REFORMING THE EUROPEAN COMMISSION: A HISTORICAL INSTITUTIONALIST APPROACH

Why has the reform at the top of the Commission been difficult?

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<td>CAP</td>
<td>Common Agricultural Policy</td>
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<td>CEECs</td>
<td>Central Eastern European countries</td>
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<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
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<td>DG</td>
<td>Directorate General</td>
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<td>IGC</td>
<td>Intergovernmental Conference</td>
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<td>JHA</td>
<td>Justice and Home Affairs</td>
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<td>MEP</td>
<td>Member of the European Parliament</td>
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<td>QMV</td>
<td>Qualified Majority Voting</td>
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<td>SEA</td>
<td>Single European Act</td>
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<td>Treaty on European Union</td>
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1. INTRODUCTION

On May 1 2004, eight CEECs (Slovenia, Hungary, Poland, Slovakia, the Czech Republic, Lithuania, Latvia and Estonia) together with Malta and Cyprus became members of the EU. The fifth round of enlargement, which has also been termed the “Eastern enlargement” because most of the acceding countries previously formed part of the former Eastern Bloc, increased the number of EU member-states from fifteen to twenty-five. Thus, the EU has become an economic and political entity consisting of more than 450 million inhabitants.¹

The increase in the number of member-states brings about many new challenges while at the same time strengthening the already existing ones.² The issue of institutional reform presents one such challenge. Overhaul of the institutional architecture aiming at increasing the EU’s efficiency and legitimacy and tackling some of the longstanding problems has featured on the European agenda for quite a long time.³ It has touched upon the most prominent of the EU institutions as well as upon the structures that are hardly known to the general public. However, it seems that there has been much more talk than action in this regard and that the reform initiatives have obviously not yielded the supposed results so far. The future of the last attempt to streamline the institutions of the EU, the Treaty establishing a Constitution for Europe, seems also uncertain after its rejection in the French and Dutch referendum.

One of the most evident examples of great plans and modest results is represented by the European Commission. Why is it so? For what reasons is institutional change and reform such a puzzling phenomenon? Why can some institutions be reformed more easily than others? Why certain structures embody a great degree of stability and others do not? These and similar questions underpin the motivation for conducting our research.

³ as far as the European Commission is concerned, see for example Spence, D. 'Plus ça change, plus c’ est la même chose? Attempting to reform the European Commission.' in Journal of European Public Policy, Vol. 7, No. 1, 2000, pp. 1-25
1.1. Outline of the thesis

The paper commences with an introductory chapter where the aim of the thesis and its motivation is explained. Next, a central hypothesis together with a set of research questions is specified. Delimitations limit the scope of the research subject. This is followed by a discussion on the methodological issues, in which ontological and epistemological implications of the theoretical framework as well as appropriate research strategy, design and method are considered. This chapter also comprises a review of relevant theoretical and empirical material collected at the beginning of as well as during the research process.

To begin with, chapter 2 focuses on the formative stage of the European Commission. Attention is paid to the organizational principles underpinning the High Authority of the ECSC since they served as a template for the subsequent institution building process within the framework of the EEC established in 1957, of which the Commission of the ECC was a result. It is in the period shortly after 1957 that the basic institutional traits of what is now called the European Commission developed. Therefore, we look briefly at the institutional characteristics of the Commission of the EEC as well. The chapter further provides the paper with an overview of the main reform initiatives, which have been launched in different stages of the European Commission’s process of evolution, beginning from the 1970s. It reviews the main documents where proposals for institutional reform have been drafted. Finally, we summarize the recent evolution of the Commission from the institutional aspect with the aim to illustrate that the institutional nature of the Commission has not changed substantially in comparison with its early phase of existence in spite of numerous reform plans being periodically proposed.

Next, chapter 3 deals with the theoretical framework of the paper. Firstly, we briefly outline the basic tenets of the contemporary institutionalist approach termed “new institutionalism” to get a general overview of how institutions matter in politics. Subsequently, three important strands of new institutionalism are introduced (rational-choice, sociological and historical institutionalism). Focus is placed mainly on the historical institutionalist variant because it represents a guiding “lighthouse“ for our thinking. Thereafter, we provide the thesis with a detailed analytical framework based on the work of Paul Pierson, one of the most influential theorists within the historical institutionalist “school”. Pierson’s model is supplemented by a more precise elaboration of the problem of institutional formation/change since his work focuses predominantly on the issues of institutional reproduction. Thus, we obtain an analytical framework which will be used as a
guide to our analysis presented in chapter 4. The chapter concludes with a concise examination of the main theoretical rival of historical institutionalism – liberal intergovernmentalism – so that we can be aware of its possible drawbacks.

Chapter 4, the analytical part, explores whether the evolution of the European Commission has been path dependent. The analytical framework derived from the theory of historical institutionalism is used to interpret the empirical data and track down the processes which have been conducing to path dependent development of the Commission. The context of the Commission at European niveau as well as at the level of domestic politics is considered. Firstly, we examine the mechanisms of unintended consequences being an important source of path dependence. Secondly, focus is placed on the high discount rates and changing preferences of decision-makers, whose actions shape the process of European integration. Next, analysis of institutional/treaty obstacles for a reform of the European Commission is carried out. Furthermore, the concept of increasing returns is used to find out how previous actions hindered the Commission’s overhaul. Last but not least, we look at the Commission’s internal resilience to modifications of its structure.

In the concluding chapter, we present the research findings and final conclusions. At the very end of the paper, some suggestions for further research in relation to our topic are put forward.

1.1. Aim, hypothesis, research questions and delimitations

The thesis is based on a detailed study of a single institution. We focus on a “key player in a network of institutions and actors which combine to make up the EU’s governing system”\(^4\) - the European Commission. The aim is to address the problem of reform of the European Commission. More precisely, attention will be paid to analyzing and explaining the obvious stability (stability is understood here as a term with negative connotation, in contrast to the predominantly positive connotation associated with this term) of this institution which, in spite of the overall dynamics of the European integration process, shows to be remarkably resistant to deliberate changes. This observation can be well confirmed by several respected authors. Nugent claims that “whilst the Commission has been constantly developing, a surprisingly large number of its core features emerged in its very early years.”\(^5\) Dinan also

\(^5\) Ibid., p. 19
emphasizes the same logic of the Commission’s institutional evolution when he asserts: “Regardless of the Commission’s role and responsibilities, the Commission’s composition remained largely unchanged over time.”\(^6\) Similarly, Cini puts it as follows: “[A]lthough the Commission has evolved over the decades since it was set up, its organization has remained remarkably similar to the model which emerged over the course of the 1960s.”\(^7\) When we make a claim about the considerable stability of the Commission, it is not to mean that the Commission has not changed in any way throughout almost five decades of its existence. The European Commission has changed. However, it has always been a gradual modification resulting from changes in the operation environments. It remains as an undisputable fact that there has not been any successful comprehensive and overreaching reform so far (even though in recent years we can witness the rising intensity of the urgency of change as well as of plans for overhaul).

Our analysis and possible explanation of the problem defined above will be based on a theoretical/analytical framework derived from the theory of historical institutionalism. In terms of historical institutionalism, institutional stability and resistance to deliberate reforms is a function of the so called path dependence (this concept will be explained in detail later on, together with other analytical concepts of historical institutionalism). In other words, the more path dependent is an institution, the more stable is the structure of this institution. Having claimed this, we can formulate a central hypothesis, which will be explored in the thesis.

The hypothesis is framed as follows:

- the evolution of the European Commission is path dependent; as a result of this path dependent character, its stability and resistance to reform is high

This hypothesis can be confirmed or refuted through a set a research questions:

- what are the conditions for the development and persistence of path dependence in general? (theoretical question which will be answered by studying the analytical concepts of historical institutionalism and

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by constructing a theoretical model clarifying circumstances leading to path dependence)

- what have been the conditions for the development and persistence of path dependence in relation to the problem of reform of the European Commission? (empirical question which will be answered by providing data from the context of European integration and by interpreting them via the established theoretical model)

As a matter of fact, if we want to conduct a thorough and feasible analysis, it is not possible to cover the whole range of issues concerning all conceivable dimensions of the chosen topic. Hence, a delimitation of the scope has to be made. The focus of the thesis is placed on the top level structure of the European Commission (i.e. issues such as the composition of the executive “arm” of the Commission, size of the College, position of the President of the Commission). Various aspects of the Commission’s internal reform (i.e. issues such as internal management, financial control, personnel policy, etc.) and of the position of the Commission vis-à-vis the Council and Parliament are not analyzed. Also, we do not include the Commission of EURATOM in the analysis, and the High Authority of the ECSC is mentioned only insofar as it concerns the subject matter of the thesis.

Another delimitation, which is related to the substantial matter of the studied subject, has to be made regarding the notion of reform. In our paper, reform is understood as an effort to modify or alter structural attributes of an institution in order to enhance its efficiency or eliminate its inefficiency respectively. In this context, it is also necessary to clarify the notion of efficiency. Efficiency can be defined in terms of better fulfillment of the tasks delegated to the Commission by the Treaties via Commission’s better coordination, ability to formulate clear conclusions and achieve agreement, enhanced team spirit, promptness and flexibility of action, better public image, etc.

Furthermore, it is necessary to consider the terminological delimitation. The terminology used to in relation to the European Commission has changed several times. First, it was named the “Commission of the EEC” (existed during the period from 1958 to 1967). Second, the term “Commission of the EC” was introduced with the signing of the Merger Treaty (existed between 1967-1993). The last change so far (it also seems that a final one) has come with the adoption of the TEU, when the Commission acquired its present day...
designation - the “Commission of the EU”. Although we predominantly use the term “Commission” or “European Commission” we have to bear in mind the terminology as it follows from the respective Treaties.

Finally, we assume that the reader of the thesis has already acquired a basic knowledge of the processes of European integration in general and of the structure and functions of the Commission in particular since they cannot be dealt with exhaustively here.

1.2. Methodological considerations

Now we have chosen a problem which is to be studied and a theory which is to serve as a guide for the study, it would be useful to briefly discuss the methodological considerations underpinning the thesis. The theory we are going to use in the process of our analysis is inherently connected with a set of questions concerning social ontology and epistemology. Social ontology deals with the “very nature of ‘being’”\(^8\). This means that entities can be though of either as existing independently of social actors or as being constructed by social actors. Epistemology “reflects [the researcher’s] view of what we can know about the world and how we can know it”\(^9\). Again, a dichotomy exists here as well - knowledge acquired by positivist approach vs. knowledge acquired by interpretivist approach. Having said this, we can characterize the theory of historical institutionalism as foundationalist\(^10\) (in ontological terms) and interpretivist\(^11\) (in epistemological terms). This combination of foundationalist ontology and interpretivist epistemology is termed “realism” by Hollis and Smith\(^12\).

There is one more important distinction in social sciences which should be considered. It is the distinction between induction and deduction. Patton characterizes it as follows: “Inductive analysis involves discovering patterns, themes and categories in one’s data [...] in contrast to deductive analysis where the data are analyzed according to an existing framework.”\(^13\) In our study, we approach the problem deductively. We specify a hypothesis and subsequently test it by analyzing/interpreting empirical data with the help of a theoretical framework.


\(^9\) Ibid., p. 11

\(^10\) Ibid., p. 18

\(^11\) Ibid., p. 19

\(^12\) Ibid., p. 20

Apart from philosophical matters, doing a social research requires taking account of three, more "technical", issues - research strategy, research design and research method. Let us look at research strategy first. Research strategy generally distinguishes "quantitative data, in the form of numbers, and qualitative data, not in the form of numbers". Although qualitative and quantitative strategy can be well combined when conducting a research underpinned by theory characterized by realist approach, in our study we predominantly use qualitative research strategy.

Another important issue, which should be considered as far as methodology is concerned, touches upon the choice of a proper research design. Bryman defines research design as a “framework for the collection and analysis of data”. He further adds: "A choice of research design reflects decisions about the priority being given to a range of dimensions of the research process". These dimensions of the research activity to which priority can be given cover: clarifying causal relationships between variables; generalizing from the subject under investigation to a larger group of subjects of the same kind; examining phenomena over time; or comprehending a phenomenon in its specific context. In relation to the topic of the thesis, the emphasis being placed upon the last of the dimensions seems to meet our research goals the best. This implies that case study research design is going to be employed in order to serve as a framework for the data gathering and analysis. A case study "entails the detailed exploration of a specific case, which could be a community, organization, or person." Case study research design entails both drawbacks and advantages. As for its merits, it enables to pursue an intensive, exhaustive and complex analysis of the chosen case. Among the drawbacks stands out the fact that case studies are of limited generalizability beyond the specific research context.

Last but not least, we have to address the question of research method/s, which cannot be omitted. Research method per se is in fact a tool we apply in order to collect data for our analysis. When it comes to primary sources, we make use of the method of documentary analysis, i.e. we examine various official documents related to the topic. However, it is necessary to note here that a great deal of data we use comes from secondary, or so called

18 Ibid., p. 29
19 Ibid., p. 29
"soft", sources. These are data which have already been collected by someone else (via various methods, such as participant observation, interviewing, documentary analysis, or others). We only engage in the process of processing and analyzing them. The reasons behind this high ratio of secondary sources to primary sources are numerous. To mention the most persistent ones, to collect data from primary sources in general, and regarding the researched object – the European Commission – in particular, is often very time consuming, expensive, and sometimes even impossible for a student because he or she does not in general have easy access to relevant meetings at the EU as well as at national level, cannot directly interview officials and politicians, etc. Moreover, we have to bear in mind the time aspect of the events which are being studied, many of them happened before the author of the thesis was born. In sum, using data from secondary sources, on the one hand, is very convenient because of their accessibility, on the other hand, we sometimes cannot be confident of their trustworthiness.

