi-electoral college based on presidential mandates allocated to each country on the same basis as MEPs.

The consequence of combining these choices is the following proposal:

The election to the office of ECP would be a two stage process, the first stage held two weeks before the second, the second stage held on the same day as EP elections.

The election would determine how many "presidential mandates" would be won by each candidate. Each member state would have a number of mandates equal to its number of MEPs.

The election would use a PR system, with each candidate winning presidential mandates in each country in proportion to his or her share of votes cast in that country.

A candidate winning a majority of presidential mandates across the EU in the first round of the election would be deemed elected.

If no candidate is elected in the first round, then the election would proceed to a second round run-off between the two candidates winning the most electoral mandates in the first round. The second round election would be held on the same basis as the first and the candidate winning a majority of mandates across the EU would be deemed elected.

8. THE LIKELY REACTION OF MEMBER STATES TO A PROPOSAL TO ELECT THE ECP

There can be little doubt that there is a widespread perception that the EU's democratic deficit is a problem requiring attention. As we have argued above, any reform intended to address this deficit will by definition have some impact upon the institutional balance, *because the democratic deficit is currently an integral part of that balance*. In order to assess the political viability of this or any other medium-term solution to the problem of legitimising EU institutions, it is necessary to consider the likely reaction of other member states. At the same time as doing this, we must consider the extent to which any objections that might be identified would also apply to any other serious attempt to address the problem of the EU's democratic deficit.

We can conveniently break member states down into five groups in this regard. First, there are the new members, Austria, Finland and Sweden. The likelihood is that these will continue to digest the institutional implications of EU membership for some time to come, will be relatively agnostic on changes to the structure of EU institutions, but will on balance be cautious about any institutional change for a while. This would reflect a view not only on the present proposal, but also upon any proposal for change that might arise before they felt more fully integrated into the interstices of the EU decision-making system.

Second, there are the Eurosceptics, Britain and Denmark, although it is important to remember that the Conservative government in Britain may well be replaced in the not too distant future by an administration more generally favourable to the EU. For the time being, however, the likelihood is that these countries will be mindful of the successful British veto over the Dehaene candidacy and resist anything that removes their power of veto over this office. In effect, British and Danish Euroscepticism may lead them to object to any proposal that would undermine their power to use vetoes to block unwelcome change. This type of objection would apply to most potential proposals to reduce the democratic deficit in the Union.

Third, there are the Benelux countries, Belgium, Netherlands and Luxembourg. While the Euro-enthusiasm of the Dutch may have been somewhat eroded following the rejection of the Dutch draft at Maastricht, it nonetheless remains the case that these countries remain probably the most committed to the European ideal. They might be expected to support a proposal designed to reduce the democratic deficit since this is so widely-acknowledged as one of the main problems threatening the legitimacy of the Union.

Fourth, there are the core states of France and Germany. The likelihood is that Germany will see the best way to combat the democratic deficit to be an enhancement of the role of the European Parliament vis-a-vis the Council and Commission. For this reason, it would not favour creating an independent popular mandate for the ECP, and might therefore oppose the proposal. France might also oppose the proposal, and it should be noted that Jacques Chirac's recent presidential campaign was decidedly Eurosceptic in tone. This partly reflects a principled French objection to any neo-federalist

response to the EU's problems and partly results from an increased hostility to the Commission consequent upon a loss of French influence following the retirement of Jacques Delors.

Finally, there is the group of "cohesion" countries that have come to rely financially upon transfers from Brussels – Greece, Ireland, Italy, Portugal and Spain. The likelihood is that these countries will remain very interested both in a strong Commission, which has been the vehicle for transfers, and in retaining the highly-valued influence within this of "their" commissioners. The position of this group on our proposal is likely to be equivocal. On one hand the popular election of the ECP might protect the Commission from mounting criticism about its democratic deficit, thereby preempting moves to clip the Commission's wings. This would lead this group to favour the proposal. On the other hand there might be a fear that popular election of the ECP would imply a reduction in the role of "national" commissioners, either directly as a result of the deal done to implement the proposal or indirectly as a longer-term consequence of it. This group of countries would need guarantees on such matters before their support for the proposal could be assured.

