ETHICS MANAGEMENT AND INDIVIDUAL VIEWS TOWARDS ETHICS IN THE EUROPEAN COMMISSION

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Submitted to
Central European University
Doctoral School of Political Science, Public Policy and International Relations

In partial fulfillment of the requirements for the degree of Doctor of Philosophy

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Budapest, Hungary
August 31st, 2012

DECLARATION

I hereby declare that this thesis contains no materials accepted for any other degrees, in any other institutions. The thesis contains no materials previously written and/or published by any other person, except where appropriate acknowledgement is made in the form of bibliographical reference.

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ABSTRACT

Taking the European Commission as a case study, the thesis seeks to reveal the mechanism by which organizational ethics management influences employees' views towards public ethics. Ethics management represents a set of systematic managerial measures meant to promote integrity within an organization. With corruption recognized as a devastating governance problem world-wide, it has become a best practice standard, in both the public and business sectors, yet empirical research on its effects is scant.

The thesis uses the theoretical perspective of organizational socialization, understood as a social learning process by which individuals come to appreciate the values, knowledge and expected behaviours associated to organizational roles. In this view, ethics represents something that organizational members learn, and the structures and instruments dedicated to ethics management can feed this learning process. The thesis uses a qualitative methodology, combining document analysis with interviews with officials and ethics experts in the European Commission.

Findings show that Commission employees think about ethics in largely similar terms (which is significant, given the heterogeneous nature of Commission staff), and that their reasoning incorporates the messages and concerns expressed internally through official channels (particularly in the wave of awareness-raising and guidance actions implemented after 2008). However, ethics is frequently described as a matter of "common sense"; moreover, the preference, when confronted with a dilemma, is to seek advice from close colleagues and superiors (instead of using specialized structures). This indicates an indirect pattern of influence. Although ethics management instruments are not perceived as particularly relevant for day-to-day work, the Commission's efforts in this area nevertheless have an impact, because they put ethics on the map in the internal organizational life. Thus, ethics management contributes largely indirectly to the "learning" of ethics, by problematizing the topic – staking it out as an "issue" – which stimulates employees' sensitivity and leads to ethics questions being picked up in internal discussions.

The thesis also highlights the importance of public image considerations. The Commission responded to a shattering scandal (the Santer Commission resignation) with ethics reforms that featured a hard-line approach. During Siim Kallas' mandate (2004 – 2009), attempts were made to move closer to a "modern" system based on guidance and shared values. The switch was not entirely successful, because it implied rolling back controls, which risked being interpreted as the Commission letting its guard down. Thus, the initial framing of ethics as a cure for corruption diminished the political profitability of reforming the system later on, leading the Commission into a situation where a higher premium was placed on how it looked, rather than what it needed.

In conclusion, the thesis shows that ethics management is an exercise with a double purpose – it targets the organization's integrity, as well as its public image – and these are not (always) complementary objectives.

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LIST OF ABBREVIATIONS

AA	Appointing Authority
AD	administrator
ALTER-EU	The Alliance for Lobbying Transparency and Ethics Regulation
AST	assistant
CIE	Committee of Independent Experts
CPI	Corruption Perception Index
DG	Directorate-General
DG COMP	Directorate-General for Competition
DG ENV	Directorate-General for the Environment
DG HR	Directorate-General Human Resources and Security
DG MARKT	Directorate-General for the Internal Market and Services
DG REGIO	Directorate-General for Regional Policy
DG TRADE	Directorate-General for Trade
ECHO	Directorate-General for Humanitarian Aid
EPSO	European Personnel Selection Office
ETI	European Transparency Initiative
EU	European Union
IDOC	Investigation and Disciplinary Office of the European Commission
MEP	Member of the European Parliament
NGO	non-governmental organization
NPM	New Public Management
OECD	Organization for Economic Cooperation and Development
OLAF	The European Anti-Fraud Office
OS	organizational socialization
PSM	public service motivation
SG	Secretariat General
SNE	Seconded National Official
SR	Staff Regulations

INTRODUCTION[1]

Corruption is nowadays regarded as one of the most devastating governance problems world-wide. Little more than two decades ago it was considered a rather unfortunate, but trivial issue. The discourse on corruption was one of sleazy stories, juicy details, and conspiracy suppositions – the stuff tabloids are made of (Krastev 2004). Gradually, however, corruption came to be considered not just as a morally uncomfortable occurrence, but a plight which impoverishes nations, distorts free markets and deters investment, undermines the institutions of democracy, and destroys trust in societies[2]. Against this background, international anti-corruption and ethics regimes have proliferated, while integrity-boosting reforms were introduced in both developed and developing countries. With corruption on the agenda of all major international institutions (the World Bank, the United Nations, the International Monetary Fund, to name just a few), a veritable "anti-corruption industry" (Michael 2004) of global propositions evolved, made up of consultants, organizations and technologies.

As a part of this more general trend, regulation in the area of workplace ethics has grown immensely. It is not that public administration discovered ethics in the context of the global anticorruption crusade: questions of right and wrong have always been linked to the exercise of power, simply because ethics is inextricably linked to choice. As Singer (1991: v) observes, "anyone who thinks about what he or she ought to do is, consciously or unconsciously, involved in ethics". What was new, however, was the idea that ethics could, and should be *managed* "in the same breath and manner in which we talk about managing budgets, policies or people" Menzel (2001: 355).

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[1] The Introduction reproduces a small part of an article I authored: Năstase, Andreea. 2012. "Managing Ethics in the European Commission Services." *Public Management Review*: 1–19. doi:10.1080/14719037.2012.664016. Parts of this article are reproduced also in Chapter 1, in the Conclusion, and, to a larger extent, in Chapter 3.

[2] For a comprehensive review on the negative consequences of corruption, see the World Bank 2000.

Nowadays, ethics management has come to be considered the best practice standard, leading to a mushrooming of codes of conduct, ethics trainings, specialized counselling and other similar policy instruments, within public and business organizations alike. The management of ethics is often presented as a solution for increasing trust in public institutions. For instance, the *Recommendation of the Organization for Economic Cooperation and Development (OECD) on Principles for Managing Ethics in the Public Service* is explicitly framed as a response to "increased concern about decline of confidence in government and corruption" (OECD 1998: 6). This goes hand-in-hand with the widespread assumption that ethics improves organizational performance (Menzel 2005).

However, despite the current popularity and pervasiveness of such interventions, there is a shortage of related empirical research, especially for the public sector (Lawton and Doig 2005). In particular, little is known about how systems of ethics management impact on organizations and on the individuals working therein. It is in this area that this thesis makes a contribution, by analyzing the case of the European Commission.

In the EU (European Union) institutional system, the European Commission showcases most visibly "the global movement towards the institutionalization and formalization of public service ethics" (Lewis and Gilman 2005: 331). Since 2000, the Commission has undergone substantial administrative reforms, where the concern for strengthening standards of conduct was high on the agenda.

