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Research Article

## Good Governance and Institutional Change: Administrative Ethics Reform in the European Commission

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## Abstract

The European Union institutions have always taken an interest in their own internal governance. In the 1990s, this interest began to be characterised by a greater reflexivity, increasingly allied to the concept of 'good governance'. One example of this was in the field of public ethics where the European Commission came to recognise the importance of establishing structures and policies to govern the conduct of public servants (whether MEPs, Commissioners or EU officials). Drawing on historical institutionalism, this article considers the emergence and evolution of the Commission's public ethics system after 1999. The article distinguishes between the formative and post-formative stage in the system's emergence and evolution, arguing that in both periods, structural factors and agency, both externally and internally, were important in explaining institutional change. What was especially important in the formative period, however, was the intensity of the primary external driver of change, which in the case of the European Commission was the scandal over unethical conduct and mismanagement which hit the institution in 1998-9.

## Keywords

Good governance; Ethics; European Commission; Administrative reform; Institutional change

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For six decades, scholars have attempted to map and explain the evolution of the European integration process. Much of the focus of this research in recent decades has taken as its starting point the emergence of a system of European governance, which Tömmel (in this volume) has identified as comprising four phases. The concomitant 'governance turn' in the academic literature, which emerged in the 1980s, has dissected this evolution, making a major contribution to the study of European Union (EU) politics and policy-making. At the same time, it has also allowed researchers to reflect at length on the distinctive characteristics of EU governance.

While debates on modes of EU governance, the particularities of European policy regimes, the role of expertise, and the challenges involved in addressing the EU's democratic deficit have dominated the governance agenda, a less developed strand of governance research has emerged on 'good governance' or the 'quality of governance' (Huberts 2014). Good governance tends to rest on a set of rather abstract but worthy principles such as reliability, transparency, impartiality and honesty. These principles carry within them normative assumptions about what constitutes the 'good' in good governance. Administrative reforms are often concerned therefore with translating general principles into workable aspects of public policies or the governing systems that underpin them (see, for example, Huberts 2014). Public ethics is one such area of activity, and is the focus of this article.

'Ethics' in this context refers not only to the standards and principles that shape the behaviour of individuals and groups, but also to the institutional rules that allow these principles to be translated into practice. It is situational and concerned with role morality rather than universal values (Năstase 2013). *Public* ethics involves the application of these standards and principles to politicians, office-holders and civil servants through the establishment of ethics systems. In this article the focus is on an administrative ethics system. Since the 1990s, many public organisations in Europe have begun to develop such systems. They have done this by adopting ethical principles, ethics rules or codes of conduct, by introducing ethics training and by requiring staff to complete declarations listing their financial and other interests. Ethics systems comprise therefore the universe of structures, policies

and rules, underpinned by explicit principles and standards, designed to improve the conduct of individuals and groups as they perform their specific roles and to contribute to the quality of governance.

This article focuses on public ethics in the European Commission. It examines the gradual process by which the ethics system emerged and evolved during two distinctive periods, 1999-2004 and 2005-2011. The focus on public ethics is justified given the limited research conducted on this issue in the context of the EU institutions and the sensitive and contested nature of ethics reforms, which offer a fertile testing ground for research on the drivers of institutional change.

The article argues that in both the formative and post-formative periods institutional change was driven by structural factors and reform agents, both external and internal to the Commission. What distinguished the formative period, however, was the *intensity* of the primary external driver of change, which in the case of the European Commission was the scandal over unethical conduct and mismanagement which hit the institution in 1998-9. Thus, the article argues that to understand institutional change it is important not only to identify which factors are important, but also the qualities embodied in those factors. This argument draws from a body of research on institutional change that has emerged out of earlier work on historical institutionalism (for example, Mahoney and Thelen 2010; Pierson 2004; Rittberger 2003). It adds to this literature by highlighting the importance of the intensity of external drivers at the formative stage, while rejecting the assumption made in early institutionalist research that the drivers of change differ substantially at the formative and post-formative stages of institutional change.