1.3. Review of relevant theoretical and empirical literature

The new institutionalist approach has evolved into a major school of thought within political science in general and European integration theory, in particular. Its history dates back to the mid-1980s when March and Olsen returned institutions back to the centre of analysis, after the three decades of behavioral and rational-choice domination, in their pioneering work *The New Institutionalism: Organisational Factors in Political Life* and *Rediscovering Institutions: The Organizational Basis of Politics*. Thereafter, the new institutionalism developed into several strands, each of them having more or less divergent assumptions. Historical institutionalism, which is of importance for us, was developed into a distinct sub-field of new institutionalism by Steinmo, Thelen and Longstreth in *Structuring Politics: Historical Institutionalism in Comparative Analysis*. Since the mid-1990s, a large group of scholars has commenced contributing to the growing body of institutionalist literature. We try to focus on the most cited authors. In order to get a better understanding of historical institutionalism in relation to its theoretical "siblings" - rational choice and sociological institutionalism – Hall and Taylor provide us with

a concise overview in Political Science and the Three New Institutionalisms. More extensive characteristic of neo-institutionalist thinking including historical institutionalism can be found in Peter’s Institutional Theory in Political Science: The ‘New Institutionalism’. A summary of the current state of historical institutionalism is put forward in Historical Institutionalism in Comparative Politics by Thelen.

As far as new institutionalism in the general context of European integration theory is concerned, Rosamond’s Theories of European Integration offers an excellent background. More recent contribution is represented by European Integration Theory, edited by Wiener and Diez. Furthermore, contribution of the institutional approaches to the field of EU studies is covered in a well-informed essay Institutionalism and the European Union: Beyond International Relations and Comparative Politics written by Jupille and Caporaso.

Finally, our analytical framework is heavily based on the excellent work of Pierson. Circumstances under which we shall expect path dependence to persist or terminate are clarified by the explanatory concepts developed in The Path to European Integration: A Historical Institutionalist Analysis and Increasing Returns, Path Dependence, and the Study of Politics.

The empirical literature related to the chosen research topic, especially textbooks dealing with the EU’s institutional framework in general, is quite extensive as the EU developments are of great interest to many scholars. There has also been a lot of studies published touching upon different aspects (e.g. legal, decision-making, policy-making or administrative) of the institutional architecture of the EU. Moreover, several erudite

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23 Hall, P., Taylor, R. ‘Political Science and the Three New Institutionalisms’ in Political Studies, Vol. 44, No. 4, pp. 936-958
26 Rosamond, B. Theories of European Integration. Basingstoke: Palgrave, 2000
35 Stevens, A., Stevens, H. Brussels Bureaucrats? Houndmills: Palgrave, 2001
monographs on the European Commission have been written in the last decade, for example by Edwards and Spence\textsuperscript{36}, Cini\textsuperscript{37} or Nugent\textsuperscript{38}. Extensive overview of the historical evolution of the EU including its institutional structure is provided by Fiala and Pitrová\textsuperscript{39}. As for work focused explicitly on reform attempts in relation to the institutional role of the Commission, Spence\textsuperscript{40} offers a relatively updated contribution. However, in spite of the amount of sources, there is a relative lack of literature dealing with the path dependent logic of institutional dynamics and development over time. Therefore, out thesis aspires to be a contribution to this \textit{problematique}.

\textsuperscript{36} Edwards, G., Spence, D. (eds.) \textit{The European Commission}. London : Cartemill, 1995
\textsuperscript{37} Cini, M. \textit{The European Commission}. Manchester : Manchester University Press, 1996
\textsuperscript{39} Fiala, P., Pitrová, M. \textit{Evropská Unie [European Union]}. Prague: Centre for the Study of Democracy and Culture, 2003
\textsuperscript{40} Spence, D. 'Plus ça change, plus c’est la même chose? Attempting to reform the European Commission.' in \textit{Journal of European Public Policy}, Vol. 7, No. 1, 2000, pp. 1-25
2. REFORMING THE EUROPEAN COMMISSION: RESISTANCE TO CHANGE

In order to illustrate our point about striking stability of the European Commission and about modest changes being made when we compare its inception with the current situation, we would like to present an outline which will consist of a characterization of the basic institutional traits of the Commission, as they were established in the Treaty of Rome and as they developed in its early years (the late 1950s and the 1960s); review of the main attempts to put forward consistent proposal for reform of the institutional status and the role of the Commission; and evaluation of these proposals in terms of being successfully or unsuccessfully endorsed and implemented in the Treaties (the Commission, in regard to those of its aspects which are in the centre of our study, can only be reformed via revision of the Founding Treaties). As we have already emphasized above, we only deal with the proposals as far as they concern the institutional role of the Commission, we omit aspects of internal administrative reform. The principal aim of this chapter is to provide us with a background to the analysis of the potentially path dependent character of the European Commission.

2.1. Establishment of the Commission: legacy of the High Authority

The Commission of the EEC was established by the Treaty of Rome\textsuperscript{41}, which was signed in 1957 and came into force at the beginning of 1958. Its basic conception in terms of being a mixture of a political and administrative body was inspired mainly by the organization of the French \textit{Administrations de Mission} and the International Authority of the Ruhr.\textsuperscript{42} The Treaty made the character of this political/administrative hybrid somewhat unclear. The provisions concerning institutional issues were quite vague both in relation to the functions the Commission should exercise and in relation to the organization of this institution.

As far as the functions of the Commission are concerned, “in order to ensure the proper functioning and development of the common market”, it was supposed to ensure that the provision of [the] Treaty and the measures taken by the institutions pursuant thereto are applied; formulate recommendations or deliver opinions on matters dealt with in [the] Treaty, if it expressly so provides or if the Commission considers it necessary; have its own power of decision and participate in the

\textsuperscript{41} Treaty establishing the EEC, Art. 4
shaping of measures taken by the Council and the Assembly [predecessor of the European Parliament] in the manner provided for in [the] Treaty; exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.\footnote{Treaty establishing the EEC, Art. 155}

It should be noted that the right of legislative initiative, the Commission’s most important function, was not expressed explicitly in Article 155 (which is an article describing its main duties), it followed from other Treaty articles authorizing it to act.\footnote{Nicoll, W., Salmon, T. Understanding the European Union. Harlow : Pearson Education Limited, 2001, p. 139} Given this vagueness and ambiguity, the functions of the Commission had to be further developed and specified. This was done mainly during the period of the 1960s by the then Commission President Walter Hallstein (1958-1967).\footnote{Nugent, N. The European Commission. Basingstoke : Palgrave, 2001, pp. 28-32} Under his leadership, the Commission became a fully fledged institution with identifiable responsibilities and powers.

As for the structure and functioning of the Commission of the EEC, the Treaty of Rome dealt with the Commission at the level of the College of Commissioners, which was to be the political head of the Commission.\footnote{Treaty establishing the EEC, Arts. 156-163} It included provisions setting down issues such as the number (nine members), nationality (no more than two Commissioners of the same nationality) and mode of exercise of duties (independently and in the interest of the Community) of Commissioners; mode of their appointment (by common approval of all member-states for the period of four years) and removal from office (resignation, death, termination of the function period, compulsory retirement); or hierarchy of Commissioners (President, Vice-Presidents).

Further details concerning lower levels of the structure became clear during the process of building of the Commission and were also to a great extent based on the same organizational principles used when the High Authority of the ECSC was being created. These principles - the divisional organization, i.e. system of DGs; the existence of cabinets and hence a certain politicization of the organization; the habilitations (internal delegation of tasks); hierarchical structure - were drawn from the organization of the French national administration, namely the technocratic French Planning Commissariat.\footnote{Cini, M. ‘The European Commission’ in Warleigh, A. (ed.) Understanding European Union Institutions. London : Routledge, 2002 , p. 47} Later on during Hallstein’s presidency, the influence of the German administrative system also became visible.\footnote{Nugent, N. The European Commission. Basingstoke : Palgrave, 2001, p. 27}
It might be argued that the so called empty chair crisis had an immense impact on the character of the Commission \textit{per se}. However, this is not the case. Cini in this regard argues: “While the events of 1965 to 1966 provoked a Commission crisis, there was no \textit{de jure} break with the past. The Luxembourg Agreement was informal and legally unenforceable, and in itself could not compel the Commission to take a new path.” \footnote{Cini, M. ‘The European Commission’ in Warleigh, A. (ed.) \textit{Understanding European Union Institutions}. London : Routledge, 2002, p. 48} Another development in the 1960s, which could be thought to have influenced the basic nature of the Commission, was the signing of the Merger Treaty\footnote{Treaty establishing a Single Council and a Single Commission of the European Communities} in 1965. On the basis of this Treaty, a fusion of the three Communities was carried out (EEC, ECSC, EURATOM were transformed into EC). As of July 1 1967, the Commission of the EEC became the Commission of the EC including thus the structures of the previously separate High Authority of the ECSC and Commission of EURATOM. This in fact only widened the remit of the Commission and did not transform its structure and functions in any substantial way.

It is in the course of the 1960s that the defining institutional traits of the Commission had developed and that the path of its further evolution had been set. This does not mean that in the coming years, the European integration process did not record any progress and change. Indeed, in the 1970s and 1980s as well as in the 1990s, the EC/EU was facing many challenges and underwent a considerable development. Naturally, pressures for a revision of the European institutional architecture increased. First reform proposals appeared already in the 1970s, followed by a number of others in the next decades. However, especially in relation to the Commission, they were rarely successful.

\subsection*{2.2. Reform proposals}

As a result of the events from the first half of the 1970s (intentions to extend the policy responsibilities of the EC, the 1973 enlargement, oil crisis and general economic recession)\footnote{Nicoll, W., Salmon, T. \textit{Understanding the European Union}. Harlow : Pearson Education Limited, 2001, pp. 25-29} as well as the subsequent developments within and outside the Community, there was an accumulation of reforms plans intended to safeguard the operability and effectiveness of (among others) the Commission of the EC. Our aim is to focus on the most important of such projects.
One of the first reform proposals in relation to the institutional structure of the EC was represented by the Tindemans report.\textsuperscript{52} The report was elaborated on the request of the summit of the Community’s Heads of State or Government held in Paris (December 1974) by a working group presided over by Leo Tindemans, Prime Minister of Belgium. This document comprised a number of suggestions which were to tackle the challenges posed by the changing situation within the European Community. It was to be considered at the beginning of 1976 by the newly institutionalized European Council.

We are interested in chapter 5, part D of the report which dealt with the Commission. In general, the aim was to strengthen and streamline the institutional role of the Commission. “Increased authority and cohesion” was to be achieved via “the Treaties [...] amended as follows: the President of the Commission will be appointed by the European Council; the President when appointed will have to appear before the Parliament to make a statement and have his appointment confirmed by vote; The President of the Commission will then appoint his colleagues in consultation with the Council and bearing in mind the number of Commissioners allocate to each county.”\textsuperscript{53} Of the many recommendations put forward by the Tindemans report, only one more substantial was realized, that of direct elections to the European Parliament. However, it is not of our interest now. As far as the Commission was concerned, the European Council did not implement any of the suggested reforms into practice.

It is only four years later that the pressing need to address the question of institutional overhaul of the EC gave birth to a second major reform paper. In January 1979, the President of the Commission Jenkins appointed the Independent Review Body chaired by Dirk Spierenburg, a former Member of the High Authority. This body produced a report\textsuperscript{54}, which unlike other reform proposals, was devoted exclusively to an institutional overhaul of the Commission. The report submitted in September 1979 had three parts. The first two are of importance for us (the third part dealt with the issue of internal reform).

In the first part, the Review Body expressed the conviction that “whatever view is held about the future development of the Community, it is in everyone’s interest that the Commission should perform its many tasks efficiently and effectively” and pointed out what the weaknesses of the functioning of the Commission were (among others weak President

\textsuperscript{52} European Union: report by Mr Leo Tindemans, prime minister of Belgium, to the European Council. Bulletin of the European Communities, Supplement 1/76

\textsuperscript{53} Ibid., p. 31

\textsuperscript{54} Proposal for reform of the Commission of the European Communities and its services. Report made at the request of the Commission by an independent review body under the chairmanship of Mr Dirk Spierenburg. Brussels, 24 September 1979
who is “only primus inter pares”, “lack of cohesion in the college of Commissioners”, “imbalance in the importance of different portfolios”, “lack of adequate coordination among Members of the Commission”).

The second part consisted of measures proposed in order to tackle the mentioned flaws. As for the Presidency of the Commission, it should be “directly responsible, with the right organizational backing, for directing coordination.” The strengthened position of the Presidency poses a considerable burden on the person of the President. He “should therefore be assisted by a Member of the Commission who alone would exercise the functions of Vice-President.”

The President should also have a more influential say in the matter of appointment of Commissioners: “[G]overnments should not persist in seeking the appointment of the candidate they first propose if the President-elect makes an objection. The wishes of the President are particularly important when it comes to the Vice-President [...].”

In relation to the number of Commissioners the authors of the report took a view that “the arguments for a smaller Commission of twelve Members (one from each Member State), must prevail over those for a larger Commission of, for example, seventeen Members”

Correspondingly, in order to achieve a greater efficiency a relatively small number of portfolios is preferred: “There is not scope for more than eight portfolios of sufficient content. When Spain and Portugal join, [...] there should be no more than ten portfolios.”

Even though the Spierenburg report voiced in a very clear language what should have been done in order it did not result in any instant changes of the Commission. However, we will see that many of its ideas have appeared in the latter reports on institutional issues.

Another (almost simultaneous) attempt to make the institutions of the EC more efficient and responsive to the new circumstances was introduced in the same year (1979). It was unofficially called the Report of the Three Wise Men. The authors of the report, the former Prime Minister of the Netherlands Biesheuvel, a former British Minister Dell and former Member of the Commission Marjolin, at the Dublin summit in November 1979, called upon the member-states to strengthen the supranational dimension of the Community. The section of the Report of the Three Wise Men dealing with the Commission included proposals that were very similar to the provisions of the Spierenburg report. It confirmed that the

Ibid., pp. 3-5
Ibid., p. 9
Ibid., p. 14
Ibid., p. 12
Ibid., p. 8
Report on European Institutions. Presented by the Committee of Three to the European Council. Luxembourg, October 1979
Commission should be “more compact and strongly led” and in fact repeated the Review Body’s suggestions: one Commissioner per member-state, slimming down of portfolios and DGs respectively and strengthening the position of the President. These were supposed to make the Commission stronger, especially vis à vis the Council of Ministers, in terms of being more independent in drafting legislative proposals and having a greater say in the further stages of the decision-making process.