Many commentators view these reforms as a response to the resignation of the Santer Commission on March 15th 1999 (Kassim 2004, 2008, Cini 2004, 2007a, Ellinas and Suleiman 2008). The resignation followed the scathing reports of the Committee of Independent Experts (CIE), which were commissioned by the European Parliament, and exposed consistent evidence of fraud, mismanagement and nepotism in the Commission (CIE 1999a, CIE 1999b). They concluded rather dramatically that "it is becoming difficult to find anyone [in the European Commission] who has even the slightest sense of responsibility." (CIE 1999a: 144). Predictably,

the incoming Prodi Commission made it its business to clean up and modernize the organization. Commissioner Neil Kinnock was appointed to draft a reform program which was eventually fleshed out in 2000 as the *White Paper on Reforming the Commission* (also referred to as the White Paper, or the Kinnock reforms). His successor, Siim Kallas, continued the administrative reform with the well-publicized *European Transparency Initiative* (ETI). The ETI agenda was maintained, albeit in a diminished way, by Maroš Šefčovič, the current Commissioner for Inter-institutional Relations and Administration. The importance of these developments should not be underestimated. Ethics reforms in the European Commission are part and parcel of EU's prolonged bid to strengthen its democratic credentials and restore popular support for European integration.

Research question

After little more than a decade since ethics first entered the Commission's reform agenda, the time seems ripe to look at impact. Pursuing this line, the main research question of this thesis is:

How does the ethics policy of the European Commission influence the way its employees view public ethics?

This investigation builds on two premises. The first is that "ethical behaviour is learned behaviour" (Menzel 2007: 22), and, thus, individuals' views towards ethics are not static, but they can change and evolve over time. The second premise is that this evolution happens within an organizational context. Generally speaking, organizations are powerful social environments, so, in and of itself, organizational life is bound to leave some sort of mark on employees. What is more, research has proven[3] that a host of factors shape individuals' ethics within organizations, most notably other individuals (in particular close peers and leaders), the cultural climate, as well as managerial instruments. The thesis focuses on managerial instruments. It is important to note that

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[3] A detailed literature review is presented in Chapter 1.

the research effort does not aim to ascertain the net impact of the Commission's ethics policy, but rather to uncover the mechanisms and processes of influence.

Two secondary research questions are pursued, which serve as stepping stones for tackling the main question outlined above. First, the thesis investigates *how the European Commission has developed and implemented ethics management*. To be able to say anything about the workings of the Commission's ethics policy, it is necessary to first understand what it is. Beyond an inventory of the relevant instruments and structures, an account of the evolution of ethics management in the European Commission is also provided, because the historical and political context has a bearing on the present character of the system. Equally relevant is the implementation aspect, more precisely the administrative practice connected to ethics management in the Commission.

Secondly, the thesis asks *what views Commission employees hold about public ethics*. This research question aims at building an account of how Commission employees think about public ethics, based on which the influence of the Commission's ethics policy can be explored. It is a mapping exercise, meant to bring to light the substance of ethics, and the way it is expressed in various situations in the officials' work-life. At the same time, it aims at uncovering the main lines of convergence and divergence – in other words, are there aspects on which all (or most) would agree? Are there points of disagreement, and, if so, do they follow certain patterns?

Before moving on, a brief explanation on the central concepts used in the thesis will be useful. *Ethics* – or, rather, public ethics – is used here in a bounded sense, referring exclusively to appropriate behaviour in public office. It concerns the values which ground the operation of the public service: independence, objectivity, neutrality, loyalty, transparency etc. *Ethics management* (or, alternatively, *ethics policy*) is "a systematic and conscious effort to promote organizational integrity" (Menzel 2005: 29). It covers a wide array of policy instruments, structures and processes which are linked to ethics (for instance, codes of conduct, conflict of interest policies,

ethics trainings, integrity testing etc.)[4]. Ethics management is a regulatory exercise, as it represents purposeful action aimed at shaping individual conduct. Finally, I use the term *view* to describe – broadly speaking – what people think about ethics. In large part, the views explored in this thesis refer to judgements of acceptability regarding certain types of behaviour (i.e.: what is ethical and what is not). But *views* also cover related aspects, such as the justifications evoked in assessing acceptability, and opinions on what the "right" course of action would be.

Research limitations and some finer points

A few observations are also in order as to the limits of this inquiry. First, the focus is on the administrative levels of the European Commission (i.e.: the services), leaving aside the policy framework applicable to the College of Commissioners. Although there is a close relation between integrity (or lack thereof) at the political and administrative levels of an organization, the ethics of politicians and bureaucrats are substantively different, therefore requiring distinct management approaches (OECD 2009). This is indeed true of the Commission, which has two parallel systems, for Commissioners and officials respectively (Cini 2007b: 138). In this analysis I focus on the administrative level for two reasons. Firstly, the majority of ethics reforms in the Commission have been in this area. Secondly (and more importantly), officials in the administrative services spend most of their working lives in the Commission, and therefore it is with respect to this group that the influence of ethics management can be best assessed.

Moreover, I only consider how ethics is defined and managed *inside* the European Commission, leaving aside the broader checks-and-balances system outside the organization. Although practitioners advise that ethics policies should have in view the interlocking "layers of integrity", which start from individual values, and move up to the national legal and political system (Bossaert and Demmke 2005), such an endeavour would exceed the limits of this thesis.

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[4] A distinction is made between core measures, which address ethics expressly, and complementary measures, which do not have organizational integrity as their primary aim, but are nonetheless important for its realization (see more on this in Chapter 1).

Thirdly, the research endeavour focuses strictly on EU officials' views, and does not go further to make inferences about their actual behaviour. In the social sciences, the link between attitudes and behaviour is notably contested. Particularly in empirical ethics research, where actual behaviour is always difficult to investigate, there might be a temptation to use attitudes as proxies and predictors. This is not my purpose, although the thesis does include accounts of what officials report they *would* do when faced with certain ethics issues.

Finally, this thesis takes an empirical, not normative perspective. As such, it does not go as far as making value judgements regarding Commission officials' views but is limited to a mapping exercise. Therefore, it is beyond my purpose to determine whether those who work for the Commission are ethical or not – rather, I simply explore their *interpretations* of ethical behaviour. By extension, the thesis does not make a diagnosis on the ethical health of the Commission overall, or on the effectiveness of its ethics policies in improving this state. Implicitly, then, the focus is not on ascertaining change – i.e.: whether the Commission is a cleaner place today than it was before the Santer resignation, or whether its employees have different views now compared to a decade ago.

Admittedly, the above points are perhaps the most obvious and significant ones when exploring, as this thesis does, the impact of ethics management. Tackling them, however, would require the explicit adoption of normative criteria by which the ethical quality of the organization (and its employees) would be assessed. In the absence of such criteria, the thesis makes a valuable contribution to our understanding of *how* ethics policies are enacted, and how they are received by, and influence the target group. Therefore, this research shows how ethics management works in practice, and in doing so the focus is on the element of *process*, not *outcome*. This is an important aspect, but one which, as the following section will demonstrate, has so far been scantly covered in the specialized literature.

Proposed contributions to the ethics management literature

The main contribution of this thesis is to the literature on ethics management, which is part of a larger sub-field in the discipline of public administration, termed administrative ethics. Terry L. Cooper traces its emergence to the US, in the 1970s, but notes with regret that "the study of administrative ethics has lacked sufficient emphasis on some of the elements necessary to come to full fruition as a developmental subfield" (Cooper 1994: 3). His conclusion is backed by the findings of literature reviews conducted a decade later, namely Menzel (2005) and Lawton and Doig (2005), who look at the American and European experiences respectively. Administrative ethics covers a host of disciplinary approaches, from philosophy to cognitive psychology and public management, which are largely disconnected from each other. Broadly speaking, the field is split between normative and empirical approaches. In Wittmer's (2001: 481-482) words, while the first portrays "the world as it should be" (exploring the normative foundations of appropriate behaviour in public administration), the latter describes "the world as it is" (exploring the factors which influence ethical decision-making and behaviour). As already mentioned, this thesis is grounded in the empirical tradition of administrative ethics.