The article also draws on a broader literature on administrative ethics (for example, Cooper 2001; Huberts, Maesschalk and Jurkiewicz 2008; Lawton 1998) as well as on the few studies that address the EU institutions (such as Cini 2007; Dercks 2001; Hine and McMahon 2004; Năstase 2013). Both Năstase (2013) and Cini (2014) have applied institutionalist approaches to earlier studies of public ethics in the European Commission. This article complements these studies, by offering new empirical material, and further developing the application of institutional theory by focusing attention on the drivers of institutional change. The empirical sections of the article are drawn from primary documents and from interviews which the author conducted in the European Commission in 2006 and 2011.

The article begins by explaining the concept of institutional change which is found in the relevant theoretical literature on historical institutionalism, and by identifying a simple framework which guides the empirical sections below. By way of contextualising the research, it then discusses the origins and content of the 'good governance turn' of the 1990s and 2000s, focusing particularly on the European Commission. The third section then provides a more detailed empirical/narrative account of this 'turn' by examining formative change in the shape of the establishment of an ethics system for EU officials after 1999. The fourth section adopts the same approach for the post-formative change after 2005, after which a concluding section draws out the argument.

## **HISTORICAL INSTITUTIONALISM AND INSTITUTIONAL CHANGE**

The theoretical aim of this article is to explain which drivers are important in accounting for institutional change (see also, in this issue, Eckert, Maas and Stephenson). Institutional change is defined here as a broad church encompassing the establishment of institutions (formative institutional change or simply formative change), and the reconfiguration of existing institutions (post-formative institutional change or post-formative change). A third category, incremental institutional change, which is a more gradualist process of change, is not discussed in this article. Institutional change has been a difficult subject for new institutionalists. It is especially problematic

for rational choice and sociological (or normative) institutionalism as these approaches rest on equilibrium assumptions. Historical institutionalism has shown more promise. It emphasises the importance of either grand institution-forming ruptures or relatively incremental path dependent trajectories. In the case of the latter, an internal dynamic drives institutional development; whilst for the former, institutional change is driven primarily by external (exogenous) shocks which force breaks with past practice. This usually involves a de-legitimisation of earlier institutional arrangements and the forging of a critical juncture which opens a window of opportunity for reform agents to promote new institutional arrangements (Thelen, Steinmo and Longstreth 1992).

A new wave of institutionalism reflects dissatisfaction with early historical institutionalist accounts of institutional change, however. Thus, alternative explanations now draw attention to a broader range of factors that might explain institutional change. Mahoney and Thelen's (2010) work, for example, points to a variety of processes at work, including what they term as 'layering' and 'exhaustion'. Others demonstrate how 'change agency' or 'institutional entrepreneurship' (Levy and Scully 2007; Mahoney & Thelen 2010: 22-27; Rao, Morrill and Zald 2000: 240) have been underplayed in historical institutional accounts of institutional change.

The main fault lines in identifying the drivers of institutional change revolve around the structure/agency and internal/external dichotomies. This rather simplistic distinction is used as a basic heuristic framework for this article, notwithstanding that institutional change is most likely a complex phenomenon and its origins multi-causal.

*Figure 1: Drivers of Institutional Change*

	External	Internal
Structure	A	B
Agency	C	D

Figure 1 presents the four potential drivers examined in this article. In this schema, external drivers include the kind of shocks that result from scandal and intense media attention (A), but also include external institutional pressure from individual or collective actors (C). Internal drivers, for the purposes of this article, are factors that are internal to the organisation within which the institution (policy, system or regime) is located. They might include the actions of reform agents (D), or a path dependent logic that results from the sunk costs associated with existing institutional practices (C). Structural factors are rules, institutions, practices and cultures; while agency is an attribute of individual or collective actors, and concerns their capacity to act (independently).

## THE EU 'GOOD GOVERNANCE TURN' IN CONTEXT

For much of its history, the Commission was distinguished by its technocratic approach to governance, which can be traced back to Jean Monnet's administrative organisation in the 1950s (Fransen 1999; Radaelli 1999: 31). This reflected the early bias of Community policy towards regulation. However, Monnet's model failed to gain the acceptance of the Community member states (Duchene 1994: 214; Monnet 1978: 245) and by the time the EEC was established in 1958 there was little expectation that the EU Administration would take anything other than a bureaucratic form. Yet the kind of bureaucracy the Commission became was still one imbued with a particular technocratic ideology and practice (Radaelli 1999: 194), one which emphasised the importance of efficiency, expertise, elites and functional interest intermediation, and which had little to say about democratic accountability, openness and representation.