Interest directed towards coping with rapidly changing operating environments of the Community continued at the same pace in the new decade. In the first half of the 1980s, three projects of transformation of the EC and its institutions, which deserve attention, were produced. In chronological order, they were: the Gensher-Colombo plan, the Draft Treaty establishing the European Union, and the Dooge report.

The Genscher-Colombo plan or, as it was officially called, the Draft European Act submitted to the European Council in November 1981 spoke predominantly of the political dimension of the EC. Nevertheless, this document, which had been prepared jointly by the Foreign Ministers of Germany and Italy, also comprised provisions for the better functioning of the Community institutions. As for the Commission, it touched upon its mode of appointment: “Before the President of the Commission is appointed, the President of the Council shall consult the President of the European Parliament. After the appointment of the Members of the Commission by the governments of the Member States, an investiture debate shall be held in which Parliament shall discuss the Commission’s programme.”

Discussion that followed this initiative resulted after a year and a half in the Solemn Declaration of European Union. However, this was not a big step forward because the Declaration did not have any treaty or legal base and as such was a mere rhetoric.

The second of the reform proposals from the first half of the 1980s came from the European Parliament recently endowed with an enhanced legitimacy. The Draft Treaty establishing the European Union initiated by a profederalist MEP Altiero Spinelli aimed at creating a political union with the Commission as a European Government and the European Parliament as a European legislative assembly. The Commission was to acquire functions and powers which would be practically identical with those of a government in federalized

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61 Ibid., p. 53
62 Ibid., pp. 52-53
64 Ibid., p. 89
66 Draft Treaty establishing the European Union
political systems and it was to be controlled by the European Parliament, rather than by the Council.\textsuperscript{67}

In the mid-1980s, it become obvious that the EC could not further properly function and progress in terms of deepening and widening (attempts to complete the Single Market, plans for EMU, accession of Greece and the planned accession of Portugal and Spain) without a revision of its structures. The summit held in Fontainebleau in June 1984 set up the Ad hoc Committee for Institutional Affairs chaired by Jim Dooge. The Committee was intended to address the repeatedly considered issues of institutional adjustments and prepare a comprehensive conception of the overhaul of the institutional architecture of the EC. It produced a report\textsuperscript{68}, which was submitted for preliminary consideration at the Brussels European Council in March 1985 and which should have been the main subject of the Milan European Council three months later. The report observed that the Community is “in a state of crisis and suffers form serious deficiencies” and that institutional reforms are “necessary to restore to Europe the vigor and ambition of its inception.”\textsuperscript{69}

Again, we only focus on provisions in which the Commission is treated. “To this end it is proposed that the President of the Commission be designated by the European Council; [t]he other members of the college shall be appointed by common accord of the governments of the Member States, acting on a proposal from the President-designate; [t]he Commission must not include more than one national from any Member State; [a]t the beginning of its term of office the Commission should receive a vote of investiture on the basis of its programme; [s]imilarly the Commission must now be acknowledged as an organ with full powers of initiative, implementation and administration.”\textsuperscript{70}

Apart from the arrangements for a comprehensive reform of the Community, the Dooge report proposed that a conference of Heads of state or government should be called, where a complex revision of the Founding Treaties would be carried out.\textsuperscript{71} Indeed, the June 1985 Milan summit adopted a decision about the convening of an IGC.\textsuperscript{72} Finally, it seemed that reforms were about to come. The IGC, which lasted from August 9 to December 17 1985, resulted in a draft of the SEA. However, before we examine changes laid down in the SEA, it is necessary to emphasize that it was not the Dooge report that was taken as the working basis

\textsuperscript{67} Ibid., Arts. 25-29
\textsuperscript{68} Report of the ad hoc Committee on Institutional Questions to the European Council. Brussels, 29-30 March 1985
\textsuperscript{69} Ibid., pp. 10-11
\textsuperscript{70} Ibid., p. 29
\textsuperscript{71} Ibid., p. 32
\textsuperscript{72} Fiala, P., Pitrová, M. Evropská Unie [European Union]. Prague: Centre for the Study of Democracy and Culture, 2003, pp. 118-119
for the SEA. Rather, more modest (in terms of reforms) drafts of France and Germany, and of Great Britain were considered.\textsuperscript{73}

The SEA signed on February 17 1986 provided a legal basis for a number of institutional modifications: formalization of the European Council\textsuperscript{74}, extension of QMV\textsuperscript{75}, introduction of the so called cooperation procedure\textsuperscript{76}. Although these are all substantial changes, the SEA did not anchor any of the numerous propositions put forward in the last decade regarding the structure of the Commission. The core feature of the Commission remained unchanged. The large member-states still had two Commissioners, the Presidency was not strong enough to coordinate the work of the Commission effectively, etc.

\textbf{2.3. Recent development of the Commission: changes but not a complex reform}

In the context of the events from the end of the 1980s and the beginning of the 1990s – the collapse of communism plans for monetary and political union to mention the most important ones\textsuperscript{77} – dynamics of the restructuring of the EC accelerated. Two IGCs, one on Political Union and the other on EMU, were launched in December 1990. Their outcome in the form of the TEU was signed on February 7 1992.\textsuperscript{78} It should be noted here that the IGCs preparing revision of the Founding Treaties (as amended by the SEA) had been considering two draft proposals for a revision (conception of a temple, conception of a tree).\textsuperscript{79} As a matter of fact, a proposal containing less supranational features and limited reform of the Commission had gained preeminence.

The TEU, unofficially known as the Maastricht Treaty, which was the second revision of the Founding Treaties since the inception of the European integration process, represented a major overhaul of the hitherto system of the EC. It in fact transformed the EC into the EU and established the so called temple (pillar) structure of the EU, whereby two new intergovernmental pillars (CFSP and JHA) supplemented the already existing community pillar (EC). In spite of the importance of the TEU for the functioning of the whole system of

\begin{footnotes}
\item[74] SEA, Art. 2
\item[75] Ibid., Arts. 14-19
\item[76] Ibid., Arts. 7-9
\item[79] Ibid., p. 127
\end{footnotes}
European integration *per se*, for the purpose of our analysis, we only focus on the parts of the TEU which had to do with the Commission.

To begin with, we would like to underline that it is in the TEU, where the first changes of the provisions concerning the Commission after more than three decades were introduced. These changes touched upon the position of the President. The President was to be nominated by the Council as hitherto, but before other Commissioners were chosen and “after consulting the European Parliament.” Then, the Council was to, “in consultation with the nominee for the President”, nominate other Commissioners. Finally, “[t]he President and the other members of the Commission […] shall be subject as a body to a vote of approval by the European Parliament.”

In line with the enhanced influence of the European Parliament in the process of appointment of the College of Commissioners, the Commission’s term of office was extended from four to five years in order that its nomination was in confluence with the five year function period of the Parliament.

Except for the strengthened role of its President, the Commission did not undergo any significant reshaping in the TEU. Of course, the number of policy domains in which the Commission was involved rose as well as it had risen under the provisions of the SEA, but this did not have any impact on the basic institutional characteristics of the Commission. The authors of the TEU were well aware that some of its provisions were compromising or insufficient. Therefore, the TEU itself contained an article stating that another IGC, which would agree on further amendments of the legal framework of the EU, should be convened in 1996.

It was the so called Reflection Group that was charged with preparation of a programme for the planned IGC. The report submitted by the Reflection Group elaborated *inter alia* several proposals regarding the Commission. The focus was places predominantly on the issue of its composition. Basically, four options were presented: retaining the old system of large member-states having two Commissioners; reducing the size so that there would be fewer Commissioner than member states (the exact number would be determined by the “number of really necessary portfolios”); one Commissioner per member-state; and a system where large members would have permanent Commissioners and small members would have rotating ones. Furthermore, the alternative of two kinds of Commissioners (senior, junior) was

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80 Treaty establishing the EC (as amended by the TEU), Art. 158
81 Ibid.
82 TEU, Art. N
84 Ibid., Art. 113-118
proposed, which could be combined with any of the above four options. The report also suggested the “possibility of individual motions of censure of Commission members by the Parliament [...].”

The ToA, which resulted from the IGC, was adopted on September 2, 1997. Its reform scope was rather limited. As far as the Commission was concerned, it enhanced its role in the second and third pillar and further invigorated the position of the President. According to the ToA, the person nominated for the President should be “approved by the Parliament” (in contrast to the TEU, where the Parliament was only to be consulted). Next, the remainder of the College was to be nominated by the Council, “by common accord with the nominee of the President”85 (previously by consultation with the President). Finally, the President’s control over the college was enhanced by Article 219 stating that “[t]he Commission shall work under the political guidance of its President.”86

Again, we can conclude that the core features of the Commission were not substantially changed by the ToA as well as they had not been changed by the TEU. However, the ToA contained a provision in the form of a protocol87 laying down that “[a]t the date of entry into force of the first enlargement [...] shall comprise one national of each of the Member States, [...]” and also that “before the membership of the European Union exceeds twenty, a conference [...] shall be convened in order to carry out a comprehensive review of the provisions of the treaties on the composition and functioning of the institutions.” ToA thus explicitly stipulated that further revision IGC was to take place in the near future.

In June 1999, the Cologne European Council decided that the IGC would take place in 2000. The programme of the IGC was determined by the so called “Amsterdam ‘leftovers’” (three sets of issues that the ToA did not resolve).88 One set of leftovers was represented by the problem of the composition of the Commission. Discussions of the IGC took as its base inter alia the report of the so called group of Three Wise Men.89 In its part dealing with the Commission, the report more or less repeated proposals that had already emerged in previous reform plans (decrease in the number of Commissioners, stronger President and individual responsibility of Commissioners).

85 Treaty establishing the EC (as emended by the ToA), Art. 214 (ex 163)
86 Ibid., Art. 219 (ex 163)
87 ToA, protocol No. 7
The outcome of the 2000 IGC - the ToN - was adopted by Foreign Ministers of EU member-states on February 26 2001. The amendments, which it brought about in relation to the Commission, have been as follows. The unanimity of the Council in the process of appointment of the President and the College has been replaced by qualified majority.\(^90\) The President has been explicitly endowed by the prerogative to restructure the portfolios of the Commissioners. Also, Article 217 enacted that “[a] Member of the Commission shall resign if the President so requests, after obtaining the approval of the College.”\(^91\) Last but not least, the Protocol on Enlargement\(^92\) has set the number of Commissioners to one per member-state (as of January 2005) and laid down that after the size of the EU reaches twenty-seven, the number of Commissioner shall lower than the number of member-states.

However, these changes have been far from definite. Before the ToN entered into force, there had already been a further process of treaty modifications launched, meant to redesign the whole structure of the EU. A novel institution of the Convention was employed to prepare a material for the 2004 IGC.\(^93\) For the purpose of the thesis, suffice it to say that the Draft Treaty establishing a Constitution for Europe proposed to reduce the number of Commissioners to fifteen (with a system of rotation); established the Commission as a sole legislative initiator, with the exception of the CFSP\(^94\); further strengthened the President \textit{vis \`a vis} other Commissioners\(^95\); and introduced a new post of the Minister of Foreign Affairs.\(^96\)

As has been the case with all reform proposals, the Draft Treaty did not emerge from the 2004 IGC unchanged. As far as the Commission was concerned objections were especially against the provision setting up its size. The approved version of the Constitutional Treaty changed the size to one Commissioner per member-state and as of 2009 to two thirds of the number of member-states.\(^97\) However, it is too early to assess the outcomes of this last attempt to restructure the system of the EU. As a matter of fact, the future of the Constitution is uncertain (not only) because it was rejected in the French and Dutch referendum.

To conclude, we have seen as the basic characteristics of the European Commission, which developed at the inception of the integration process, have resisted numerous projects

\(^90\) Treaty establishing the EC (as emended by the ToN), Art. 214
\(^91\) ToN, Art. 217
\(^92\) Ibid., Protocol on the enlargement of the European Union
\(^94\) Draft Treaty establishing a Constitution for Europe, Art. 25
\(^95\) Ibid., Art. 26
\(^96\) Ibid., Art. 27
\(^97\) Treaty establishing a Constitution for Europe, Art I-25
of comprehensive reform throughout the last thirty years despite the widely acknowledged fact that the Commission’s efficiency declined. It is striking how the reform agenda has to a great extent concentrated on the same issues for decades as well as it is striking that the reform plans have been rarely implemented in their entirety.
3. THEORETICAL FRAMEWORK

In this chapter, our aim will be to answer the theoretical research question concerning the conditions for the occurrence of path dependence. To begin with, institutional approach to politics is outlined in order to understand the basic notions of institutional analysis and the context in which historical institutionalism as a theory developed. We continue by characterizing the main assumptions of historical institutionalism, which is in our view the most appropriate theory to explain problems of institutional stability because it perceives institutions as entities being influenced by the logic of self-reinforcing and unpredictable processes in their development over time (rather than just approaching them in terms of simple and transparent functionalism). Then, we motivate the decision to use the concepts coined by Paul Pierson for our analysis. On the basis of these concepts a theoretical model is developed, explaining under what circumstances we can expect institutions to develop in a path dependent fashion and hence be resistant to change. Finally, in order to be aware of possible drawbacks of the theoretical model, we present a theory of liberal intergovernmentalism.

3.1. Institutions, the new institutionalism and its strands

Institutions, their functioning, and the way in which they influence political life, have been in the centre of thinking about politics since Plato and Aristotle. Even though during much of the period after World War II (the 1950s, 1960s and 1970s) behavioral and rational choice approaches took over their preeminence, institutions are now back at the centre of political analysis. As Rhodes puts it: “You only need to sit still, it all comes ‘round again.” However, this is not exactly the case, it has come ‘round again‘, but in a slightly different guise. This new guise has been termed the "new institutionalism.”