Administrative ethics research became entwined with management with the boom of New Public Management (NPM) reforms in the 1980s and 1990s throughout the US, Western Europe and the Commonwealth countries. NPM prompted fears that ethical standards in the public sector were failing as a result of introducing market-inspired practices. At the same time, societal demands were changing, stressing more the need for forms of direct horizontal accountability of the administrator to the citizens. Instead of backtracking on these reform agendas, ethics management advocates argued for the design of ethics measures that respond to the new challenges (Maesschalck 2004a: 468).

For the most part, the literature on ethics management is practitioner-oriented, and as such contains a mix of descriptive and prescriptive elements. Efforts have generally gone into mapping the policies, and the array of policy instruments employed in ethics management. To this end,

large surveys have been conducted, two examples being the OECD (2000), which describes ethics measures adopted in OECD countries, and Bossaert and Demmke's (2005), which looks at ethics management in the public services of EU member states. Other interesting comparative work, conducted in the same vein but on a smaller scale, is Behnke's (2002) study on ethics measures adopted in Germany, which she contrasts with the Anglo-Saxon approach, Smith's (2004) comparison of the ethics infrastructures in the US and China, and Palidauskaite's (2005) work on the codes of conduct adopted in Eastern European countries.

While substantial knowledge has been generated as to the type of instruments and approaches employed in ethics management, little is yet known about the way they function. It is to this area – which I shall refer to generically as the *practice* of ethics management – that the thesis makes a contribution.

One impediment to the development of more solid knowledge in this area has been the researchers' preference for focusing on the impact of one, or several policy instruments, at the expense of adopting more holistic perspectives. For instance, Menzel (2005) identifies ethics management as a major topic in the administrative ethics literature, but many of the cited studies dwell on specific ethics interventions, e.g.: municipal audit committees (West and Berman 2003), ethics trainings (West and Berman 2004), and ethics officers (Smith 2003). In the European literature, an example of this rather narrow approach is Christiensen and Lægreid (2011), who examine Norwegian civil servants' perception of newly introduced ethical guidelines. A noteworthy exception is the work of Cowell *et al.* (2011), who take a more inclusive perspective in analyzing the impacts of an ethics regulation program introduced in English local governments in 2000. The thesis follows this latter approach.

Causal mechanisms in particular are under-theorized, and under-researched. The most consistent indication is given by the so-called *compliance-integrity continuum*, which currently serves as the main analytical device for classifying policy approaches in the field. This construct is discussed at length in Chapter 1, therefore it suffices for now to point out that a compliance-

based regime reinforces adherence to administrative procedures and the policing of bad behaviour, while an integrity-based one is concerned with the promotion of aspirational values and the encouragement of good behaviour. Based on this, the assumption is that ethics management works by changing the incentives, as well as the value structures to which individuals are subject. To put it simply, it simultaneously prevents people from doing the wrong things, and encourages them to do the right ones. For this reason, the recommendation is always to combine the two styles in a mutually reinforcing manner. The following excerpt is illustrative for this line of thought:

> "The critical task is to design a balance between internal and external control, as well as congruence between them. That is, there must be enough control from outside the individual to discourage those inclinations towards indulgence of self-interest, but enough internal control to encourage the most socially constructive, idealistic, altruistic and creative impulses." (Cooper 1998: 163)

But the literature rarely goes beyond recommending that a good balance be achieved. Exceptionally, there are authors (Greasley *et al.* 2006, Cowell *et al.* 2011, drawing on Ayres and Braithwaite 1992) who have addressed the question in more depth, by suggesting a relationship of hierarchy between ethics management instruments – i.e.: an "enforcement pyramid", which has informal, cultural mechanisms at the bottom, and formal, compliance ones at the top. This predicts that the existence of powerful sanctions will enable regulators to appeal first (and with more success) to informal mechanisms. As Ayres and Braithwaite (1992: 19) explain, "[p]aradoxically, the bigger and the more various are the sticks, the greater success regulators will achieve by speaking softly". Cowell *et al.*'s (2011: 453) study, however, contradicts this hypothesis, as they show that instead of a sequential approach, "formal and informal mechanisms for regulating conduct tend to fail and succeed together".

The thesis approaches these questions from a different perspective, because its focus is not on behaviour but on individual views. The underlying assumption here is that the mechanisms present in ethics policy, which are generally presumed to shape behaviour, will also affect how individuals think about ethics. However, to understand how this happens, ethics management

needs to be re-interpreted from a different theoretical perspective. Therefore, the thesis uses the lenses of organizational socialization (OS), defined as "the process by which an individual comes to appreciate the values, abilities, expected behaviours and social knowledge essential for assuming an organizational role and for participating as an organizational member" (Louis 1980: 229-30). Essentially, OS is a process of social learning, by which individuals are familiarized with what it means to be part of an organization. Ethics (understood as public role morality) is also a subject in this learning process. In this perspective, an organization's ethics policy represents not so much a framework which both constrains and enables behaviour, but a source from which employees learn their ethics. It works by sending messages to the work-floor[5] as to which behaviour is acceptable, and which is not, what will be punished, etc. The contribution of this thesis is that it reveals how an organizational ethics management system (in this case, that of the European Commission) feeds the employees' learning about public ethics.

Another rarely examined aspect where this thesis makes a contribution refers to shifts in systems of ethics management. The topic is relevant, given the widespread current tendency – at least among OECD countries – to move from compliance-based to softer, value-based approaches (OECD 2000, 2009). These transitions – which are in line with the above-mentioned recommendation to balance the two styles – are complicated and sensitive processes, largely ignored by the literature (but see welcome exceptions by Lawton and Macaulay 2004, 2006 and Greasley *et al.* 2006, who write about the UK, and Hoekstra *et al.* 2008 for the Netherlands).

Regarding this point, the thesis analyzes the attempts made during Siim Kallas' mandate to change the European Commission's approach to managing ethics, from a focus on control (inherited from the Kinnock reforms) to a "modern" style based on guidance and shared values. This represents a secondary point in the overall economy of the thesis, where the development of the Commission's ethics policy is analyzed in order to determine its present character, and the

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[5] Throughout the thesis, the term "work-floor" will be used to designate those parts of the organization which are not dedicated to ethics management. Therefore, *ethics on the work-floor of the European Commission* (a phrase which will be used repeatedly) refers to the views, perceptions and experiences of employees who are not ethics experts – who are, for lack of a better term, the "regular" Commission officials.

messages which it – as a learning source – transmits to employees. This analysis, however, naturally entailed an examination of the way the change agenda proposed by Kallas was implemented. This gave rise to what might be called "spin-off" findings, relating to how and why systems of ethics management evolve over time, and what the difficult points and main influencing factors are.

The European Commission as a case study in ethics management

The European Commission is a good case for exploring the above-mentioned aspects in the *practice* of ethics management for two reasons.