It was not until the early 1990s that the Commission began to come to terms with the disaffection many ordinary citizens in Europe were feeling towards the European integration project (see van der Veen, this issue). A change in the discourse emerged, gradually followed by some alteration, albeit limited, to Commission practice. Institutional rigidities formed barriers to fundamental change however (Haines 2003-4). The Commission was not only set in its ways structurally and procedurally, but it also suffered from an organisational culture that was extremely resistant to change (for example, Abélès, Bellier & McDonald 1993; Bellier 1995).

This did not necessarily stop the Commission from proposing initiatives to improve the quality of EU governance, however. Indeed, by 2000, European governance comprised one of its four strategic objectives. This led to the publication in 2001 of the White Paper on European Governance (European Commission 2001). Its objective was to bring the EU closer to its citizens by improving the effectiveness and democratic legitimacy of EU policy and policy-making. The White Paper identified five principles of good governance – openness, participation, accountability, effectiveness and coherence (European Commission 2001: 10). It sought to encourage closer relations with both local and regional actors and with civil society organisations in the design and implementation of European policy, and to promote improvements in the quality of European legislation. The approach emphasised the importance of inputs into the policy process, particularly in the form of enhancing participation (Börzel, Pamuk & Stahn 2008: 21).

The agenda promoted by the Commission included a permanent dialogue with civil society and the introduction of a new European Citizens' Initiative, which for the first time allowed citizens (backed by one million signatures) to propose legislation in an area in which the EU had competence. It involved a communications policy which set a new tone as it was designed with the aim of listening and explaining better. The agenda also supported initiatives of longer standing which included the promotion of subsidiarity to strengthen the role of regional and local actors in EU policy-making, and the extension of the powers of the European Parliament which allowed representative democracy to continue to evolve in parallel with the new focus on participatory democracy (European Commission 2001).

While it took the lead in promoting these good governance initiatives, the Commission was also still seen as part of the problem. Composed of two distinct component parts, the administrative services and the political executive (Cram 1999), the Commission's functions reflect the tension between these two elements. The explicitly political functions of the Commission have generally been held in higher esteem than the Commission's administrative functions. At the same time, the institution prided itself on performing its policy tasks exceptionally well, seeing no incentive in addressing the more mundane administrative and management problems which had been identified in reports as far back as the 1960s. Yet management problems affected the quality of policy implementation, an important aspect of good governance. With success judged more in terms of legislative output than on whether the objective of the legislation was ultimately achieved, the flipside of the Commission's prioritisation of policy-making became its 'management deficit' (Metcalfe 1996). It was only after 1999 that this issue began to be addressed through a major reform of the Commission (2000-2004). The reform emphasised the importance of *throughputs* within the governance process and directed attention to how the Commission's own internal systems and the conduct of its staff might improve, as a core element in the promotion of good governance. One way in which this was translated into concrete policy was through the introduction of a new Commission ethics system.

#### **THE EUROPEAN COMMISSION'S ETHICS SYSTEM 1999-2004: FORMATIVE CHANGE**

The resignation of the College of Commissioners in March 1999 was a critical moment in the history of the European Union, the product of a deepening malaise felt by European citizens towards the

Brussels-based bureaucracy. In the months before and after the resignation, there was much discussion in Brussels and in the media as to how the Commission had to change. Most of this took the form of a diagnosis of the Commission's problems. While the Commission was presented with a clean sheet of paper on which to construct its own reform, the discretion available to it at this time should not be exaggerated as the political context precluded any extensive period of reflection. Indeed, on his nomination as President of the European Commission at the Berlin European Council in March 1999, Romano Prodi had no choice but to act quickly. As the Presidency Conclusions put it:

The new Commission should speedily put into effect the necessary reforms ... for the improvement of its organisation, management and financial control ... launching a programme of far reaching modernisation and reform ... to ensure [the] highest standards of management, integrity and efficiency (European Council 1999).