The new institutionalism was supposed to supersede the characteristic features of behavioralism and rational choice theory (contextualism, reductionism, utilitarianism, functionalism and instrumentalism) as well as to upgrade the five prevailing attributes of the

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98 Peters, G. Institutional Theory in Political Science: The 'New Institutionalism'. London: Pinter, 1999
“old institutionalism” (legalism, structuralism, holism, historicism and normative analysis). As Peters says: “Only with this more institutional and multi-faceted conception of politics, […] could political science really be able to understand and explain the complex phenomenon [of political reality].”

Although with a certain delay, institutionalism has gained an influential position in the study of the EU as well. This is a very important point because this “institutional turn” within EU studies has helped scholars to bridge the divide between international relations and comparative politics scholarship on the EU. It has also “rendered EU studies more integral to the broader concerns of the discipline [of political science] and has permitted EU studies to contribute in kind.” Moreover it enabled to shift the focus on the issues of institutional factors and institutional dynamics in the functioning of the EU and on the problems of institutional formation, evolution and change.

The new institutionalism per se is not a single theory, rather, it represents a kind of a theoretical “roof”, which gives shelter to several different strands of institutional analysis. Lowndes, for example, distinguishes seven strains of new institutionalism, namely: normative, rational choice, historical, empirical, international, sociological and network institutionalism. These differ in their definitions of institutions, and hence in their ontological and epistemological underpinning. Of greatest importance are three of them: rational choice, sociological and historical institutionalism.

Let us characterize briefly two of the above three, which have the most antagonist assumptions about the role of institutions on the political scene. Rational choice institutionalism’s conception of institution embraces only formal institutions (e.g. organizations, laws). In this view, actors are rational and act strategically using institutions as instruments, their interests and preferences are given exogenously and they consciously create, maintain or change institutions in order to achieve their self-interest. In terms of structure – agency relationship, rational choice institutionalism underlines the agent.

In contrast to the “calculus approach”, the “cultural approach”, i.e. sociological institutionalism sees institutions more broadly, covering also various informal institutions such as symbols, norms, practices, etc. These help actors interpret and understand the social

\(^{101}\) Peters, G. Institutional Theory in Political Science: The 'New Institutionalism'. London: Pinter, 1999

\(^{102}\) Ibid., p. 17


\(^{104}\) Ibid.


\(^{106}\) Hall, P., Taylor, R. 'Political Science and the Three New Institutionalisms' in Political Studies, Vol. 44, No. 4, pp. 936-958
world. This implies that actors‘ preferences are determined endogenously. Institutional dynamics is based on an institution‘s perceived legitimacy rather than on its strategic function. Especially the extreme version of sociological institutionalism is leaned very much towards the structure end of the structure – agency pendulum.

3.2. Historical institutionalism: movie not a snapshot

Historical institutionalism will be characterized much more thoroughly here since it constitutes the analytical framework for our analysis. Historical institutionalism is somewhat eclectic and can, as Pollack claims, “can be interpreted as a theoretical ‘big tent’, capable of accommodating the insights of the rival rationalist and sociological institutionalist research programmes.”\(^{107}\) This assertion has many theoretical and practical implications on which we will further elaborate.

Firstly, we would like to point out that historical institutionalism, being a theoretical “big tent“, is a considerably broad body of thought, in the framework of which its numerous proponents often differ considerably in terms of their assumptions and arguments. Therefore, on the one hand, authors like Pierson are characterized as “rational choice historical institutionalist[s]“ and, on the other hand, analysts like Armstrong and Bulmer are said to incorporate “clear hints of sociological institutionalist themes“ into historical institutionalist theorizing.\(^{108}\) Our analysis will be based predominantly on Pierson‘s version of historical institutionalism. The reason for this choice shall be explained later in the thesis.

Secondly, it is necessary to define what an institution is in terms of historical institutionalist analysis. The notion of institution is quite vague: “historical institutionalists associate institutions with organizations and the rules or conventions promulgated by formal organization.“\(^{109}\) This conception embraces formal government structures, legal institutions, etc. as well as informal social structures such as ideas, norms or operating procedures. We have to bear this in mind when attempting to analyze the chosen problematique.

Thirdly, the fundamental question of the relationship between institutions and individual action or, put more crudely, of how institutions matter is answered quite ambiguously by


\(^{108}\) Rosamond, B. *Theories of European Integration*. Basingstoke : Palgrave, 2000, pp. 118-119

\(^{109}\) Hall, P., Taylor, R. ‘Political Science and the Three New Institutionalisms‘ in *Political Studies*, Vol. 44, No. 4, p. 938
historical institutionalists. Again, we see a significant range of opinions in the relevant literature. Some authors more put more emphasis on institutions serving as “cognitive and normative templates” (cultural approach) rather than functional tools (calculus approach) and vice versa. On these grounds, we can claim that historical institutionalists operate in the middle of the structure – agency pendulum’s move – the relationship between institutions and individual actions is reciprocal.

However, historical institutionalism is “more than just a halfway house between its fellow institutionalisms.” Hall and Taylor note several distinctive characteristics which make it different in relation to the other two institutionalisms. Namely, it underlines “the asymmetries of power associated with the operation and development of institutions“, it is “concerned to integrate institutional analysis with the contribution that other kinds of factors, such as ideas, can make to political outcomes“ and, even more importantly, it takes “a view on institutional dynamics that emphasize path dependence and unintended consequences.“

While the first two distinctive features of historical institutionalism are more or less preconditioned by its position in the middle between the poles of agency and structure, the third mentioned trait represents the most significant added value of historical institutionalism and deserves special attention here (not only) because the object of our analysis is the process of reforming (or not reforming) the European Commission.

Therefore, we continue with the characteristic of the theoretical concept of path dependence. There is a broader and narrower definition of path dependence. The narrow definition is rather too simple, it implies that events which follow one after another are causally related. The broad definition is much more complex and is of great interest for political analysts because it sheds light on a plethora of processes in the world of politics. The most cited definition is the one by Margaret Levi:

Path dependence has to mean, if it is to mean anything, that once a country or region has started down a track, the costs of reversal are very high. There will be other choice points, but the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice. Perhaps the better metaphor is a tree, rather than a path. From the same trunk, there are many different branches and smaller branches. Although it is

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110 Ibid., p. 939
112 Hall, P., Taylor, R. ‘Political Science and the Three New Institutionalisms‘ in Political Studies, Vol. 44, No. 4, pp. 939-942
possible to turn around or to clamber from one to the other - and essential if the chosen branch dies - the branch on which a climber begins is the one she tends to follow.\textsuperscript{114}

The concept of path dependence, and the claim that institutional factors in political life in general have an important temporal dimension which needs to be explored, is of immense analytical potential for us. Approaching politics as a process which unfolds over time is far from the banal argument that history matters. Rather, it enables us to develop a host of sophisticated and valuable insights and hence better understand the functioning of the world around us. Considering temporal aspects (such as when and in what order an event happened) makes us turn down “the traditional postulate that the same operative forces will generate the same results everywhere in favor of the view that the effect of such forces will be mediated by the contextual features of a given situation often inherited from the past.”\textsuperscript{115} Put simply, historical institutionalism does not analyze only whether or not history matters. It also tries to point out in \textit{what particular ways} history matters and, in so doing, it views politics as a continuum of events rather than a plethora of separate and discrete happenings.

Moreover, the analytical tool of path dependence represents a strong rival to structuralist-functionalist accounts of political phenomena, which have long been dominant in the field of political science after World War II. It enables us to yield plausible alternatives to a rational, predictable (and sometimes deceptively simple) world of action and reaction. It also makes possible to provide consistent explanations for widespread social processes characterized by self-reinforcing dynamic, where “the probability of further steps along the same path increases with each move down that path”\textsuperscript{116}, which have long been observed by social scientists, but which could not be sufficiently elucidated via the mainstream theoretical tools. By careful operationalization of this concept, we can add new, analytically fruitful, and theoretically inspirational perspectives to our research and better understand the very complex social reality of the world around us.

Finally, before we proceed to a specific version of historical institutionalism developed by Pierson it would be useful to look at the issues of institutional formation and change. Given the importance of the temporal dimension for historical institutionalist analysis, in


\textsuperscript{115} Hall, P., Taylor, R. 'Political Science and the Three New Institutionalisms' in \textit{Political Studies}, Vol. 44, No. 4, p. 941

\textsuperscript{116} Pierson, P. 'Increasing Returns, Path Dependence, and the Study of Politics.' in \textit{American Political Science Review}, Vol. 94, No. 2, 2000, p. 252
terms of institutional formation, it is the determination of when the formation occurs which is fundamental. “The choice of the relevant date from which to count future development will be crucial […].” As far as the question of institutional change is concerned, it is a fundamental as well as very problematic area of analysis for historical institutionalists. Despite the fact that historical institutionalism seems focused primarily on explaining the persistence of institutions, its concepts, when carefully and consistently elaborated, can contribute a good deal to understanding processes of institutional change.118

3.3. Pierson's version of historical institutionalism: a basis for the framework of analysis

As has already been mentioned, our analysis of the evolution processes of the European Commission builds predominantly on the concepts devised by Paul Pierson. The reasons why we have chosen to operationalize the theoretical framework of this particular historical institutionalist are numerous. Nevertheless, five of them particularly stand out.

First of all, Pierson’s version of historical institutionalism is one of the most developed, coherent and consistent in the field. Most of his hypotheses are clear, specific and empirically testable. Undoubtedly, he is one of those who have distanced themselves (in a positive sense) from the general metaphor of path dependence the most by developing highly precise explanations of mechanisms of reproduction and feedback, which are so crucial to comprehending institutional evolution a change. Pollack, for example, considers Pierson's work to be “the most sophisticated presentation of […] historical institutionalist thinking.”

Next, as Jupille and Caporaso emphasize, Pierson manages to transcend “the putative divide between explaining institutions and institutional explanation”. This is a very important point because most institutional approaches deal with institutions either as being exogenous (i.e. independent variables explaining political actions and outcomes) or endogenous (i.e. dependent variables and objects of explanation). Although the purpose of the study is to pursue an explanation of an institution (the European Commission), we have to

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118 Ibid., pp. 68-70
bear in mind that there is inherent reciprocity in the relationship between institutions and political outcomes.

Furthermore, Pierson takes a stance which recognizes the preferences of actors as exogenous. Some authors, such as Thelen, even claim that his work is located on the frontier between historical and rational choice institutionalism. This rational choice “element” within Pierson’s model renders it particularly suitable for us because it places focus predominantly on formal institutions (organizations). One such formal institution (the European Commission) is in the centre of our analysis.

Also, as Rosamond rightly notes, historical institutionalist eclectic approach (Pierson’s in particular) has “the virtue of beginning with the intergovernmentalist claim about member state primacy, but then taking account of the way in which institutions structure individual and collective policy choice.” We see this viewpoint as most plausible for conducting our analysis: it incorporates both, the importance of member-state governments’ decisions and the space for activism of supranational institutions.

Last but not least, it is beyond any doubt that Pierson (not only him, of course), to a large extent, construes his theory against the empirical backdrop of the European integration process. His seminal article uses empirical material from the account of the EU’s involvement in the field of social policy. In the context of European integration theory, he, on the one hand, builds on some aspects drawn from the neofunctionalist thinking and, on the other hand, critically refines some of the insights emanating from the intergovernmental paradigm. This well implies that his version of historical institutionalism is embedded firmly in the field of EU studies as well as particularly suitable for our research purposes. The relevance of Pierson’s contribution to the study of the EU, the EU institutions, and the European Commission in particular, is accentuated by Matláry, who claims: Pierson has used the approach to offer the beginnings of a theory of the Commission.

After having briefly examined the basic tenets of new institutionalism in general, and the core principles of historical institutionalism in particular, which are going to guide our thinking in the process of making effort to find answers to the research questions, and after having explained the logic behind the decision to employ Pierson’s version of historical

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122 Rosamond, B. Theories of European Integration. Basingstoke : Palgrave, 2000, p. 116
institutionalism as an analytical tool box, we can now turn to the characterization of the above mentioned theoretical model itself.

The very core of Pierson’s theory is best described in his own words\(^\text{125}\):

The crucial claim I derive from historical institutionalism is that actors may be in a strong initial position, seek to maximize their interests, and nevertheless carry out institutional and policy reforms that fundamentally transform their own positions (or those of their successors) in ways that are unanticipated and/or undesired. Attempts to cut into ongoing social processes at a single point in time produce a “snapshot” view that is distorted in crucial aspects. My analysis emphasizes temporal aspects of politics: the impact of actor's time- horizons, the lags between decisions and long-term consequences, and the constraints that emerge from societal adaptations and shifts in policy preferences that occur during the interim. When European integration is examined over time, the gaps in member-state government control appear far more prominent than they do in intergovernmentalist accounts.

Here, we have Pierson’s basic “outlook“ on the (path dependent) functioning of EU processes. However, this “outlook“ has to be somehow underpinned. Pierson does so by introducing the concept of “gaps“. By these he means considerable differences that can be observed, over time, between the political intentions of actors and the actual results of these intentions, which are reflected in institutions and policies. Sources of “gaps“ are primarily fourfold\(^\text{126}\):

a) partial autonomy of international/supranational institutions
b) restricted time-horizons of political decision-makers
c) unanticipated consequences
d) shifts in Chiefs of Government policy preferences

The first source of gaps has to do with the partial autonomy of international/supranational organizations. When states engage in intergovernmental cooperation, they are usually compelled to set up some kind of institutional arrangement in order to facilitate this cooperation. If these institutional arrangements are to function effectively they need to be equipped with resources (budget, staff, expertise, delegated

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\(^{126}\) Ibid., pp. 34-43
authority, etc.). The greater the scope and intensity of cooperation, the greater the need for resources. In the case of the EU, obviously, the width and depth of cooperation is considerable. Hence, the empowerment of the EU’s institutional structure by authority has to be equally substantial. Once the institutions within the EU are created and equipped with resources, they do not only serve as principals for the member-state governments, they also become to act as actors on their own: they have their interests and goals and they seek to take advantage of any possible opportunity to enhance their autonomy. By increasing the degree of autonomous behavior, the EU institutions extend the gaps in member-state government control. However, in our case study, this source of gaps is not of importance to us because it would be a tautology to explain the Commission’s path dependence by the Commission’s autonomy.