Firstly, the Commission nowadays possesses an impressive arsenal of ethics policy instruments which are, by-and-large, typical and in line with international best practice [6]. Moreover, its experience with ethics reforms exemplifies a frequent pattern in national and international bureaucracies. Like many other (public and private) organizations, the Commission embarked upon ethics reforms after an external shock – in its case, the disgraceful resignation of the Santer Commission in March 1999. Introducing ethics measures in response to legitimacy crises is fairly typical – as Dobel (1993: 173) explains, "ethics codes and legislation […] are usually born in scandal and passed as much to reassure the public as to accomplish any good". In fact, administrative reforms more generally are often driven by external pressures, and as such they constitute highly politicized exercises (Pollitt and Bouckaert 2004; Peters 2001). The ethics regime which emerged from the Kinnock reforms was largely compliance-based. This option for a hard-line approach in the aftermath of corruption scandals is also common – for instance, Lawton and Macaulay (2009) and Roberts (2009) trace such patterns in the UK and US respectively. Finally, Kinnock's successor made an attempt to redefine ethics management as the promotion of an ethical culture at the workplace (rather than crude control). This, too, is in line with

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[6] The Demmke and Bossaert (2005) survey, which included all (then 25) Member States, as well as the European Commission, demonstrates that the Commission's policy instruments inventory is fairly similar to that of most national public administrations in the EU.

developments in OECD countries to move from compliance-based to softer, value-based approaches (OECD 2000, 2009). Because of all these commonalities, the European Commission can be considered *a typical case* (cf. Yin 2003), which can bring to light lessons for public bureaucracies facing similar conditions.

However, considered from a different perspective, the European Commission is not at all a typical public bureaucracy. It is one of the most powerful international executives in the world, situated "at the heart" (Nugent 1997) of a *sui generis* political system. It employs a highly multinational staff (over 33, 000 officials from 27 member states), covers an impressive breadth of policy competences, and exercises a mix of legislative, executive and quasi-judicial functions which would, in a national context, be split between different types of institutions. All this amounts to an internally heterogeneous organization, which is what differentiates the Commission from most of its national and international counterparts, and makes it a particularly interesting site for studying ethics management "in action". To be sure, it is unlikely that the multitude of ethics policy interventions to which the Commission has been subject would not have some impact on its employees. However, due to internal heterogeneity, it is far less clear whether this would actually lead to convergence towards a common ethos. From this perspective, the Commission represents *a hard case* in ethics management, in the sense that its organizational complexities represent significant challenges (well over average) to instilling a common line among staff.

In conclusion, what makes the Commission a good choice for studying the practice of ethics management is that it showcases a typical policy intervention in an atypical organizational context. In the Commission's case, then, the so-called "Sinatra inference" may be applied – the impact that ethics management has in this environment can be assumed to hold with less complicated structures as well.

This being said, there are certain conditions which make the Commission unique, and invite caution in generalizing the conclusions of this case study. To put it simply, if one accepts that ethics is tightly linked to public trust, then ethics reforms at the Commission have very high

stakes. With the end of the "permissive consensus" on European integration in the 1990s, the democratic quality and the legitimacy of the EU political system have come under fire. As an unelected body with far-reaching (and every-growing) attributions, the Commission cannot afford to neglect these questions, and, as Cini (2007a: 10-13) shows, ethics is relevant for both input and output legitimacy. Corruption scandals surely are damaging for any organization, but for the Commission they have been even more so, precisely because they came against a background of weak legitimacy, and popular contestation of the EU integration project. This, in turn, means that the Commission will be motivated to try harder at making ethics management work.

Proposed contributions to EU integration literature

Despite its importance as a policy issue, public ethics has rarely been mainstreamed in academic research on the European Commission (or other EU institutions, for that matter). For example, monographs of the European civil service treat questions of ethics rather marginally, typically by discussing the controversial practices associated with Member States' influence on staffing policy of the Commission: the informal system of "national quotas"; the national "flagging of posts"; the cabinets as national bastions; the circumvention of official recruitment procedures by way of *parachutage, piston* etc. (see for instance Coombes 1970, Page 1997, Stevens and Stevens 2001, Spence and Stevens 2006). Likewise, the little anthropological research done on the Commission (e.g.: Abélès *et al*. 1993, McDonald 1997, Shore 2000) discusses standards of behaviour only as they relate to the cultural aspects of life in the EU bureaucracy. Most commonly, analyses revolve around the role of diverging national traditions and the Commission's culture of informality. Shore's later work (2005, 2007) is somewhat of an exception, as it addresses head-on corruption in the EU civil service, in light of the dramatic events in 1999. The author concludes rather gravely that "EU's technocratic elite appears to be transforming from a 'class in itself' to a 'class *for* itself' [...]. The danger for Europe is that this

emerging elite ossifies into a self-serving caste, or European *'Nomenklatura'''* (Shore 2005: 150, emphasis in original).

Apart from this, there is also a small body of research (Cini 2004, 2007a, b, 2008, 2010, Dercks 2001, Hine and McMahon 2004, Giusta 2006) which focuses specifically on public ethics in the European Commission, using a public management perspective. Michelle Cini's investigation (2007a, b) is centred around the concept of "ethics infrastructure", i.e.: an umbrella term coined by the OECD (1996), which designates the sum of institutional structures and procedures, that, taken together, act as incentives for good behaviour and disincentives for unethical conduct. She concludes that, following Kinnock's mandate, "many of the elements of an ethics infrastructure are in place within the Commission" (Cini 2007a: 210). However, the approach has tended to be reactive, which largely explains the absence of systematic thinking on the issue, and thus the "Commission itself not having a clear notion of where its ethics framework began and ended" (Cini 2007a: 213). Dercks (2001), and Hine and McMahon (2004) similarly find that, following the Santer resignation, rules have been put in place. However, concerns linger as to whether the reform would succeed in reaching the organizational culture and aligning it with the new standards.

The thesis contributes to this body of literature on ethics policy at the Commission. The novelty is on, the one hand, empirical. The coverage of existent contributions is largely limited to the Kinnock mandate[7], whereas the thesis extends to Kallas' mandate as well. Importantly, during this time a major recalibration in the Commission's treatment of ethics (in the services) was attempted, therefore revisiting the conclusions of previous studies seems necessary. Furthermore, the thesis presents an account of how Commission officials perceive and interpret ethics on the job. In doing so, this work effectively represents a portrait (albeit incomplete) of the moral system of the EU civil service. This is new information, since the specialized literature is limited to

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[7] But see Cini 2008 for an analysis of the European Transparency Initiative, and Cini 2012 (forthcoming) for an up-to-date analysis of ethics management on the political levels of the Commission (i.e.: the College of Commissioners).

analyzing policy, whereas other parts of the EU literature which explore issues such as socialization, roles and identities, do not cover ethics. On the other hand, the new empirical information yielded in this research serves to take forward the small research agenda on ethics in the Commission. Specifically, as it contains an up-to-date analysis of the policy framework, as well as an account of ethics on the work-floor, the thesis makes a connection between the two, showing how ethics reforms have played out in the internal life of the Commission.

In a broader sense, the thesis speaks to a relatively recent body of research, which translates theories and concepts from public administration scholarship to the study of EU institutions. Termed by Trondal (2007) as the "public administration turn" in integration research, this new orientation has favoured (perhaps not surprisingly) substantial work on the Commission. Of the many themes which have sprung up, the research on Commission socialization is of particular relevance here. The thesis looks at the way in which organizational ethics policy feeds Commission officials' thinking about ethics. This process is a form of socialization – which means that the thesis finds common ground with European socialization research, albeit under a very broad understanding of the term, as a "people-processing" (Zürn and Checkel 2005) attribute which organizations posses. From this perspective, previous research on Commission socialization provides important information on the specificities of this organizational environment, and its socializing potential, the characteristics of the process, as well as the variables which matter.