Capitalising on a wave of reform-mania, Prodi launched his presidency with a range of initiatives, many of which had been included in the recommendations of the Independent Experts' Second Report (CIE 1999), published in September 1999. Some of these initiatives had ethical implications. For example, from mid-1999, Prodi revised the codes of conduct drafted earlier in the year (European Commission 1999) and addressed the Commission's 'culture of immobility' by reshuffling senior staff and limiting, to between five and seven years, the time senior officials could remain in the same post. He made sure that Commissioners were prepared to offer their resignations if requested to do so; and changed the system of appointing Commissioners' personal offices (cabinets) to minimise nepotism and favouritism (Nugent 2001: 56; Peterson 2000: 17-18; Stevens & Stevens 2001: 103: 197:460).

Prodi's decision to allocate the reform portfolio to Neil Kinnock was both pragmatic and symbolic. Although there was some criticism that he was too closely associated with the previous (discredited) Commission (Westlake 2001: 696-700), it was important that the reform job should go to someone who was already familiar with how the Commission operated. Kinnock had his own ideas about what was wrong with the Commission, and recognised that what was needed was a 'root and branch' reform, rather than a minor adjustment that did little more than pay lip-service to the Commission's critics. Kinnock hit the ground running, putting together a reform team which by January 2000, in the space of nineteen weeks, produced a consultative document, and by March 2000, the seminal White Paper on Administrative Reform (European Commission 2000a and 2000b).

At both the political and administrative levels, those involved in the reform recognised the importance of taking advice from outside the Commission. They consulted experts with experience of private and public sector administration both in Europe and elsewhere. They also sought advice from international organisations including the World Bank and the Organization for Economic Cooperation and Development (OECD) and professional organisations such as the International Institute of Auditors. The aim was to benchmark the ideas circulating at the time in the Commission and to provide a sounding board for Commission initiatives (Kassim 2004: 42).

Organisation was important; but so too was communication. This was important as there was resistance to change from within the Commission. Some felt that aspects of the reform constituted an attack on the rights and conditions of the Commission administration, deflecting attention away from the Commissioners who held political responsibility; others expressed concern that with its emphasis on management, the reform constituted a rejection of the institution's political mission. Yet another perspective saw the reform as the rejection of the original Franco-German model of administration in favour of a Nordic or an Anglo-Saxon model (interviews 1 and 2; Dorandeu and Georgakakis 2002). Yet, despite opposition there were also voices heard within the Commission in support of the reform, officials pleased to see the end of practices associated with the Commission's pre-reform culture (Kinnock 2003).

The 'human resources' dimension of the reform took the form of an overhaul of the EU Staff Regulations. Because of the need to achieve an inter-institutional consensus, this aspect of the reform was one of the most contentious. Title II of the Staff Regulations, dealing with the rights and obligations of officials covers a range of potential conflicts of interests that could potentially be faced by Commission and other EU civil servants, focusing in particular on issues of independence and discretion, freedom of expression, outside activities, spousal interests, whistleblowing and post-employment obligations. This part of the Regulations was rewritten in the period between 2000 and 2003.

Ensuring high standards of ethical conduct is particularly important where financial matters are concerned. Reforms to the Commission's financial accountability, control and internal audit frameworks necessitated a revision of the EU's Financial Regulation (EU Council/European Parliament 2002). Ethical considerations were once again deeply integrated within the broader changes proposed (Kinnock 2001; Kinnock 2002: 21-28), with the aim of constructing a 'culture of responsibility' within the Commission. The Directors-General heading the Commission's administrative services were to play a crucial role in guaranteeing ethical standards, through the practical and symbolic significance of putting their signature to an Annual Declaration, an act which arguably sat at the very centre of the Commission's new ethics system (Cini 2007: 135).