The second source of gaps, the restricted time-horizons of political decision-makers, is connected with the logic of electoral politics. Political decision-makers in democratic societies usually serve in their offices for relatively short periods of time. Consequently they tend to focus on short-term consequences of their actions. Long-term effects are, in most cases, underplayed or overlooked. However, political actions, especially more complex ones, often have diverging short-term and long-term implications. Hence, decisions about institutional formation and change play out differently in the short run and in the long run. Rather than being treated as the goals of policy makers [...] long-term institutional effects should be often seen as the by-products of their purposive behavior.”127 To finish this point, we would like to make one remark here. We think it would be more appropriate to call this source of gaps policy makers’ high discount rates, because the restricted time horizons per se do not cause gaps. It is high discount rates of decision-makers (conditioned by their limited time-horizons) which determine the occurrence of the mentioned gaps.

Next, gaps in member-state government control can also emerge as a result of the functioning of the logic of unanticipated consequences. As the term itself implies, these are such effects which cannot be overseen by actors. This lack or absence of ability to anticipate outcomes of political actions can be observed mainly in environments characterized by “high issue density“. High issue density has two particular consequences. Firstly, it brings about “problems of overload,” and secondly, it sets in motion the so-called “process of spillover.” Problems of overload are related to such phenomena as time and information scarcity, the necessity to delegate and subsequently control the delegated decision-making, etc. The second

127 Ibid., p. 39
effect of high issue density, the spillover process has been extensively characterized elsewhere.\footnote{128} In sum, it means that decisions taken in one issue area have tendency to spill over to other issue areas and empowerment of supranational bodies generates requirements of these bodies for further delegation of powers. Pierson sees the reason for occurrence of unanticipated consequences in the following: “Complex social processes involving a large number of actors always generate elaborate feedback loops and significant interaction effects which decision-makers cannot hope to fully comprehend.”\footnote{129}

Finally, preferences of member-state governments are not as stable as some analysts would assume. They can considerably change over time. The backdrop for this is either changing environment and circumstances or the change of decision-makers themselves. “The result, over time, is that evolving arrangements will diverge from the intentions of original designers, while a newly arriving COG [Chief of Government] is likely to find institutional and policy arrangements considerably out of sync with its own preferences.”\footnote{130}

Now, we have identified the most prominent sources of gaps in member-state government control over the actual functioning of institutional and policy arrangements, we may pose a question: Why these gaps, once they have emerged and been recognized, cannot be eliminated? Intergovernmentalists would argue that mechanisms exist (such as competition and learning) capable of “closing“ these gaps. However, Pierson claims that these mechanisms are “of limited applicability"\footnote{131} in the world of politics. He distinguishes three principal, mutually interconnected, causes why member-states often have difficulties in reasserting control:\footnote{132}

- a) resistance of international/supranational institutions
- b) institutional barriers to reform
- c) sunk costs and the rising price of exit

Let us examine them respectively. First of all, the resistance of international/supranational organizations cause is related to the fact that the EU’s institutional structure (especially its supranational part) is partially independent of the member-state governments. As has already been mentioned, the European Commission, Parliament, and

129 Ibid., p. 39
130 Ibid., p. 41
131 Ibid., p. 42
132 Ibid., pp. 43-50
Court of Justice enjoy a considerable degree of autonomy, which is backed up by the possession of significant authority and resources delegated to them by their principals (member-states governments), in order to exercise assigned tasks. It is legitimate to expect that these institutions will not be willing to give up the conferred prerogatives, even if the member-state governments try to take them back because they realized the existence of gaps in control over their agents. However, how is it possible that the institutions manage to retain their powers in spite of the member-states governments being keen to reassert their authority? The answer to this question lies in the second cause (i.e. institutional barriers to reform).

The institutional barriers to reform argument explains why institutions often succeed in defending their autonomy. The reason for this has to do with the limited time horizons of political decision-makers. As Pierson puts it: “Political decision-makers know that continuous organizational control is unlikely. This lack of continuous control has implications both for how organizations are designed and for the prospects of changing organizations once they are created.” Decision-makers do not want that the institutional arrangements they have created are likely to be abolished or reformed by their successors. Therefore, institutions are designed in such a manner that it is difficult to make any subsequent modifications after the initial decision regarding the design of an institution is taken. Another reason for designing change-resistant institutions might be that decision-makers want their commitments to look more credible. Applying this to the concept of gaps, member states will always consider it very carefully before they engage in reforming the existing institutional arrangements in order to “close” these gaps.

This brings us to the last part of the answer to the question of why it is difficult for member-state governments to restore control over institutions they have created. Pierson notes that it might be not just problematic for member-states’ decision-makers to attempt to eliminate gaps in control, it might be “unattractive” as well. Subsequently, he offers a plausible explanation for this by introducing the analytical concepts of “sunk costs“, the “rising price of exit” and “increasing returns.” Because all the three concepts embody the same logic of nonprofitability of deliberate institutional or policy reforms, we mainly focus on the concept of increasing returns, which is elaborated in Pierson’s further work most extensively.

133 Ibid., p. 44
134 Ibid., p. 45
135 Ibid., pp. 45-50
In short, this concept captures the dynamics of such processes where once actors adapt (and invest assets in order to adapt) to a certain institutional environment, they have interest in preserving this institutional environment, even if it is not the optimal one, rather than investing further resources in new institutional arrangements (notwithstanding the fact that these might be more effective and efficient than the standing option). The backdrop for occurrence of processes characterized by increasing returns is complex. It consists especially of four issues:\footnote{137}

a) large fixed costs – i.e. the costs required to set up an institution are usually high, later on, when the institution is established, little or no resources are needed; institutional reform or change would bring additional costs into the political process, actors want to avoid these additional costs.

b) learning effects – i.e. long-term and continual use of certain institutional arrangements has as a result the fact that actors learn over time how to act more effectively in the same institutional setting

c) coordination effects – i.e. the more people use the same set of institutions, the greater the overall payoff because of the logic of fixed costs

d) adaptive expectations – i.e. self-fulfilling rationale of expectations, when it is broadly expected that a certain option will be preferred or chosen, most people opt for this option because they feel they might be laggards latter on, if they follow another alternative.

The concept of increasing returns can be applied to various segments of human society. However, as Pierson emphasizes, politics is more prone to be characterized by increasing returns phenomena than any other field of the social world (e.g. economics).\footnote{138} What makes politics distinct and contributes to more intense presence of increasing returns processes is firstly “the central role of collective action“, secondly “the high density of institutions“, thirdly “the possibilities for using political authority to enhance asymmetries of power“, and fourthly “its intrinsic complexity and opacity“\footnote{139}.

Our last point, as far as the theoretical framework of historical institutionalism is concerned, touches upon the issue of a possible change of the existing path (i.e. the issue of creating, reforming or replacing institutions with new ones). “The claims in path dependent

\footnotesize{\textsuperscript{137} Ibid., p. 254 \textsuperscript{138} Ibid., pp. 257-262 \textsuperscript{139} Ibid., p. 257}
arguments are that previously viable options may be foreclosed in the aftermath of a sustained period of positive feedback, and cumulative commitments on the existing path will often make change difficult and will condition the form in which new branching will occur.\textsuperscript{140} This clearly indicates that path dependence does not preclude change (as some critics might say) and that the historical institutionalist framework of analysis is not as static as it seems. Institutional change/termination/formation in historical institutionalism is dealt with through the concepts of “punctuated equilibria“, “critical junctures“,\textsuperscript{141} and “change points“.\textsuperscript{142} All these three concepts are very similar. They embody the idea that some kind of “exogenous shock“\textsuperscript{143} must occur in order to terminate the old path and replace it with a new one. Peters depicts the exogenous shock as follows: “a conjuncture of a variety of internal political forces that individually were not capable of generating significant change but which together could produce such movements“.\textsuperscript{144}

We have presented here a detailed theoretical model, which is going to be operationalized in the analysis of the process of evolution of the European Commission. Its value lies especially in the relatively detailed specification of the conditions under which path dependence might appear, persist and terminate, respectively. The model is a very complex one (of course, by this we do not mean that it is perfect or potentially unquestionable), consisting of a number of thoroughly elaborated concepts such as “path dependence“, “gaps“, “positive feedback loops“, “critical junctures“, etc.). This complexity makes the analysis considerably difficult and enhances the risk of generating unwanted mistakes. Anyway, there is no way out of this trap. A good theory is supposed to be as simple as possible and represent the reality as accurately as possible. However, both is not possible at the same time in absolute terms. Therefore, we have to try to strike a balance point as well as we have to choose whether we want a clear theory, which is very abstract, or a more complicated one, which consists of a myriad of well developed and concrete concepts counting with all possibilities and factors of development of the social world around us.

\begin{itemize}
\item \textsuperscript{140} Ibid., p. 265
\item \textsuperscript{141} Peters, G. \textit{Institutional Theory in Political Science: The ‘New Institutionalism’}. London: Pinter, 1999, p. 68
\item \textsuperscript{142} Pierson, P. ‘Increasing Returns, Path Dependence, and the Study of Politics.’ in \textit{American Political Science Review}, Vol. 94, No. 2, 2000, p. 266
\item \textsuperscript{143} Ibid., p 266
\item \textsuperscript{144} Peters, G. \textit{Institutional Theory in Political Science: The ‘New Institutionalism’}. London: Pinter, 1999, p. 69
\end{itemize}
3.4. Critique of historical institutionalism: liberal intergovernmentalism

After examining the historical strand of institutional approach to politics, in general, and Pierson's version of historical institutionalism, in particular, we think it is necessary to present an alternative theoretical approach which could point to the weaknesses of this body of thought as well as to the limitations concerning the explanatory/analytical scope of historical institutionalist analysis. We have to bear these possible shortcomings in mind, when operationalizing the mentioned theoretical framework in order to study the process of evolution of the European Commission. Hence, we can achieve greater accuracy and reliability of the research.

The most prominent theoretical rival of historical institutionalism is represented by the theory of liberal intergovernmentalism. Liberal intergovernmentalism has been introduced and extensively elaborated by Andrew Moravcsik, one of the most respected theorists working within the intergovernmental paradigm. Although Moravcsik's theory is very influential and theoretically inspirational, it is not the aim of this paper to put forward its characteristic and basic premises. On the contrary, this theory interests us only in such aspects, in which it criticizes historical institutionalism.

The rationale of choosing liberal intergovernmentalism as the theoretical counterpart of historical institutionalism is as follows. On the one hand, historical institutionalism draws its basic assumption of European integration as a process unfolding over time, which is to a certain extent automatic, from neofunctionalism. On the other hand, liberal intergovernmentalism is predominantly built on the insights of the previous intergovernmentalist integration theory. (However, it is necessary to note that historical institutionalism and liberal intergovernmentalism are also related to more generic theories from within the fields of political science and international relations respectively). Because neofunctionalism and intergovernmentalism embody the two poles of the theoretical discussion about the European integration process, they are also powerful and constructive fault-finders of each other. As a matter of fact, the same case applies to historical institutionalism and liberal intergovernmentalism.

Moravcsik’s critique of historical institutionalism starts by questioning the relevance of the positive feedback and spillover processes, which cause that political decisions are often unforeseen, unintended and/or undesired. He says that the developments within the EU

considered by historical institutionalists to be the consequences of the process of economic and political spillover “were neither unforeseen nor unintended, […]. To the contrary, it was the deliberate triumphs of European integration, not its unintended side-effects that appear to have increased support for further integration. […] Historical record reveals that the consequences of major decisions were in fact foreseen and desired by national governments to a much greater extend than most analysts have been aware”.

Moravcsik puts forward three moments in which his research conducted in liberal intergovernmentalist tradition disconfirms the assumptions of historical institutionalism. Firstly, the supranational institutions of the EU are relatively weak in their influence, both directly and indirectly, in short-term and long-term perspective, over the direction of European integration. Exceptions, which might occur, are considerably overplayed by historical institutionalists. “In broader historical perspective, cases often cited by HI [historical institutionalist] theorists as examples of feedback tend to be marginal and often transient deviations from historical trends […]. If an HI argument is to be viable, it must rest on feedback loops that run through everyday decision-making.”

Secondly, liberal intergovernmentalism challenges the self active and self-reinforcing character of autonomy of the European Commission, Court of Justice and Parliament. “[T]he transfer of sovereignty and autonomy to supranational institutions was not an unintended or unforeseen consequence of major EC decisions, it was their primary purpose”. The logic behind member-state governments giving up deliberately a part of their sovereignty is based on the fact that governments thus want to increase the plausibility of their commitments, by which they have bound themselves.

Finally, Moravscik questions the assumption of historical institutionalism about the stability and predictability of the member-state governments' preferences. He refuses that short-term and long-term preferences diverge. He claims: “[I]t is the stability and continuity of preferences, not their instability that stands out. Although there has been a slow, linear deepening of support for various types of integration, the relative positions of major governments on core issues […] have hardly changed in forty years”.