However, much of the literature touches only tangentially on the issue of public ethics. Instead, the focus is on ascertaining to what extent the organization is capable of forging specifically European identities (that is, distinct from the national ones). Research findings vary considerably – as one literature review points out, "current research disagrees on the transformative clout of the Commission to re-direct behaviour and re-socialize Commission staff" (Trondal 2007: 963).

Although this thesis was informed considerably by the Commission socialization literature, it should be stressed that it also departs from it in significant ways. The issue is discussed at length in Chapter 1, but it is nonetheless useful to make a quick mention here, as well. First, the subject relative to which socialization is investigated differs. EU research focuses on political views or decision-making patterns, which pertain – broadly speaking – to European integration and political authority in the EU, while this research is about views regarding public ethics. There is no overlap between the two – to put it simply, the fact that an official favours supranationalism or intergovernmentalism says very little about his/ her appreciation of what constitutes appropriate conduct in office [8]. Another point where the thesis departs from the norm in EU research is the way socialization is defined and conceptualized. In most Commission literature, socialization appears as somewhat of an organic process which occurs when an individual comes in contact with the organization. This thesis, however, explicitly includes an appreciation of the organizational policies which impact on socialization (some of which are specifically designed to do so). Therefore, socialization is not something which simply happens (when certain scope conditions are met), but something which is – in part – planned and managed by the Commission. Finally, EU research generally defines socialization as value internalization – i.e.: "a process of inducting actors into the norms and rules of a given community" (Checkel 2005: 804) – to differentiate it from instrumental calculation, or mimicking. In this thesis, socialization is understood more inclusively, as a process of social learning. From this perspective, which is closer to public management than to sociology, the socialization outcome is knowledge of one's organizational role. This does not imply a distinction between value internalization and other types of adaptive behaviour.

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[8] One possible exception to this could be the independence principle (Art. 11 of the Staff Regulations), which requires that officials carry out their duties "solely with the interests of the Communities in mind", without seeking or receiving "instructions from any government, authority, organization or person outside his institution" (Commission 2004b: 8). Thus, an intergovernmental stance might appear ethically questionable because it departs from the "interests of the Communities".

Research design and methodology

This project was executed in two distinct research phases. The first phase was a preparatory one, dedicated to mapping the Commission's ethics management system, documenting how the relevant policies were implemented, and uncovering the ethical "hot spots" (i.e.: the subjects considered to be more "tricky" in practice, and which earned the Commission public criticism). The second phase tackled the main research question, and it was dedicated to mapping the views of Commission officials regarding public ethics, their perception of the specific (ethical) challenges of the job, as well as their experience with, and perception of the ethics policy instruments.

This thesis uses qualitative research methods, relying on a combination of interviews and document analysis. The participants interviewed in the two phases of the project differ significantly, as do the sampling strategies which were employed. For the first phase a panel of knowledgeable informants (Weiss 2004) was used, specifically twenty-five internal ethics experts of the European Commission. This group of informants was chosen because they are the only ones with first-hand information on the development, implementation, and context of ethics reforms in the Commission. Most interviewees belonged to the administrative services. Some of them were responsible for the coordination of ethics policy throughout the Commission, but most (i.e.: the so-called "ethics correspondents") had their attributions confined to a specific Directorate General (DG)[9]. The ethics correspondents came from 17 different DGs (out of a total of 33), so that the collected information covers a wide range of activities and functions performed in the Commission.

For the second phase of the project, a maximum variation sample was used, specifically thirty officials who were working for the Commission in various capacities. As the name suggests, this kind of sample is composed by deliberately selecting participants who represent instances of all important dissimilar types preset in the wider population (Weiss 2004). Specifically, the

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[9] The Directorate Generals are the main organizational units of the Commission. Each DG is made up of several directorates, and these in turn consist of several administrative units.

sample used here was built to reflect, within some pre-defined limits, the heterogeneous nature of the European Commission, which, as argued before, poses above-average challenges in terms of ethics management.

On a more general note, being an entirely qualitative project, this thesis cannot claim representativeness in the same terms as a statistical work would. However, as noted above, the two groups of interviewees were selected in such a way as to allow for findings to be extrapolated if not to the entire organization, then to significant parts of it. Furthermore, what may be lost in terms of representativeness is gained through the depth and richness of data. This thesis presents not only a fine-grained account of how ethics management is carried out at the Commission, but also an in-depth and nuanced report of the way officials perceive and think about ethics in everyday work-life.

All interviews had a semi-structured format and were conducted following pre-set interview guides (see Annexes 1 and 2 [10]). The interviews conducted in the second project phase included three vignettes, i.e.: detailed hypothetical scenarios on which respondents were asked to comment. Essentially, this was the methodological instrument used to elicit officials' views regarding ethics in public office. The vignettes presented ambiguous situations, which lead respondents to engage in a process of reasoning, through which their views were revealed. Chapter 2 includes a detailed discussion on the characteristics of this methodological instrument and its deployment in the thesis. It is enough to point out, for now, that the decision to use vignettes was mainly motivated by their potential to minimize social desirability bias. Vignettes can do this because respondents are more comfortable with commenting on fictional situations than with answering direct questions about their own beliefs, and experience (Finch 1987, Renold 2002).

Before moving on, it is important to consider the difficulties connected to empirical ethics research. Ethics is a sensitive and loaded subject, which poses above-average problems in terms of

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[10] The annexes present the full interview guides. Some questions were not answered (mostly for lack of time), while others produced inconclusive answers. Therefore, not all the collected information was used in the thesis.

access. Simply put, it is challenging to enlist people in a research project which could potentially be detrimental not only to themselves, but also to the organization where they work. This is a straightforward self-protection issue on the participants' side, which requires that the researcher establishes firmly his/her credibility and trustworthiness. Research ethics is also a critical question here, because the data produced in this kind of project can, if treated incorrectly, bring harm to the participants.

Several measures were taken to address these problems. Firstly, all interviews are confidential. Names were replaced with randomly assigned numbers. The internal ethics experts in the Commission are referred to as "ethics officials", whereas the rest of the interviewees are referred to simply as "officials"[11]. In some cases, additional measures were necessary to maintain confidentiality, for instance obscuring officials' nationality and certain details regarding their job attributions. There were also cases where, sadly, the information simply could not be used.

Secondly, interview protocols were strictly respected. The purpose and the conditions of the interview were explained in detail to participants. Interviews were taped only when there was explicit agreement, and in all other cases detailed reports were prepared on the same day as the interviews were carried out[12].

Thirdly, participants were recruited on a purely voluntary basis. The ethics experts were contacted using the Commission's online staff directory (http://ec.europa.eu/staffdir/plsql/gsys_page.display_index?pLang=EN), and, in some cases, additional internal sources. The other officials were recruited through internal channels, using recommendations from ethics experts and the snowballing technique. The access was generally satisfactory, not in the least because the Commission is so heavily researched that its employees have a certain degree of comfort with a research interview situation.

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[11] Throughout the thesis, the term "official" is used to refer to the administrative staff of the Commission, regardless of grade or type of employment.

[12] For the information of dissertation committee members, the interview transcripts and field reports can be made available, upon request.

Issues of validity are also more severe with ethics research, as opposed to less thorny subjects. How can one know whether the participants are telling the truth, particularly if it is likely to be deemed as socially unacceptable? While there is no possibility of actually verifying veracity, some preventive measures were taken. Firstly, the voluntary and confidential nature of the interviews created conditions for participants to approach this situation in an open way. Secondly, the ambiguous nature of the vignettes meant that there was no "right answer" per se, but different yet equally justifiable interpretations. This left officials some neutral space to genuinely consider and express their positions vis-à-vis the behaviour presented in these scenarios.