At the centre of all aspects of the Commission's work were the twenty-four Internal Control Standards (ICS). These were based on international guidelines which had been developed in 1992 by the Committee of the Sponsoring Organizations of the Treadway Commission, known more commonly as COSO, representing US organisations interested in anti-fraud, control and audit-related issues. These guidelines were disseminated within the public sector by INTOSAI, the umbrella organisation for the government audit community. It is worth noting that the latter's guidelines were amended in 2001 to include ethics as one of the four objectives of internal control (along with economy, efficiency and effectiveness). But even before this, in 2000, the Commission's first control standard, ICS-1, reflected a burgeoning interest in ethics. The standard had the specific aim of ensuring that officials were aware of the ethics rules (European Commission 2001: 7).

Although ethics was largely integrated within the wider reform, there were also a number of discrete initiatives set out in the White Paper's Action Plan (European Commission 2000b). At least ten out of a total of 98 actions dealt with ethical issues, though Hine and MacMahon claim that more, around half of the actions, had a significant ethical dimension (Hine and McMahon 2004: 30). They agree however that terms such as 'ethics' and 'propriety' were used sparingly in the White Paper. Of note amongst these initiatives was a proposal to set up an inter-institutional Advisory Committee on Standards in Public Life, an initiative which was ultimately dropped because of lack of support outside the Commission. A further initiative comprised the complete overhaul of the rules on whistleblowing.

By 2002, there was a greater willingness in the Commission leadership to talk more openly about ethics. A page devoted to the subject appeared on the Commission's reform webpage. The content of this page suggested a preference for a prohibitive rule-based approach, emphasising both regulation and enforcement, even if this was allied with an assumption that over time the rules would alter the conduct and perhaps even the attitudes of officials (Kinnock 2004: 7-12). Further guidance took the form of the revised 'Administrative Guide to the Conduct Expected of Commission Officials', produced in November 2003. The guide originated with the European Ombudsman who had been concerned about the lack of detail within the Staff Regulations (European Ombudsman 2002). In the context of the reform it was presented as a response to Action 92 in the White Paper covering sound project management. Yet again, this had the explicit aim of helping to raise awareness of ethics and standards of conduct in the Union (European Commission 2004).



Throughout this period, the Commission experienced ongoing criticism, often kept in public view by 'whistle-blowers' such as Paul van Buitenen and Marta Andreasen. This provided an ever present backdrop to the reform process, but also tells us much about continuities within the Commission's culture. The Commission has always tended to be defensive when attacked, and even after 1999 continued to take a strident and literal approach to its critics. The Commission's knee-jerk reaction to criticism was to deny it and then go on the counter-attack. This is precisely what happened when the Eurostat affair blew up. This complex scandal, which involved the setting up of illicit bank accounts by senior Commission officials and the mismanagement of relations between Eurostat and external bodies, preoccupied the 'Brussels village' over much of 2003 and into early 2004. The case reawakened earlier concerns about the Commission's capacity to keep itself in check, and also showed the Commission to be slow in accepting that there was even a case to answer (Cini 2007: 90). Belatedly, in response to the Eurostat affair, the Commission produced an Action Plan, covering staff mobility, a revised Code of Conduct for Commissioners, and the further strengthening of the internal audit system, as well as the setting up of a new unit on 'Ethics' in the Secretariat-General to coordinate ethics-related issues in order to improve the flow of information within the Commission (interviews 1 and 3).

In sum, the period between 1999 and 2004 was characterised by the establishment of an ethics system for Commission officials. The primary modus operandi of this system was through rules directed at Commission officials, based on the logic that these rules would ultimately provoke a change in behaviour, ensuring high ethical standards (Năstase 2013). A secondary concern was that officials should have an awareness of the rules. This new ethics system was integrated within the wider administrative reform process which was driven by external demands placed on Commission leaders in the period after the Resignation. Yet, those in charge of the reform process within the Commission were able to use their discretion to design a reform (of which the ethics system was a component) which was in many respects surprising. The Reform was wide-ranging; but, perhaps as a corollary, it also played down the importance of ethical issues. Moreover, while the approach it adopted with regard to ethics was traditional, with a preference for regulation familiar to Commission officials, it did not speak to the cutting-edge research agendas of public ethics academics nor of organisations like the OECD.