To sum up, in addition to the agnostic new members, some members are likely to be hostile because the proposal would in effect strengthen the role of the Commission by giving it greater legitimacy (Britain, Denmark, France and possibly Germany). Others are likely to be hostile because they fear the proposal might eventually weaken a Commission upon which they rely for financial transfers (Greece, Ireland, Italy, Portugal and Spain). On closer inspection there is no inconsistency in this position, however. The latter members are assumed in effect to favour a less legitimate ECP for fear that an elected ECP would reduce the influence of their unelected commissioners.

Thus virtually all potential opposition to the proposal in this paper is on the basis that it would legitimate the office of ECP, leading to an institutional rebalancing within the EU that is opposed for reasons that differ from country to country. Either it would undermine Eurosceptic vetoes, or it would enhance the role of an elected ECP vis a vis unelected commissioners, or it would enhance the role of the Commission vis a vis Parliament by enhancing the legitimacy of the former. *Thus all perceived objections to this proposal apply to any other proposal to address the democratic deficit in the Commission.*

This is a striking conclusion. It means that the governments of member states may well like the Commission just the way it is and would oppose moves to increase its legitimacy. If the democratic deficit is genuinely seen by member states as a problem requiring attention, then this in turn implies recourse to an institutional rebalancing that either increases the powers of the Parliament over EU decision-making, or which "re-nationalises" much EU decision-making. Our reasons for finding such solutions unsatisfactory are set out at length in sections 2.1 and 2.3.

Thus the case to member states for the direct election of the ECP must begin from the firm premise that the EU's democratic deficit is a problem that must be addressed. If this premise is not accepted, of course, then our proposal has no logic.

Accepting that there is a problem to be addressed implies, by definition, some institutional rebalancing. This means that the argument that our

proposal involves institutional rebalancing is not sufficient to defeat it. As we have argued at several points above, furthermore, the reforms we propose involve a rebalancing that can result only from a mobilisation of popular interest in European affairs, the precise matter these reforms are designed to address.

Our proposal for making the ECP more accountable must then be considered in the context of alternative solutions to the problem. Given the problems facing these alternative solutions, we feel that popular election of the ECP offers an exciting, feasible and effective medium-term innovation which should at least begin to address the issue of the EU's democratic deficit.

9. SUMMARY OF MAIN ARGUMENTS

In sections 2-4, we argued that a straightforward way to improve the legitimacy and accountability of EU decision making would be to introduce popular elections for the office of European Commission President. This leaves formal institutional balances in the EU unchanged, while allowing for a *de facto* shift in power only to the extent that European public opinion on the affairs of the Union was mobilised to a far greater extent than it is at present. Our proposal sets out to do precisely this by introducing a major new pan-European election to high office, during the campaign for which European issues would almost inevitably predominate.

Other solutions considered seemed to us either not to go far enough in terms of giving European citizens a say in the matter (indirect elections by the EP), or to be both cumbersome and contrary to the EU method of doing business (popular election of the entire College of Commissioners).

In sections 5-7 we drive towards specific proposals for the popular election of the ECP. Three key elements are:

- the nomination process;
- the election system;
- protecting the interests of smaller member states.

Having explored a wide range of alternative possibilities, our conclusions can be simply stated.

Nomination

- Candidates for election as ECP should be nominated by a group comprising members of national lower houses and MEPs.
- To secure nomination, we propose that candidates for election to the office of European Commission President be nominated by 5% of MPs in each of 5 parliaments, one of which may be the European Parliament.

Electoral system

- The election to the office of ECP would be a two stage process, with the first stage held two weeks before the second, and the second stage held on the same day as EP elections.
- The election would determine how many “presidential mandates” are won by each candidate. Each member state would have a number of mandates equal to its number of MEPs.

- The election would use a PR system, with each candidate winning presidential mandates in each country in proportion to his or her share of votes cast in that country.
- A candidate winning a majority of presidential mandates across the EU in the first round of the election would be deemed elected.
- If no candidate is elected in the first round, then the election would proceed to a second round run-off between the two candidates winning the most electoral mandates in the first round. The second round election would be held on the same basis as the first round and the candidate winning a majority of mandates across the EU would be deemed elected.

Overall

This procedure is probably the best combination of fairness and familiarity in a European context. It combines a presidential voting system with which many European voters are familiar (the runoff election) with a system of weighted representation identical to that already used in the EP.