Structure of the thesis

The thesis is structured around five chapters. Chapter 1 develops the analytical framework within which the research questions will be addressed. It starts with a discussion around ethics, public service values, unethical behaviour, ethical dilemmas and ethical decision-making, thereby defining the main conceptual reference points, and the parameters of the research. Chapter 1 also discusses the principal policy instruments and approaches employed in ethics management, as well as the boundaries of this exercise. Finally, the last part of the chapter will introduce the theoretical perspective of organizational socialization, and explain how it will be deployed in the thesis.

Chapter 2 deals with questions of research design and methodology, particularly regarding the second phase of the research project. After briefly introducing the European Commission, the chapter presents the criteria on which officials were selected for interviews. The characteristics of the sample will also be discussed, as well as the method by which participants were recruited. Finally, the chapter explains the main characteristics of the vignette technique, as well as the manner in which this methodological instrument is used in the thesis.

Chapters 3 to 5 are dedicated to the analysis of empirical data. Chapter 3 provides an empirical account of the ethics management system which applies to the European Commission

services. Thus, it answers one of the secondary research questions guiding this thesis. The chapter starts by offering an account of the gradual interventions which have built up the system, focusing particularly on the mandates of Neil Kinnock and Siim Kallas. Moving on, it presents the messages which pervaded the Commission's internal communication regarding ethics. This analysis is necessary, in light of the arguments previously made on the interpretation of ethics policies as a source from which employees learn about ethics during their organizational socialization. Finally, Chapter 3 also examines the change agenda proposed by Siim Kallas. It will be shown that the administrative practice fell short of what was suggested by the official rhetoric, namely a radical departure from the control-based tradition of the Kinnock era. The reasons for this half-way change will be explored in depth.

Chapter 4 presents an in-depth and nuanced account of the views that Commission officials hold about public ethics. Thus, the chapter addresses the other secondary research question which guides the thesis. By analyzing the vignettes, the main arguments which are evoked in officials' judgments of acceptability are revealed, as well as the lines of convergence and divergence in their views. It will be argued that, while they share much common ground in their thinking about ethics (which is essentially defined by a pronounced sense of loyalty to the Commission), there are also (secondary) points on which officials disagree.

Drawing on the findings of the previous two chapters, Chapter 5 presents the mechanism by which the organizational ethics policy of the European Commission influences the employees' views towards ethics. Therefore, it is in this chapter that the main research question of the thesis will be answered. It will first be argued that the Commission's efforts to manage ethics are being felt on the work-floor. This is so because officials tend to think about ethics in similar terms and, moreover, when reasoning through the vignettes, they reproduced the messages and arguments present in the Commission's official communication on ethics. Furthermore, almost all interviewees reported that, particularly in recent years, they had participated in work events dedicated to ethics (e.g.: trainings, workshops), or read internal literature on the subject. However,

officials frequently characterize ethics as a matter of "common sense". This suggests an interesting and somewhat paradoxical situation, where ethics management instruments – without actually being ineffective – are not perceived by the target group to be particularly relevant, or useful in their everyday work. Then, to the extent that ethics management does work, the mechanisms of influence are certainly not straightforward.

Finally, the Conclusion will provide a summary of the findings, and highlight the contributions of the thesis to the literatures on ethics management, and EU integration respectively.

CHAPTER 1
ETHICS AND ETHICS MANAGEMENT IN PUBLIC ORGANIZATIONS

This chapter puts forward an analytical framework within which the research questions of the thesis will be addressed. In doing this, it draws mainly on the academic literature dealing with administrative ethics, complemented by insights from the fields of business ethics and organizational socialization.

The first section of this chapter defines the core concepts and establishes the parameters of the research, thus offering a basic framework for thinking about ethics in an organizational context. Specifically, it analyzes ethics and its parameters, as well as the related concepts of unethical behaviour and ethical dilemmas. The second section deals with ethical decision-making. It covers the framing and the principal characteristics of this process, offers an overview of the main factors which influence it, and explains the methodological choice for vignettes.

After establishing these conceptual reference points, the third section turns to ethics management, exploring what this exercise consists of, what its boundaries are, and how it is supposed to work. This part draws on the rather practitioner-oriented literature on ethics management.

The fourth and final section of the chapter introduces the theoretical perspective of organizational socialization (OS). Because of its emphasis on learning, this perspective is – compared to the standard *compliance-integrity continuum* – more fitting to the purpose of the thesis, which is to uncover how individuals think about ethics (not necessarily how they behave). The section introduces the OS literature, explains how it will be used in the thesis, and ends with a couple of observations on the treatment of socialization in EU integration research (which differs from the approach used here).

1.1. A conceptual framework for addressing public ethics

This section establishes a framework for thinking about ethics in an organizational context. It defines ethics, fixes the parameters of the research, and analyzes the important, related concepts of unethical behaviour and ethical dilemmas.

1.1.1. Ethics

Generally speaking, morality is a term which refers to the nature of good or bad, right or wrong. *Ethics* (or, more precisely, public ethics), which is the focus of this thesis, refers to appropriate behaviour in public office. It is connected to the performance of public roles and duties. As such, it does not deal with absolute, universal principles, but has a limited, *situational* character. It is best conceived as "role morality", because it covers only a particular aspect (or role) in one's life (Rohr 1998). To be clear, throughout this thesis I will use the term "ethics" to refer to officials' public positions, and "morality" for the more general use.

It is a matter of debate whether it is possible – or desirable – to treat job-related normative considerations in separation of the wider individual and societal moral frameworks. A good part of the literature dealing with ethics in public life highlights the possible clashes between opposing moral cues coming from different spheres of life (e.g.: the fervent Catholic official, who works for a government which passes legislation making abortion legal; the "dirty" policeman who tortures the kidnapper in order to save a child's life) [13]. These are indeed very important questions, but they can be better answered by political philosophers. In the framework of this project, the delineation of a specific sphere of public role morality – i.e.: ethics – is done strictly in order to define and limit the scope of the research. It should be understood as an analytical position, not a normative one.

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[13] A good discussion of these issues is offered in Applbaum 1999.

1.1.2. Public service values as the parameters of "ethics"

The parameters of "ethics" can be defined in relation to the core values which ground the operation of the public service. These values are inevitably rather vague; however, they do help to draw a framework in which to address questions of ethical conduct.

As yet, the European Commission has no official document dedicated particularly to enunciating the core values of the European civil service. However, these can be revealed in a combined analysis of the *Treaties*, the *Staff Regulations*, the *Code of Good Administrative Behaviour*, and the *Communication on Enhancing the Environment for Professional Ethics in the Commission* (SEC(2008)31) – which includes a draft statement on principles of professional ethics. The table below draws on all these official documents, but also on various flyers, brochures, and training support materials [14] used internally in the Commission.

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[14] For the most part, these are materials used at the "Ethics and Integrity" training (a program created by DG Human Resources and Security approximately two years ago, and mandatory for newcomers) and at the "Ethics Day" (a Commission-wide internal event held in July 2006, aimed at debating practical ethical cases, whose organization was coordinated from the Secretariat General – see http://ec.europa.eu/commission_barroso/kallas/work/ethics_integrity/ethics_en.htm). The documents were collected during fieldwork in March-June 2010.