### **THE EUROPEAN COMMISSION'S ETHICS SYSTEM: POST-FORMATIVE CHANGE 2005-11**

In 2005, the new Commissioner responsible for administrative affairs, Siim Kallas, saw an opportunity to make his mark by launching a package of initiatives under the rubric of 'transparency', of which the 'ethics of officials' was one element (Kallas 2005). This took the Commission by surprise. While Barroso was alert to the need to respond quickly to ethics-related issues, administrative issues were not high on his agenda. Where ethical issues did capture his attention, they concerned the ethics of Commissioners. From the outset, Kallas's approach was different from that of Kinnock. As Kallas put it:

A strong ethical culture is a far more effective approach to eliminating the risk of inappropriate action than the creation and enforcement of more rules. We need to find the right balance between trust based on a common understanding of principles of behaviour and supervision of respect for rules (Kallas 2006).

Henceforth there would be frequent references to the danger of having too many rules, reflecting a post-reform discourse prevalent in the Commission that viewed the Kinnock reforms as overly bureaucratic (Bauer 2008: 691-707).

Within Kallas's European Transparency Initiative (ETI), ethics did not have a high profile, however, and little action was taken in the first years of the Barroso I Commission. The internal control

standards were revised, with the total number reduced from 24 to 16. However, the ethics standard was retained as the new ICS-2, albeit re-labelled as 'ethical and organisational values' (European Commission 2007a). With the ETI, however, the first step taken on ethics was the commissioning of an expert report on the ethics of high office-holders. The call was drafted by BEPA, the Commission's in-house 'think tank', in early 2007 and the project was completed by a multinational team of European academics the same year. The Report's focus on high office-holders skewed the ethics agenda towards Commissioners and senior Commission officials (Demmke et al. 2007), but its conclusions did allow the Commission to claim that the Commission's ethical rules were very much in line with those in comparator organisations (European Commission 2008). Beyond the upbeat headline, the Report also made a number of recommendations, some of which were picked up in a Commission Communication on Ethics approved in 2008.

The Commission has since been keen to emphasise that the content of the Commission Communication (usually known as the Kallas Communication), was inspired by an 'Ethics Day' which was held in July 2006 at the instigation of the Secretary-General (European Commission 2007b; European Commission 2008). The Ethics Day brought together officials with an interest in ethics to review the ethics framework and discuss practical cases and dilemmas. Together with the results of an accompanying survey sent out to all Commission officials four weeks before the event, and which provoked 2707 responses (Utrecht School of Governance 2008: 44), the Commission was also able to claim that the ethics agenda had been shaped from the 'bottom-up' (Kallas 2006). This was important given the sensitivities around ethical issues. However, it is clear that the approach adopted in the Communication was very much the approach also advocated in the expert report. In particular, the Report had suggested that there was no evidence to suggest that more rules made for a better ethics system; and they argued that more attention should be placed on integrity measures. They also played down the importance of an inter-institutional framework (Demmke et al. 2007: 139-142) in the form of an inter-institutional agreement, which would establish a common set of ethics rules across the EU institutions, with an inter-institutional advisory committee playing the role of arbiter in difficult cases.

After the Ethics Day, a working group was set up (European Commission 2007b) to consider three themes: awareness-raising and ethics policy; the clarification of rules/enforcement; and the setting up of an ethics infrastructure and focal point. The aim of the initiative was not to regulate, but to 'enhance the environment for professional ethics' and 'consolidate and promote an ethical culture' in order to create a modern, coherent, accessible and understandable ethical system. The initiative was not intended to replace the old system, but to supplement it (European Commission 2008: 2-3). Even so, the Communication pushed the Commission's ethics system in a new direction.

The Communication brought together a number of ethics-related actions. It recommended the agreement of a Statement of Principles (a draft of which was included in the Communication); it proposed major improvements to the Commission's internal ethics webpages; and it foresaw the development of new ethics training programmes. It recommended the establishment of a network (infrastructure) of ethics correspondents across the Commission's services, who could liaise with the 'centre' on ethical issues; and it also foresaw a one-stop shop online approval system for authorisation requests and the processing of declarations. Further clarification of the Staff Regulations in the form of new or revised Commission Decisions was recommended under the headings of 'favours, gifts and hospitality' and 'outside activities and assignments', alongside a check-list on the website to help officials identify potential or actual conflicts of interest (European Commission 2008: 3-5). The Communication was seen internally as a low-key administrative matter, internal to the Commission, and of no particular interest outside it (interview 1; Euractiv.com 7 March 2008). Indeed, in the absence of any scandal, little attention was given to the Communication at the time.