To sum up, the three points set forth above represent a powerful challenge to historical institutional accounts of the evolution of European integration. This does not mean that

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147 Ibid., p. 492
148 Ibid., p. 492
149 Ibid., p. 493
historical institutionalism looses its whole theoretical and analytical value on this background. Rather, it indicates that when conducting our analysis, we have to be particularly careful under what specific conditions historical institutionalist assumptions hold as well as under what circumstances historical institutionalist theoretical framework represents an accurate model of the political reality.
4. IS THE COMMISSION PATH DEPENDENT? ANALYSIS

After we have outlined the most important concepts of the analytical framework of historical institutionalism, which is going to serve as a theoretical guide for our analysis, we can proceed to the analysis *per se*. As has already been mentioned in the introductory chapter, we focus on the problems of the reform at the top level of the Commission, i.e. the College of Commissioners. In this regard, mainly the aspect of the size/composition of the College and the position of the President of the Commission is examined.

We start from the assumption that the reform of the Commission, as far as the above defined aspect is concerned, has shown to be an extremely problematic matter. Even though the first reform proposals appeared in the 1970s, it is in fact in the Nice Treaty and to a certain extent in the TEU and ToA that some modifications of the size of the College and of the position of the President have been introduced. According to historical institutionalism, institutional change is difficult when mechanisms of path dependence are at work. Functioning of these mechanisms can be analytically separated into two levels.

At the first level, mechanisms of path dependence resulted in institutions functioning differently in comparison with the initial intention of their designers. In our case, efficiency at the top level structure of the Commission has not been such as it was planned when the Commission was established. This is a result of the fact that potential inefficiencies/dysfunctions have been “encoded” into the original design of the Commission. As the process of European integration has been unfolding over time the potential inefficiencies/dysfunctions have developed in a self-reinforcing way underpinned by mechanisms of path dependence.

At the second level, when institutional designers attempt to close the gaps between actual functioning of the institutions and the original institutional purpose, they face considerable constraints. Applied to the examined subject: when governments endeavor to eliminate the inefficiency/dysfunctions, they cannot do so without spending a lot of time, effort and assets or, at worst, they cannot do so at all.

As we have already specified (at the abstract level) in the theoretical chapter, according to Pierson, there are three principal mechanisms that bring about “divergences between the institutional [...] preferences of member-state governments and the actual functioning of institutions [...]”\(^ {150}\), which are going to be used in our analysis: unintended consequences,

high discount rates and shifts in government preferences; and three mechanisms causing that
gaps (divergences) are usually difficult to close: institutional barriers to reform, increasing
returns and resistance of supranational actors. These analytical concepts will be employed in
order to answer our empirical research question regarding the concrete conditions leading to
such a development where reform is extremely difficult to be achieved and examine how
mechanisms of path dependence translate into the particular context of the reform of the size
and structure of the College of Commissioners and of the position of the President of the
Commission. Of course, we have to be aware of the fact that some of the concepts can
contribute to the emergence of path dependence more than the others.

4.1. Setting the path: unanticipated consequences

In our view, one of the most important mechanisms determining the path that is, once
followed by the Commission, subsequently highly problematic to be changed, can be found in
the fact that social processes often function according to the logic of unanticipated
consequences. Unanticipated consequences of actors’ actions result from their limited ability
to fully understand social phenomena in their complexity. Decision makers are not perfect,
when making decisions they often lack information, expertise, intellectual capacity, time or
material resources. Hence it is obvious that they cannot foresee with absolute accuracy what
consequences their actions will have in the future. As Olsen says “It is often difficult to form
rational expectations about the future.”

In our case, the designers of the Commission did not anticipate that the structure of the
College, where small member-states had one Commissioner and large member states had two,
combined with a rather weak position of the President of the Commission would cause the
Commission to be less efficient in the course of time. This limited ability of decision-makers
to predict depends on the degree of complexity of a given phenomenon. The higher the
perplexity (issue density) then there is greater probability that actions of decision-makers will
have unanticipated consequences.

The EC/EU has undoubtedly been an instance of such complex (high issue density)
environment. We can therefore expect that unanticipated consequences have been widespread

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151 Olsen, J. P. ‘Reforming European Institutions of Governance’ in Weiler, J. H. H., Begg, I., Peterson, J. (eds.)
2003, p. 53
here. Moreover, we have to take into account the temporal dimension: as the integration process has been advancing, both in the vertical and horizontal dimension, the issue density has grown. Hence, the issue density within the EC/EU is not only likely to be high, it is also likely to have rising tendencies. As we have just noted, rising issue density has to dimensions (vertical and horizontal). We would like to examine them more in detail.

The vertical dimension concerns the deepening of the European integration process, i.e. the expansion of policy domains in which the EU plays an important role and has either exclusive or shared (with member-states) competence to act.152 Today, the scope of the EU’s involvement in what were previously areas of sole nation-state governance is immense and still rising. As Hix says: “EU policies cover virtually all areas of public policy [...]. In fact, the EU sets over 80 per cent of rules governing the exchange of goods, services and capital in the member states’ markets.”153 When we look at the evolution of EU policy domains, we have to distinguish two moments. Firstly, in legal terms, the policies have been set up in the Treaties. Secondly, the legal base of each policy has had to be developed into substantial policy realm through specification and implementation of relevant Treaty provisions. It is necessary to clarify how these two phases of the EU policy evolution contributed to the high complexity (issue density) of the operating environment of the European Commission.

To begin with, we would like to outline the first moment, i.e. what policy realms have been established by particular Treaties (the method used to define new or expanded policy domains can differ with different authors, nevertheless all of them confirm the fact that the EU’s policy scope has increased considerably during almost five decades of its existence). The Treaty of Rome defined the following fields of policy-making activity: Customs Union and free movement of goods; agriculture; fisheries; freedom of movement for workers and social policy; right of establishment and freedom to provide services; transport policy; competition policy; external relations; industrial policy and internal market; economic and monetary policy and free movement of capital; taxation; energy; regional policy and coordination of structural instruments science; information, education, and culture. Later on, the Single European Act added: law relating to undertakings; environment, consumers and health protection; foreign and security policy. Furthermore, the TEU extended the EU policy scope by introducing cooperation in the field of justice and home affairs and by establishing

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the so called domain of “Peoples’ Europe”.\textsuperscript{154} In 1999, the ToA laid down provisions for what
could be termed employment policy and anti-discrimination policy. The last of the Treaty
revisions, which is still in force since the Treaty establishing a Constitution for Europe has not
been ratified so far, represented by the Treaty of Nice did not bring about any change as far as
initiation of new substantial issues (policies) is concerned.\textsuperscript{155}

The above mentioned Treaties have not just formulated a legal base for new policy
areas, they have also amended (expanded) the already existing ones. This is an important
point because the expansion has in most cases meant a more complex and influential
involvement of the EU level in affairs of public policy-making. According to Fligstein and
McNichol, the Single European Act expanded nine of the policy realms established by the
Treaty of Rome and the TEU further upgraded eight of the policy realms existing at the time
when the Single European Act was in force.\textsuperscript{156} When it comes to the ToA and Nice Treaty,
the former further advanced the scope of the EU in domains such as the CFSP or free
movement of persons and the latter also enhanced the participation of the Community in the
policy-making processes in a number of areas (e.g. free movement of persons, anti-
discrimination policy or external relations).\textsuperscript{157}

Now, we will briefly look at the second moment of the evolution of EU policy domains.
Once a policy is anchored in a Treaty, it has to be put in practice, which requires
implementation of Treaty provisions and adoption of further detailed legislation. As the
number of areas in which the EU plays a significant role rises, it is necessary to enact an
appropriate amount of secondary legislation. This even multiplies the already high complexity
of EU affairs. Fligstein and McNichol claim that the amount of community legislation passed
every year grew steadily from less than one hundred at the beginning of the 1960s to almost
2500 pieces of legislation in the mid-1990.\textsuperscript{158}

The horizontal dimension of rising issue density relates to the widening of the EU. The
size of the integration project has grown considerably since its inception in 1952 or 1958
respectively. In terms of geography, the EU currently encompasses twenty-five out of forty-
five European states (including Russia and Turkey as well as microstates such as Andorra or

\textsuperscript{154} Ibid., p. 64
29-51
\textsuperscript{156} Fligstein, N., McNichol, J. 'The Institutional Terrain of the European Union' in Stone Sweet, A., Sandholtz,
29-51
\textsuperscript{158} Fligstein, N., McNichol, J. 'The Institutional Terrain of the European Union' in Stone Sweet, A., Sandholtz,
San Marino). In terms of population, the initial number of approximately 200 million citizens more than doubled during almost five decades of its existence.

The enlargement of the EU proceeded in five waves. When the Community was established in 1958 it had six members: France, Germany, Italy, the Netherlands, Belgium and Luxembourg. The first enlargement in 1973 included Great Britain, Ireland and Denmark. In the 1980s two waves of enlargement took place, in 1981 Greece and in 1986 Spain and Portugal entered the EC. After the end of the Cold War, three neutral states became members: Sweden, Finland and Austria. Finally, at the end of the intensive pre-accession process eight of the CEECs (Slovenia, Hungary, Poland, the Czech republic, Slovakia, Estonia, Latvia, Lithuania) together with Malta and Cyprus joined the then EU-fifteen. It is obvious that the expansion of membership has been accompanied by a geometrical increase in possible mutual interactions among actors.

However, it is not only the number of EU member states that has risen. As the EU widened, the heterogeneity of the European national actors became more apparent. While the six founding members of the European project were in many ways similar (they were all economically well developed liberal democracies, culturally and historically had a lot in common and formed the “core” of the European continent) rendering the EC of the 1960s a relatively homogenous entity, the five enlargements have made the EU somewhat more diverse. To mention the most characteristic contrasts: although Great Britain is a western liberal democracy, its views towards the direction of the European integration process have been quite “different” in relation to the continental Europe in a number of issues; the countries of the 1980s enlargements being former authoritarian regimes have had less developed economies and weaker democratic political cultures; the neutral countries have also brought different attitudes to policy-making, especially as far as security and environmental issues are concerned; last but not least, the Eastern enlargement integrated into the EU a group of former communist countries whose political and economic systems had taken a considerably different trajectory in the period from the World War II to the end of the Cold War.

We have seen that the complexity of the processes of European integration being a consequence of the policy remit, which approaches that of nation-states, multiplied by the broad membership base, is very high (and still ascending). The argument about high/rising issue density applies to the problem under consideration as follows. The structure of the

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College (its size and position of the President) was designed, on the one hand, on the basis of a template represented by the High Authority of the ECSC, which was in fact a case of limited sectoral integration, and, on the other hand, on the basis of requirements determined by functions that were to be ascribed to the Commission by the Treaty of Rome.\footnote{Nugent, N. *The European Commission*. Basingstoke: Palgrave, 2001, pp. 19-32} At its inception, the efficiency of the Commission’s College was more or less sufficient for the functioning of the newly established project of European integration and potential inefficiencies (dysfunctional elements) were not so striking. However, as the development of the Community has unfolded and the issue density and hence workload of the Commission has come up, the dysfunctional elements have strengthened and efficiency has declined in an unanticipated way. As the Spierenburg report stated in 1979: “[O]ver the last ten years the Commission’s influence, effectiveness and reputation have declined.”\footnote{Proposal for reform of the Commission of the European Communities and its services. Report made at the request of the Commission by an independent review body under the chairmanship of Mr Dirk Spierenburg. Brussels, 24 September 1979, p. 4} The original structure of the College with a rising number of Commissioners and a rather weak position of the President who was only *primum inter pares* has started to suffer from a lack of cohesion and coordination among members of the Commission, imbalance between Commissioners’ portfolios and absence of team spirit.\footnote{Ibid., p. 4}

The problem is that when the Commission was being created, its designers hardly anticipated that the rising issue density determinants – widening and deepening of the EC/EU - would proceed in the way they did. For instance, in 1957, when the Treaty of Rome was signed, accession of the Scandinavian countries was not very likely\footnote{Nicoll, W., Salmon, T. *Understanding the European Union*. Harlow: Pearson Education Limited, 2001, pp. 45-47} and membership of any of the eastern European countries became thinkable only after the end of the Cold War\footnote{Ibid., p. 39}, in the same way, possibility of cooperation in the field of foreign policy and security seemed to have died with the failure of the EDC in 1954 and it appeared that the project of European integration would be focused almost exclusively on economic issues.\footnote{Ibid., pp. 16-19} To sum up, the College of Commissioners was not designed for such a workload which have resulted from the increase in the number of members-states and policy responsibilities or, as we have called it, from rising issue density.

When we claim that the rising issue density has rendered the functioning of the College inefficient (or, as Cram asserts: “[T]he Commission simply was not designed to cope with the
range and complexity of tasks with which it is now faced."\textsuperscript{167} A fundamental question comes up. What lies behind the horizontal and vertical expansion of the EU and what causes that this expansion has been in fact unanticipated? Even though explaining the general dynamics of European integration is not the aim of this paper and, moreover, it has been done so elsewhere\textsuperscript{168}, it would be useful to briefly outline why the complexity of European policy-making has evolved in such an unprecedented manner.

Let us consider firstly the deepening of European integration. Among historical institutionalists, especially Pierson provides us with a well-founded explanation of the processes where more and more policy realms become dealt with at the EU level.\textsuperscript{169} He agrees with neofunctionalist argumentation, where partial autonomy of European supranational institutions (the European Commission, European Parliament and Court of Justice) and their actions together with “spillover” effects determine that integration processes expand gradually from one policy-area to another: the above mentioned institutions (the Commission in particular) being political players endowed with considerable powers and resources and hence autonomy seek to increase this autonomy, thereby furthering the progress of European integration; the so called “spillover” effect embodies the logic of integrated policy-fields inducing pressures for further integration either because in a highly complex contemporary society its is not possible to isolate one sector from the others or because previous integration achievements are deemed beneficial.

However, Pierson claims that, given “the strong institutional position of member-states in the EC”\textsuperscript{170}, the two mentioned neofunctionalist arguments are not sufficient and distinguishes two additional factors which could determine the progressive trajectory of European integration. The first factor, the limited time horizons of decision-makers, explains how electoral periods in democratic societies influence the fact that policy-makers are more concerned with short-term consequences of their actions which have direct effect on their voters than with long-term outcomes of these actions which might lead to delegation of parts of national sovereignty to EU institutions. This source of gaps in member-state government control is particularly significant in the context of the EU because, unlike other forms of

\textsuperscript{170} Ibid., p. 29
international cooperation, it is concerned with the issues of traditional domestic policy areas, which alter more often than issues of “high politics."