Independence
Commission officials are expected to carry out their duties "solely with the interests of the Communities in mind", and "neither seek nor take instructions from any government, authority, organization or person outside his institution". They are also expected to avoid any situations which could cast doubts about their independence.

Objectivity and impartiality
Officials should ensure that their conduct reflects no bias. They should consistently ensure equal treatment, and avoid discrimination on the grounds of nationality, sex, ethnic origin, or other factors. All parties with a direct interest should be heard. Reasons for decisions should be stated clearly and communicated to all parties.

Lawfulness
Conduct should always be in line with the laws, rules and procedures laid down in Community legislation.

Loyalty
Staff should offer honest advice, and inform management of any risks or disadvantages associated with a planned action or decision. Staff is expected to implement loyally the orders they receive from superiors, except when these are manifestly illegal. Staff should take care that their behaviour is not contrary to the interests of the Union.

Discretion and confidentiality
Staff should refrain from disclosing information received in the line of duty, unless that information is already in the public domain. They should ensure that confidential information to which they have access is adequately protected.

Transparency
Citizens have access to all Community documents within the boundaries of exceptions instituted in the specific legislation.

Responsibility
Officials are expected to take responsibility in the performance of their duties. Public assets and resources should be used in an honest and professional manner. If they become aware of any irregularities or serious failings in the course of their duties, officials have an obligation to report them.

Circumspection
Staff has a duty to avoid delicate situations. They should inform the hierarchy of possible conflicts of interest, and obtain hierarchical permission before engaging in any outside activity. They should discourage the offering of gifts related to their professional duties.

Competence
Commission officials are expected to achieve the Commission's objectives with competence, in an effective and efficient manner. Decisions should be taken after careful consideration of advantages, disadvantages, and potential consequences.

Respect and Courtesy
In their dealings with the public, staff should provide quality service, which is open, accessible, and respects the applicable deadlines and procedures. They should treat colleagues with respect and courtesy, take their ideas and contributions into account and be ready to help them if needed. Officials should refrain from anything that could be perceived as psychological or sexual harassment.

Dignity of the Service
Staff should be aware that in their private lives they may be viewed as representatives of the European institutions, and should therefore refrain from any actions which might reflect adversely on their position, or on the reputation of the Commission.

Table 1.1. Values and ethical standards in the European Commission services

The standards described above should be understood as rules which define (and constrain) public role morality in the European Commission. They tell us what an ethical official is supposed to be like – but they do so in a rather general fashion. There is nothing new, or unusual, about the values and standards listed in Table 1.1 – similar ethical requirements apply to the public administration systems of EU Member States[15]. In practice, however, the concrete meaning of such values is often disputed, and what seems as clearly condemnable to some may be perceived by others as acceptable, or at least open to discussion. A comparative study of public ethics in EU Member States notes that "especially from a comparative point of view, there is very little common understanding about what constitutes ethical behaviour" (Bossaert and Demmke 2005: 21).

1.1.3. Unethical behaviour and ethical dilemmas

As suggested above, ethics becomes palpable (and controversial) only in concrete situations. Therefore, to bring more concreteness into this analysis, it is useful to explore two related concepts – those of unethical behaviour, and ethical dilemma respectively.

Unethical behaviour is understood as deviance from appropriateness, i.e.: breaking one or several of the behavioural standards which define the operation of the civil service. Probably the most obvious form of unethical behaviour is *corruption*, understood here as "the misuse of entrusted power for private gain" (Transparency International). Much of the current criticism regarding failing ethical standards in public life is fuelled by exposure of corruption cases – which do cover a fairly broad spectrum: offering and receiving bribes and other undue advantages, trading in influence, nepotism, and different forms of patronage. However, unethical behaviour can take various forms other than corruption, ranging from illegal behaviour to legal, but inappropriate or unauthorized behaviour (Cini 2007a). Systematic classifications are scarce in the

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[15] Bossaert and Demmke (2005: 242-243) identify five common ethical principles in EU Member States, which largely overlap with the values discussed above: (1) commitment to the public; (2) integrity, honesty and fairness; (3) independence and objectivity; (4) accountability and responsibility; (5) openness and transparency.

literature, however one notable exception is Lasthuizen *et al.*'s (2011) typology of "integrity violations"[16], which is worth mentioning here, as authors claim it applies universally for all (public) organizations. It includes: corruption (through bribing or favouritism); fraud and theft of resources; conflict of (private and public) interests though gifts, or sideline activities; improper use of authority; misuse and manipulation of information; indecent treatment of colleagues, or citizens and customers; waste and abuse of organizational resources; and, finally, misconduct in private time.

Moving on, it is important to appreciate that not all activities performed by civil servants are equally meaningful from an ethics perspective. To be clear, ethics becomes significant in situations of choice (which allow for the exercise of discretion), and only when values and standards of conduct are directly called into question, or likely to be jeopardized. Wittmer (2001) refers to these situations as *ethical decisions*. To give an example, deciding what type of pencils to buy for the office is obviously less ethically charged than deciding whether to report a colleague who has been regularly stealing office supplies.

A special class of ethical decisions are the *ethical dilemmas*, broadly understood as situations where people find it difficult to judge what would constitute ethical behaviour. It is their ambiguous nature that differentiates ethical dilemmas from unethical behaviour, which is generally understood as being wrong (Maesschalck 2004b). Ethical dilemmas are often described as choices between competing, irreconcilable values which define the public role. Here "two or more competing values are important and in conflict. If you serve one value you cannot serve another, or you must deny or disserve one or more values in order to maintain one or more of the others" (Gortner 1991: 14). Put differently, ethical dilemmas are not choices between right and wrong, but between right and right (Kidder 2009). To give just a simple example, an official is facing an ethical dilemma if he is required to release publicly a document which can damage the reputation of his organization (in this case, the conflict is between transparency and loyalty).

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[16] Where integrity is defined as "the quality of acting in accordance with relevant moral values, norms and rules" (Lasthuizen *et al.* 2011: 387).

This thesis focuses on ethical dilemmas because they represent spaces where the boundaries between ethical and not ethical are negotiated. They are the "grey" areas of organizational ethics, and it is reasonable to assume that, if Commission officials differ in the way they think about ethics, it is in those areas that the differences would become visible. For example, while it is very improbable that anyone would condone bribe-taking, a "grey" gift situation is much less clear-cut. As a general principle, a civil servant should not receive gifts from external parties, as this may (be perceived to) damage his/her impartiality. Nevertheless, sometimes refusing a gift can be interpreted by the one who is offering it as disrespectful – maybe even to the point that the working relationship is jeopardized. In such a circumstance, it is certainly not clear whether it is still "ethical" to refuse the gift. To be clear, ethical dilemmas were incorporated in interviews with Commission officials in the form of three written vignettes [17]. The characteristics of this methodological instrument are explained in more detail in the following chapter.

Before moving on, it should be mentioned that the ethical dilemma is very similar to the concept of *moral dilemma*, which has long been investigated by moral philosophers. The central characteristics of moral dilemmas are the following: "the agent is required to do each of two (or more) actions; the agent can do each of the actions; but the agent cannot do both (or all) of the actions. The agent thus seems condemned to moral failure." (Stanford Encyclopaedia of Philosophy[18]). There is a wealth of debate, among ethicists, whether genuine moral dilemmas are possible in a coherent moral system, and, if so, whether systematic solutions can be applied. However, a full exploration of these topics goes beyond the parameters of this thesis. It matters less whether the vignettes used here stand the sophisticated tests of trained ethicists. What is actually essential is that they represent authentic ethical dilemmas for those who are interviewed, and thus can be expected to yield different interpretations.