Between 2008 and 2011, Kallas's cabinet (and its successor, that of Maroš Šefčovič), together with DG Human Resources and the Secretariat-General, worked to implement the initiatives set out within the Communication. At the end of 2008, an audit was conducted by the Internal Audit Service (IAS) to judge whether the existing ICS on ethics was being implemented effectively (European Commission 2009). Covering two horizontal and four operational services, the outcome of the audit was positive, and its interim recommendations were much in line with the content of the Communication, allowing the Commission to get on with the job of implementation much as it would otherwise have done (DG HR 2009: 14).

This was not a particularly speedy process, but progress was made. By mid-2011 the draft Statement of Principles had been widely discussed and was posted on the Commission's intranet, though it was not formally approved or amended as had originally been planned. The network of ethics correspondents was in place in 2010, coordinated in the first instance by IDOC, but with plans to move this to the unit in DG HR responsible for ethics (interview 2; interview 4). Diversity of ethics management practice across DGs was encouraged, as the Commission's services designed ethics days and codes in line with their own policy needs. The new ethics website on the Commission's intranet (MyIntraComm) was up-and-running by 2009 (DG HR 2009). This included access to an internal paper, the Practical Guide to Ethics (European Commission 2011), explanatory pages on a range of ethics issues (contained in the Staff Regulations), and a series of informative case-studies (interview 2; interview 5). The one-stop shop for online ethics approvals was set up, but technical problems had delayed implementation, and as of early 2011, only one online approval route (on outside activities) had been activated. New training courses were also drafted, with more planned. Finally, work began to clarify the rules on favours, gifts and hospitality, and the revision of the existing Commission Decision on outside activities (DG HR 2009; DG HR 2011; interview 1; interview 2).

A parallel development which came out of the blue was the European Ombudsman's intervention into the field of Commission ethics in 2010-11. The Ombudsman's goal was to construct a set of public service principles (originally labelled 'ethical principles' but this was dropped) for the European administration. An initial request for information from the European network of Ombudsmen produced various options, which were then amalgamated into a proposal sent out for consultation in early 2011 (European Ombudsman 2011). Although it was not the first time the European Ombudsman had sought to influence ethical practices in the EU institutions, this initiative provoked a rather hostile response from within some quarters in the Commission as it failed to acknowledge that a similar exercise had already been initiated in-house. In the end, the initiative was quietly dropped.

In sum, in the period after 2005, the Commission's ethics system was characterised by a distaste for regulation, reflecting wider cultural norms asserted by organisational leaders within the Commission (also echoed in the negative discourses on the Kinnock reforms, as well as the top-down hostility to further institutional change in the post-Lisbon Treaty period). The agenda was not a deregulatory one, but there was recognition that regulation alone was insufficient, and that it could even be counterproductive. This reflected the weak position of the Commission externally. As well as greater emphasis placed on integrity measures, there was also a strong push on awareness of the rules (Năstase 2013).

## CONCLUSION

This article examines post-formative and formative institutional change in the case of the European Commission's ethics system, and finds that both structural factors and agency, external and internal to the Commission were important in both periods. This conclusion expands on the claim, and adds

to it by reflecting on the importance of *intensity* in differentiating between these two stages of institutional change.

More generally, the article reflects a relatively recent phenomenon within EU governance, labelled here as its good governance turn. Whereas in the period from the construction of the EEC to the early 1990s little emphasis was placed on quality of governance issues within the EU institutions, the good governance turn comprised a growing recognition by actors in the EU institutions that the democratic deficit formed a fault line running through the integration process. Increasing emphasis on the quality of governance brought principles such as accountability, transparency, representation and participation to the top of the EU's agenda, while also opening up new debates on efficiency and effectiveness. This led to a number of initiatives, including several on the public ethics of the EU's officials. Since the late 1990s, within the Commission, two distinct periods in ethics policy were identified – that of 1999-2004, a period of formative change characterised by a regulatory-enforcement approach; and 2005-2011 where the focus shifted in the direction of a softer integrity-orientated approach which emphasised implementation, both in letter and spirit, of the rules.