The second factor, shifts in preferences of decision-makers, captures the logic where under changed circumstances or with a government of different ideological persuasion, opportunities created earlier reveal unexpected ways of utilization (and hence cause a loss of national sovereignty for the benefit of the EU level of policy-making). Again, in the EU, this feature is particularly prone to be salient because national government are not only periodically changing, they are also changing each at a different time which means that shifts in preferences can be very frequent. Nevertheless, Pierson does not limit himself to general theoretical principles when explaining the progressive dynamics of European integration process. In the paper written together with Liebfried, he empirically backs up his reasoning by providing evidence from the field of EU social policy.  

Secondly, we would like to examine the widening of European integration. Vachudova offers a compelling clarification of the enlargement dynamics of the EU. She asserts that enlargement is a “function of the high levels of integration among EU members [...] making exclusion from the EU costly for neighboring states, and making protectionism difficult to reverse.” Furthermore, according to Vachudova, another reason for enlarging the EU is underpinned by the fact that “the EU’s institutions have channeled and transformed the decisions taken by the European Council to go forward with enlargement.” These two arguments are in line with the theoretical framework of historical institutionalism: the former has to do with the mentioned “spillover” effect, the latter concerns the partial autonomy of supranational institutions.

4.2. Setting the path: high discount rates and shifts in preferences of decision-makers

The other major determinant setting the Commission’s hardly reversible path is embodied in the existence of high discount rates (limited political time horizons) and shifts in decision-makers’ preferences. This may appear as a tautology: limited time horizons and shifts in preferences explain (among other factors) the progress of European integration; the

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172 Vachudova, A. ‘Historical Institutionalism and the EU’s Eastward Enlargement’ Memo prepared for the State of the Union Conference, Princeton, 2005
173 Ibid., p. 1
progress of European integration (rising complexity) clarifies the unanticipated development
of dysfunctional elements in terms of functioning of the European Commission; and again
limited time horizons and shifting preferences of decision-makers are employed to explicate
the evolution where dysfunctional elements are “encoded” into a self-reinforcing path.
However, if we take a closer look, it is not a tautology at all. The progressive path dependent
evolution of European integration in general is tightly coupled with the relatively inefficient
evolution of the European Commission in particular or, in other words, the evolution of the
Commission (including the aspects which we focus on - the College of Commissioners and
the President of the Commission) represents one facet of the evolution of the EC/EU. In fact,
development of both is driven by the same or similar mechanisms of path dependence. This
does not preclude the fact that the relatively “successful” outcome (as it is defined by Olsen
who claims that “the long term development [of the EC/EU] has been in a consistent
direction. There has been gradual increase in the power of common European institutions and
in intergovernmental co-operation across an expanding area. The EU has moved towards ‘an
ever closer Union’, in spite of periods of European sclerosis.”\(^{174}\) of the European project can
contain some dysfunctional elements.

To begin with, we will examine how high discount rates of decision-makers reflect on
the studied aspects of the European Commission. As we have already mentioned in the
previous subchapter, limited periods of time during which decision-makers exercise functions
determine the fact that they are prone to take decisions which induce immediate positive
feedback from their electors. Within the EU, most of the national decision-makers stay in
their offices for periods between four, e.g. National Assembly in Slovakia, and nine years, e.g.
Senate in France.\(^{175}\) Although there are some exceptions (especially the House of Lords in
Great Britain but also seven of the EU members which are constitutional monarchies), they do
not change the situation in any relevant way. Hence, we can assume that the member-state
decision-makers acted with the mentioned (limited) election periods in mind and pursued their
short-term interests when they negotiated arrangements related to the size of the College of
Commissioners and to the position of the President of the Commission.

According to the Treaty of Rome “[t]he Commission must include at least one national
of each of the Member States, but may not include more than two members having the

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\(^{174}\) Olsen, J. P. ‘Reforming European Institutions of Governance’ in Weiler, J. H. H., Begg, I., Peterson, J. (eds.)
2003, p. 60

\(^{175}\) Delury, G., Kaple, D. World Encyclopaedia of Polical Systems and Parties. Vol. I-III. Facts On File :
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nationality of the same State.”\textsuperscript{176} This in practice meant that the smaller member-states (at that time the Benelux countries) were to have one Commissioner and the large member-states (France, Germany, Italy) were to have two Commissioners. As far as the President of the Commission is concerned, the Treaty provisions were rather vague.\textsuperscript{177} Formally, he/she was to be only \textit{primus inter pares} ”lacking political independence and managerial control”\textsuperscript{178}, which implied that his position was rather weak. Having said this, we can pose a logical question. Why did the decision-makers, even if they possibly partially realized that the established structure of the College was not an optimal institutional solution, designed the Commission as they did? In the process of looking for an answer to this question, we would like to focus first on the motives of member-states in relation to the size of the College.

In the Treaty of Rome, it is repeatedly emphasized that the Commissioners should not be influenced by their domestic governments: “they [the Commissioners] shall neither seek nor take instructions from any Government or any other body”, “[t]he Commission shall consist of [...] members whose independence is beyond any doubt”, “[e]ach Member State undertakes to respect this principle and not to seek to influence the members of the Commission in performance of their tasks.”\textsuperscript{179} However, it would be guileless to take this independence for granted. Before becoming Commissioners, most of the members of the Commission usually spend \textit{gros} of their active life as senior national politicians.\textsuperscript{180} This means that, even after being appointed, they still have close ties with domestic politics. Also, it was the member-states which had a final word in the procedure of nomination of the College\textsuperscript{181} (later on changed by Treaty amendments), so it was, in fact, their choice who was nominated for the Commissioner posts. Bearing this in mind, it is highly unlikely that a member-state would not seek to exercise any (at least informal) influence on the operation and decision-making of the College through its Commissioner/s. This claim can be corroborated by Ross presenting a number of cases where members of the Commission lobbied for their domestic governments.\textsuperscript{182} Nonetheless, apart from power leverage, the number of Commissioners nominated by a member-state could have a symbolic significance as well. Both these moments can be interpreted as having more or less immediate positive

\textsuperscript{176} Treaty establishing the EEC, Art. 157
\textsuperscript{177} Ibid., Art. 161
\textsuperscript{179} Treaty establishing the EEC, Art. 157
\textsuperscript{180} MacMullen, A. ‘European Commissioners: National Routes to a European Elite’ in Nugent, N. (ed.) \textit{At the Heart of the Union. Studies of the European Commission}. Basingstoke : Macmillan Press, 2000, pp. 28-50
\textsuperscript{181} Treaty establishing the EEC, Art. 158
\textsuperscript{182} Ross, G. \textit{Jacques Delors and European Integration}. Cambridge : Polity Press, 1995
impact on electoral preferences because when a state enhances its substantial and/or symbolic power, citizens perceive it positively as a success of its foreign policy.\textsuperscript{183}

Given the importance for member-states to have “their” Commissioner in order to pursue power interests and increase prestige (and hence gain votes and secure their political survival), it is logical that the small member-states could not accept an institutional structure where they would not appoint at lest one permanent member of the Commission each. As Spence puts it: “the smaller member states have made it clear in the past that their idea of the EU did not include domination by the larger countries.”\textsuperscript{184} On the contrary, France, Germany and Italy did not want to be at the same level in terms of possibility to control decision-making of the College as, for example, Luxembourg. Therefore, during the negotiations preceding the signing of the Treaty of Rome, they were reluctant to accept institutional arrangement where they would appoint only one Commissioner each.\textsuperscript{185}

The same logic applies to the President of the Commission. Although the High Authority of the ECSC served as a template for the founders of the Commission, the latter was less autonomous in its action than the former.\textsuperscript{186} This was \textit{inter alia} expressed by the fact that the term “supranational” did not appear in the wording of the provisions of the Treaty of Rome regarding the Commission\textsuperscript{187} as it did in the Treaty of Paris establishing the High Authority.\textsuperscript{188} The reason for this lies in the fact that the EEC was of greater importance (sensitivity) for member-state governments because it covered a wider range of subject matters than the ECSC. Hence, the member-states wanted to be able to exercise firmer control over its functioning. This had implications for the President of the EEC Commission, whose position was consequently weaker than the position of the President of the High Authority. If the President’s standing had been stronger than that of \textit{primus inter pares}, it would have potentially strengthened the supranational dimension of the Community and weakened the member-state control, which might have been perceived negatively by the public as an excessive transfer of sovereignty, especially if we take into consideration that it was only a decade ago since the member states had regained their democratic sovereignties after the atrocities of the World War II.

\begin{itemize}
\item \textsuperscript{183}Krejčí, O. \textit{Mezinárodní politika} [International Politics]. Prague: Ekopress, 2001, pp. 183-188
\item \textsuperscript{185}Ibid., p. 15
\item \textsuperscript{186}Nugent, N. \textit{The European Commission}. Basingstoke : Palgrave, 2001, pp. 19-32
\item \textsuperscript{187}Treaty establishing the EEC, Art. 157
\item \textsuperscript{188}Treaty establishing the ECSC, Art. 9
\end{itemize}
It might be argued that, regarding the record of the Commission’s first President – Walter Hallstein\(^\text{189}\), the status of the President of the Commission at the inception of the European integration project was not weak at all. However, it has to be noted that even though Hallstein’s achievements were remarkable, they were possible mainly due to his personal qualities providing strong leadership and strong visions (informal authority) rather than due to Treaty-based prerogatives (formal authority). Once Hallstein was replaced by his successors, the insufficient competencies of the presidential office became much more apparent.

As we have seen in the last two subchapters, the European Commission set on a path where potentially dysfunctional arrangements concerning the size of the College of Commissioners and the position of the President of the Commission (College structure with the small states having one Commissioner and the large states having two Commissioners; President being a *primus inter pares*) were “encoded” into the Treaty base and gradually developed into factors impeding an effective operation of the Commission. Using the theoretical framework of historical institutionalism, this happened partly because the designers of this supranational institution could not anticipate that the complexity of European integration would rise in such an overwhelming manner, but also partly because the decision-makers during the negotiations establishing the EEC agreed on the institutional disposition of the Commission where priority was given to short-term interests (reluctance to give up too much of national sovereignty and preservation of electoral support) over the long-term ones (more effective institutional structure).

### 4.3. Changing the path: institutional barriers to reform

In the research conducted in order to understand the problems of reform of the European Commission, we have analyzed first how the Commission set on a path where the original design of the College of Commissioners (size of the College and position of the President) proved to be relatively inefficient. Next step in the research process will be to analyze what contributed to the fact that once the EU member-states realized that the Commission is not working properly, they faced considerable obstacles in their efforts to bring about an overhaul of the Commission’s top level structure. In the theoretical chapter, we have outlined what mechanisms in principle condition the difficulties of institutional change (changing the path).

One of the most important ones, if not the most important one, is represented by the so called institutional barriers to reforms. Now, we would like to specify what particular institutional barriers could be present in the case of reform of the European Commission.

After the World War II, the European states were determined to never let the wartime horrors happen again. This goal was to be achieved through the project of a unified (integrated) Europe: the ECSC, EEC and EURATOM were established in 1952 and 1958 respectively. In order to secure that the project could not be overthrown by future potential Hitlers and Mussolinis as well as in order to express their deep commitment to it, the three above mentioned organizations were based on the Founding Treaties which could only be changed via the process of Treaty revision requiring a unanimous agreement of all member-states.

Regarding the fact that the legal arrangements related to the two aspects of the European Commission we focus on are, as we have already seen in chapter 2, laid down in the Treaty of Rome and in its subsequent revisions, it is clear that if the Commission is to be reformed, the Treaty base has to be amended. Currently, any amendments to the Founding Treaties have to be agreed upon by an IGC. What is an IGC? The term “IGC” is not included in the Treaties’ provisions. The Treaty of Rome stated that

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\text{[t]he Government of any Member State or the Commission may submit to the Council proposal for the amendment of this Treaty. If the Council, after consulting the Assembly (European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the Governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.}^{191}
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Nevertheless, in spite of the fact that it has not been explicitly enacted in the Treaties, the institution of IGC has been accepted as the exclusive means of changing the EC/EU Treaty base.

The problem is that the procedure of revising the Founding Treaties through an IGC is by no means an easy one and as such can represent a considerable barrier to reform efforts. Lindner puts it as follows. Treaty reform is a kind of complex formal change where “contracting costs and uncertainty over outcomes are high. A formal change entails the risk that the whole package of formal rules is renegotiated, including previously accepted

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191 Treaty establishing the EEC, Art. 236
rules."  This implies that the process of amending the Treaties is not just uneasy, rather, it is extremely problematic. An IGC involves several stages/phases: initiation, preparation, negotiation and ratification. Each of these entails a plethora of moments which can seriously hamper the process of anchoring proposals for reform of the Commission into the EU Treaty base.

To begin with, let us consider the first phase, initiation of an IGC. It is obvious that an ICG cannot take place solely for the purpose of reforming the European Commission because it is too prominent, costly and time-consuming, and its outcome is too uncertain. Hence, we can argue that plans for a reform of the Commission usually have to “wait” until the time is ripe and an IGC is convoked. Whether or not an IGC is initiated depends on a number of overwhelming factors. The first three IGCS (1985 IGC, 1990-1991 IGCS) were convened above all in order to deal with broader European integration initiatives, namely the completion of the Single market and establishment of EMU and EPU respectively. As far as the fourth (1996-1997), fifth (2000) and sixth IGC (2004) is concerned, these were intended to deal predominantly with institutional challenges of the enlarging EU (however, it is necessary to mention that they brought some important substantial changes as well). All the IGCS were a result of a long process of evolution. In this process, there were many issues which could positively or negatively influence whether and when an IGC would occur. For example, as Dinan says: “The constitutional reforms of the mid-1980s and early 1990s would have been impossible without President Mitterand’s 1983 ‘conversion’ to European integration, and the 1984 resolution of Britain’s budgetary dispute.”