So what can we learn about European governance from this account of the formation and evolution of a public ethics system in the Commission? The lessons relate primarily to the way in which new governance systems emerge, and how they evolve; that is, they concern institutional change. Thus, moving to the empirical case, the article distinguishes between the *formation* of the ethics system on the one hand, and post-formative change, on the other. In the case of the former, the 'good governance turn' provided the broad external political context for the introduction of the new system, reinforcing the confidence of the European Parliament in its attacks on the Commission in the late 1990s. The 1999 resignation crisis, which could not have happened without this new EP confidence, led directly to the administrative reform which enabled the agreement of new rules that formed the foundation of the new ethics system. Within the Commission, the far reaching nature of the reform allowed for new initiatives on public ethics, just as those opposed to such reforms became morally weaker in their resistance to them. Key reform leaders, most notably Romano Prodi and Neil Kinnock, provided the necessary internal leadership to ensure that the new ethics system would form part of the wider management reform agenda. Therefore, we see that to understand formative change in this case, it is necessary to take into account not only the importance of external structural shocks and the external institutional context, and external actors, but also internal factors, in terms of both institutional discretion (if only up to a point) over reform content, and the leadership of key reform agents (see Figure 2).

Figure 2: Drivers of Ethics Reform (Formative)

	External	Internal
<b>Structure</b>	Good governance turn; major scandal, leading to historic reform	Discretion over internal reform (partial)
<b>Agency</b>	European Parliament; media	Reform agents

At the post-formative stage, particularly in the period after 2005, the external political context remained important as the effects of the 'good governance turn' continued to be felt, and as the European Parliament continued to wield power over the Commission. As in the late 1990s, scandals (most notably Eurostat) were the external drivers of change, supplemented by the Parliament's continuous push for further ethics-related reforms as a way of enhancing their control over the Commission. A growing antipathy to regulation within the Commission supported the use of a softer approach to the management of ethics. The use of soft instruments meant that there were no internal institutional barriers to reform as new initiatives could easily be developed and

implemented with little opposition. This has much in common with the parallel development of new governance modes, including those that fall under the rubric of the Open Method of Coordination. The arrival of a new Commissioner, Siim Kallas, who was keen to make his mark on the Commission despite a rather lacklustre portfolio, and his decision to include ethics in his European Transparency Initiative also generated momentum in the direction of further reforms (even if these were not implemented with any haste) (see Figure 3).

Figure 3: Drivers of Ethics Reform (Post-Formative)

	External	Internal
Structure	Good governance agenda; scandal	Growing antipathy to regulation
Agency	European Parliament; media	New Commissioner, Siim Kallas

Therefore, we see in explaining post-formative change that here too both internal and external drivers were important, as were both structural factors and reform agency. What differed of course was precisely how they mattered, or to put it differently the particular *qualities* of the factors at work. The crucial difference was the *intensity* of the initial external shock, which, coupled with all the other relevant factors, made (trans-) formation more likely.

What then might be the broader implications of this research, given the emphasis in many of the contributions in this volume on European governance from the perspective of power dynamics and inter-institutional balance? It is certainly possible to argue that reforms within the Commission have allowed that institution to inhabit a moral high-ground vis-à-vis the other EU institutions that have been slower and more reluctant to engage with such reform. But there is little evidence of such an argument carrying weight outside of academic circles. In practice, the reforms introduced to date, together with increasing pressure from activist NGOs, have served to strengthen the European Parliament's resolve over gaps and weaknesses in the Commission's ethics system. Although evidence on this point is scant, it seems unlikely that the Commission's reputation will have been strengthened as a consequence of engaging in this good governance turn. Although after 2011 the ethics agenda continued under a new Commissioner, Maroš Šefčovič, the latter taking forward his predecessor's transparency agenda, the Euro crisis seemed to draw attention away from the EU's good governance initiatives. Whether this is a temporary measure remains to be seen.

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