What is the situation like in relation to the second and third phase - preparation of an IGC’s agenda and negotiation of particular issues on the agenda - once it is decided that an ICG will take place? Similarly (as in the first phase), reform initiatives regarding the Commission cannot be isolated from a myriad of other problems, i.e. setting and negotiation of the Treaty revision agenda are complex processes where a number of factors can exert influence. As a result of the fact that an IGC can effectively deal only with a limited number

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of issues and the fact that some of the issues are of higher priority than others, it is logical that not all the necessary reforms can be incorporated into the agenda of an IGC and the issues of lower priority have to be omitted. As has already been mentioned, the agenda of the first three IGCs was focused primarily on pursuing projects of economic, monetary and political union and only marginally touched upon institutional reforms (and hence the institutional structure of European Commission). The next three IGCs were concerned primarily with institutional challenges of the widening and deepening of the EU of which the reform of the Commission is a part. Therefore, we can see that the agenda of the 1996-1997 IGC and especially of the 2000 and 2004 IGC included some of the long planned changes at the top of the Commission’s structure.

Even if a particular issue, proposal or project appears on the agenda of an IGC, there is no guarantee that it will not be modified during intergovernmental bargaining among the EU member-states, which takes place during the negotiation phase of an IGC. Also, it has to be emphasized that there can be more proposals in relation to the same issue on the agenda - some of them can be more ambitious than the others. It is beyond any doubt that in the course of the IGC negotiations each member-state endeavours to pursue its national interests and either tries to influence the issue at stake in such a way that the interests are saturated or pushes for such an alternative of the proposed possibilities which is consistent with its concerns. As can be very well observed, this general rule applies to the specific case of the position of the President of the Commission and the size of the College of Commissioners. A perfect example is provided by Laursen who notes that at the 1996-1997 IGC “large Member states wanted to set a ceiling on the number of Commissioners. […] This reduction would be combined with a system of rotation. Most small member states, however, insisted on retaining a Commissioner from their country.”

Because the EU member states’ interests are often divergent and a unanimous agreement is needed, the process of negotiating Treaty amendments is often marked by compromises, package deals and deadlocks. Again, the case of the 1996-1997 IGC is a good illustration – large and small member-states did not come to an agreement as to the size of the College of Commissioners and the question concerning the number of Commissioners had to be dealt with at the 2000 IGC as a part of the so called

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Amsterdam 'leftovers'. The 2000 IGC agreed upon a compromise provision which set the number of Commissioners to one per member-state and, at the same time, enacted that after the size of the EU reaches twenty-seven, the number of Commissioners shall be lower than the number of member-states.

Finally, once the EU governments’ representatives have successfully agreed upon a Treaty amendment (which is to a lesser or greater extent a compromise solution), the amendment then has to be ratified by each of the EU members. It depends on particular constitutional provisions of each member-state whether the ratification process involves only a vote in the national parliament or whether the parliamentary vote has to be supplemented by a popular referendum. Both modes of approval (ratification via referendum in particular) can represent a considerable institutional barrier to successful completion of the process of Treaty revision. For example, in relation to the outcome of the 1990-1991 IGCs, Fiala and Pitrová claim that the process of ratification in Denmark (TEU was only ratified in the second referendum), France (TEU was ratified with a close majority of 52 per cent of votes), Germany (problems with compatibility of the TEU with the German constitution) and Great Britain (the parliamentary ratification was made a matter of confidence in the Major government) can be considered as particularly prominent and complicated. Similar problems can be observed when it comes to the latter Treaty amendments (ToA, ToN) not mentioning the refusal of the Constitution in France and the Netherlands.

4.4. Changing the path: increasing returns and the resistance of the Commission and other actors

A logical continuation of the analysis of impediments to deliberate reshaping at the top level of the European Commission is to assess whether and how the concept of increasing returns, which is in terms of historical institutionalism another source of difficulties (even though by no means as important for the studied empirical case as the concept of institutional barriers to reforms) in the process of changing the set path, applies to the studied case. The

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200 Ibid., pp.163-167
201 ToN, Protocol on the enlargement of the European Union
204 Ibid., pp. 146, 163
quintessence of the notion of increasing returns can be expressed in the assertion that a reform can be problematic not only because considerable barriers exist to institutional reform but also because it might be unattractive (i.e. requiring too high initial expenses in terms of material resources, time, human capital, etc.) for the concerned actors to replace the existing institutional structure by a new one. The logic of this dynamic lies in the fact that the price paid for the inefficiency of the original institutional design may be lower than the price of reversing the established path.

As we have already mentioned in Chapter 3, there are, above all, four features bringing about increasing returns. They are as follows: large fixed costs, learning effects, coordination effects and adaptive expectations. We will examine how each of these four features contributes to the fact that the process of changing/reversing the set path in relation to the number of members of the College of Commissioners and the position of the President of the Commission is an extremely complicated one.

Let us look at the first three features - large fixed costs, learning and coordination effects. One of the most prominent illustrations of working of the logic of increasing returns can be seen in the opposition of the Commission’s internal structures against reform initiatives. We would like to start by Cini’s assertion in which she claims that the European Commission has faced difficulties in pursuing its plans for internal reform (of which the reform of the Commission’s administrative culture is the most important part) due to the need for a discourse change. More precisely, in order that the administrative culture of the Commission changed, the dominant discourse would have to transform from technocracy to a new EU governance discourse, which is by no means a straightforward business. By the same token, the overhaul of the College of Commissioners and of the standing of the President of the College is connected with potential changes as far as the internal structures of the Commission are concerned – restructuring of DGs, disestablishment of some cabinets, redeployment of personnel, etc. It is beyond any doubt that these steps give rise to opposition to reform initiatives because they require high initial material and personal investment (large fixed costs) and new ways of acting and doing things (learning effect). Moreover, all this happens on a large scale – Commission is a large institution with many officials (coordination effect).

Another example of rejecting the reform of the European Commission because of increasing returns can be found for instance in the functioning of eurolobby, i.e. large group of diverse organized interests at the European level (private and public companies; national interest groups; Eurogroups).\textsuperscript{206} Organized interests, especially those that are part of the so called policy networks\textsuperscript{207}, have great impact on European policy-making. The Commission is the main target for interests aiming at influencing public policy at the EU level due to being the principal actor formulating legislative proposals. Interest groups’ activities are usually exercised in line with certain well established strategies and/or procedures.\textsuperscript{208}

In relation to the European Commission, these strategies are connected with particular ways of exerting influence and control in those parts of the EU policy process where the Commission is involved, with the view of incorporating various interests into the Commission’s policy outcomes. In other words, lobbyists have routine ways of communicating and dealing with different officials, organizational divisions or substantial issues, etc. In case the size of the College of Commissioners and/or the position of the President changed, this could lead to the necessity to modify or completely change the routine *modus operandi* as a result of the fact that the changed (reduced) number of Commissioners would require, among others, restructuring of the Commission’s DGs and the changed (strengthened) President of the Commission would bring about, among others, slightly reshaped lines of political responsibility.

The inevitability of changing the established modes of lobbying entails substantial investments of financial assets and human resources as well as extensive changes of know-how and communication mechanisms. It is very likely that many interest groups have opposed the reform of the Commission in the context of these factors. However, we have to admit that this assertion (as well as the previous example) is a little speculative and would need further research to be more thoroughly elaborated because it is very difficult to measure how influence of organized groups on the functioning and activities of European institutions since a great deal of this influence takes place via unofficial channels.\textsuperscript{209}

The fourth feature “generating increasing returns”\textsuperscript{210} - adaptive expectations – is closely interrelated with the previous three. In the case of reform initiatives regarding the European

\textsuperscript{206} Nugent, N. *The European Commission*. Basingstoke : Palgrave, 2001, p. 198
\textsuperscript{208} Fiala, P., Pitrová, M. *Evropská Unie* [European Union]. Prague: Centre for the Study of Democracy and Culture, 2003, p. 253
\textsuperscript{209} Ibid.
Commission, it embodies the fact that if it is broadly accepted that certain reforms in relation to the Commission are considered as too ambitious or inconceivable because they have no prospects for success, they are rejected out of hand and other alternatives are preferred instead. The process of reforming the size of the College of Commissioners and the position of the President of the Commission was very lengthy and only gradually allowed for acceptability of some controversial reforms. As Spence mentions, one of the wise men, Leo Tindemans, noted (more than twenty years after the so called Tindemans report suggesting reforms of the European Commission was published) that his recommendations “have formed part of the ongoing debate.” However, “the very gradualness of change seemingly averted political minds from the need to match the latent ambition in the changes with institutional clarity and a hard-nosed attempt at reformulating the Commission’s public diplomacy.”

To conclude, in the current and previous subchapter, we have examined the situation in relation to the attempts to change the set path of the European Commission once the dysfunctional elements in the functioning of the Commission’s aspects under consideration were identified. We have seen that, in terms of the analytical framework of historical institutionalism, the process of amending the Founding Treaties via the six successive IGCs constituted a considerable obstacle to the reform of the European Commission. Each phase of any of the IGCs was a process on its own, interconnected with many different factors which could hinder the progress of the Commission’s reform. Hence, the institution of an IGC has proved to be a “double-edged” instrument. On the one hand, it has ensured stability of the post-World War II European political and economic order, but on the other hand it prevented European decision-makers from performing changes necessitated by evolution of the European integration process. On the basis of our theoretical framework, we have distinguished another source of difficulties when reversing the Commission’s path, which is, however, not as important as the institutional barrier in the form of IGCs. This source has been the resistance of the Commission and other actors (such as organized interests) caused by the mechanism of increasing returns.

5. CONCLUSION

In the final chapter, we would like to summarize the research findings which we have come to when analyzing the empirical data with the use of the theoretical framework of historical institutionalism. Because of the limited scope of the thesis (as is in fact the case in relation to each analysis), our study is concluded by an outline of possible research continuations of the concerned *problematique*.

5.1. Conclusions

As stated in the introduction, the aim of the thesis was to analyze and explain why the process of reforming the European Commission, more precisely, its top level structure (i.e. College of Commissioners, including the Commission’s President), has been so problematic, as outlined in Chapter 2. The institutional overhaul of the Commission has been on the agenda for several decades. Nevertheless, despite the pressing need for a reform, which has become even more urgent in the last decade, the mentioned reform process has been marked by many obstacles, difficulties and delays.

The defined problem was to be solved with the aid of the theory of historical institutionalism. Initially a central hypothesis was formulated, based on the assertion that the European Commission is to a great degree path dependent and hence considerably resistant to reform initiatives. In relation to this hypothesis, two research questions were articulated: a theoretical and an empirical one. The former was to deal with the phenomenon of path dependence at abstract level and investigate what the circumstances for the development and persistence of path dependence are. The latter was to shed light on the practical case of the European Commission using the theoretical/analytical framework constructed in the course of looking for an answer to the first research question.

As far as the theoretical research question is concerned, we reviewed an extensive body of historical institutionalist literature. After having studied various analytical concepts put forward within the broad theoretical school of historical institutionalism, we came to the conclusion that the work of Paul Pierson, who is one of the most cited historical institutionalists, suits our research interests the best. On the basis of Pierson’s seminal articles on historical institutionalist analysis of political phenomena, we aimed at building a theoretical model which would clarify the reasons leading to the path dependent character of
social institutions at European level. The resulting model consists of two levels of analysis. Firstly, it identifies the factors determining the development of path dependence (the partial autonomy of international/supranational organizations, restricted time-horizon of political decision-makers, unintended consequences and shifts in preferences of decision-makers), i.e. factors creating gaps in government control over institutional functioning. Secondly, it pinpoints the elements conditioning the perseverance of path dependence (institutional barriers to reform, increasing returns and resistance of international/supranational institutions), i.e. elements constituting an impediment to elimination of the gaps. Each of the above mentioned factors, which are conducive to path dependence of political phenomena, was elaborated in detail in Chapter 3.

In order to answer the empirical research question, in Chapter 4, we applied the mentioned theoretical model to the practical case study focused on the number of members of the European Commission’s College of Commissioners and on the position of the President of the Commission. Again, we followed the two levels of analysis distinguished in the theoretical framework. First of all, we provided evidence how the chosen aspects of the European Commission evolved in a path dependent way. Then, we explained why it was difficult to reverse this path dependence. At the end of the thesis, we arrived at the conclusion that the European Commission’s reform (as far as the studied aspects were concerned) has been lengthy and complicated due to its strongly path dependent character.

5.2. Recommendations for further research

Our analysis of the problem of reform of the European Commission or, more precisely, of the structures at the top of the Commission has focused on the aspect of efficiency as well as on reasons for the decline of efficiency in relation to the functioning of the College throughout its historical evolution. The paper could be further followed up with a research investigating how mechanisms of path dependence influence development of other European institutions, e.g. the European Parliament, Council of Ministers or Court of Justice.

Another possibility to carry on would be to study the aspect of democratic legitimacy of the Commission using the theoretical framework of historical institutionalism. This is a very important facet because the EU institutions (especially the Commission) have been frequently criticized for lacking democratic legitimacy and being remote to the European citizen. Moreover, a big research challenge is represented by the issue of appropriate balance between
efficiency and legitimacy and the role of historical legacy in clarifying the current state of efficiency-democracy relationship.

Furthermore, a logical continuation of our research could be to investigate conditions which, in spite of the functioning of path dependence, are able to “break” the path. As we have seen, in recent years, there have been some reforms of the top level structure of the Commission and there are still (possibly) some to come. The concept of “critical junctures” could be useful when explaining what has helped bring about these changes.

Last but not least, the thesis could be well supplemented by research on aspects of internal reform of the Commission. Historical institutionalism would be useful for the analysis of administrative culture of particular DGs and explaining problems of management reform which has been on the EU agenda together with the issues dealt with in the thesis.
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