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[17] Although the written short scenario is a common presentation method, vignettes can take other forms as well: video and audio material, PPT presentations etc.

[18] For more details, please consult: http://plato.stanford.edu/entries/moral-dilemmas/ .

1.1.4. Types of ethical dilemmas

In practice, ethical dilemmas can be about many different things. For a better understanding, typologies are useful; however the specialized literature has little to offer in this regard, with many authors (Kidder 2009, Wark and Krebs 2000) taking the dilemma content as the criterion for classification. Kidder (2009), for example, states that most dilemmas are centred on four paradigms: truth vs. loyalty, individual vs. community, short-term vs. long-term, and justice vs. mercy. This kind of classification, however, tends to be reductionist – potentially, there could be far more combinations of conflicting values and imperatives. By contrast, Kaptein and Van Reenen (2001) classify dilemmas according to the relationships to which they apply [19]. Succinctly, the authors distinguish between three types of dilemmas: firstly, the "entangled hands" dilemmas, which refer to the relationship between individual employees and the organization; secondly, the "many hands" dilemmas, which characterize the relationship between employees, or internal units of the organization; and, thirdly, the "dirty hands" dilemmas, which refer to the relationship between an organization and its stakeholders.

Focusing on relational dimensions, rather than dilemma content, Kaptein and Van Reenen's (2001) approach has a better potential to capture the complexity of the ethical environment in organizations. In fact, these relations represent, in a wider sense, the coordinates which map general "ethics issues" (such as conflicts of interest, inappropriate orders, or information leaks). In this context, an ethical dilemma represents a specific situation, marked by ambiguity, which features these more general issues. Largely inspired by the work of Kaptein and Van Reenen (2001), and with this slight twist in mind, I distinguish between three types of ethics issues.

Firstly, type 1 issues refer to the relationship between the official and the organization, which highlights the official's responsibilities *towards* the organization where he works, as a

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[19] Their typology, developed particularly for police organizations, is very similar to Kaptein and Wempe's (2002) discussion of the "corporate condition", which identifies the same relationships on the basis of which corporate functioning can be evaluated from a moral standpoint. This indicates that the typology has potential for a wider applicability.

whole. Here, ethical problems arise where there is a conflict between the personal (private) interests of the employee, and the interests of the organization. Issues in this category include: conflicts of interests and external activities (i.e.: engagements outside the working program, remunerated or not – e.g.: part-time teaching), private-time behaviour which can reflect negatively on the image of the organization, officials' individual freedom of expression, improper use of office resources (e.g.: using the office telephone for private calls).

Moving on, type 2 issues refer to the relationship between the official, the organization, and his/ her colleagues, highlighting the official's responsibilities *within* the organization. Here, ethical problems arise when the interests of the organization slip between the employees' individual duties. Issues in this category include: whistleblowing (i.e.: reporting misconduct witnessed at the workplace); tendering fair and impartial advice to superiors, discrimination or favouritism in the area of human resources (hiring, firing, promotions etc.), inappropriate or illegal orders, psychological and sexual harassment.

Finally, type 3 issues refer to the relationship between the official, the organization, and external actors (i.e.: the organization's stakeholders, the public, the press), highlighting the officials' responsibilities *on behalf* of the organization, towards external actors. Issues in this category include: dealing with gifts and hospitality, handling sensitive information in relation with stakeholders and the press, improper treatment of citizens, contractors etc.

The typology is succinctly presented in Figure 1 below:
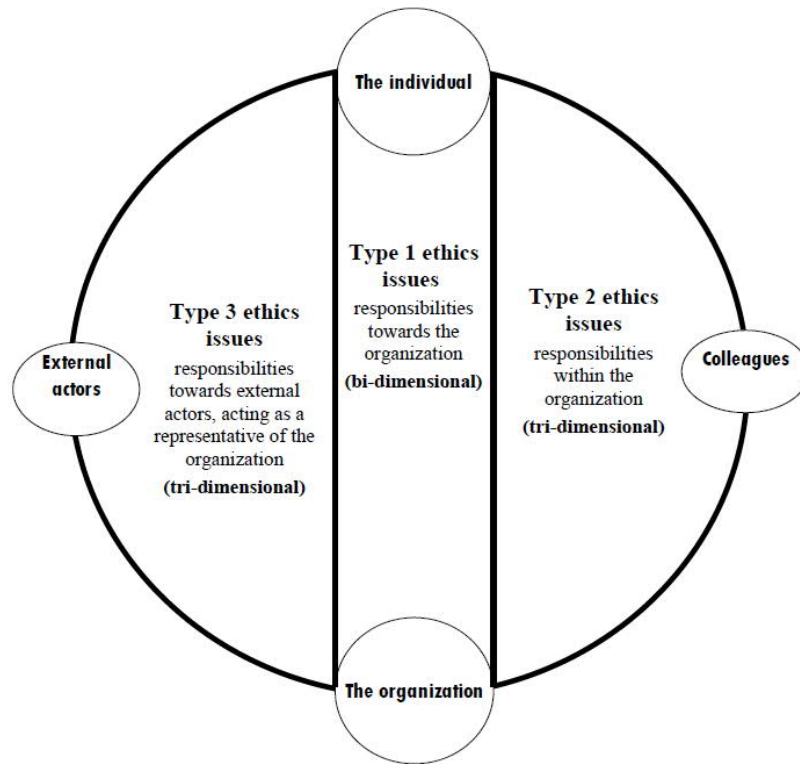
Figure 1.1. Types of ethics issues

It is important to note that, in practice, ethics cases can spawn across the types presented above. Nevertheless, this typology represents a good compass for navigating the variety of topics which give substance to ethical dilemmas. The typology is used in the thesis to map the ethics universe of the Commission, and to eventually select the issues which are the most relevant. More precisely, for each of the types discussed above, one issue will be selected, which will then serve as basis for the formulation of vignettes.

1.2. Views towards public ethics

As argued before, ethical dilemmas are decision situations. It is assumed here that people's views about ethics are revealed in such decisions, more specifically through the process of evaluation which precedes them. To be clear, in this thesis the term "views" is used in a broad sense, to describe what individuals think about ethics. For the most part, it refers to judgements of acceptability regarding certain types of behaviour (i.e.: what is ethical and what is not), but it also

covers related aspects, such as the justifications evoked in assessing acceptability, or opinions on the appropriate course of action.

A significant part of the empirical ethics literature deals with how people make ethically-significant decisions. In what follows, I draw on this literature to establish the framing and principal characteristics of the process. The section ends with a review of the main factors which have been empirically documented to shape individuals' thinking about ethics.

1.2.1. Ethical decision-making

In synthesizing several influential models in the literature (i.e.: Treviño 1986, Bommer *et al.* 1987, Rest 1986, Jones 1991), Wittmer (2001) describes ethical decision-making as beginning with the perception that a problem has ethical content (i.e.: ethical sensitivity), continuing with judgment, or reasoning concerning this issue, after which a choice is made, and the process ends with the actual behaviour of the decision-maker (see Figure 1.2 below). Influences on ethical decision-making are traditionally grouped in two clusters: on the one hand, individual attributes (such as self-esteem, age, or gender), and, on the other, environmental factors (such as rewards and punishments, and organizational culture).
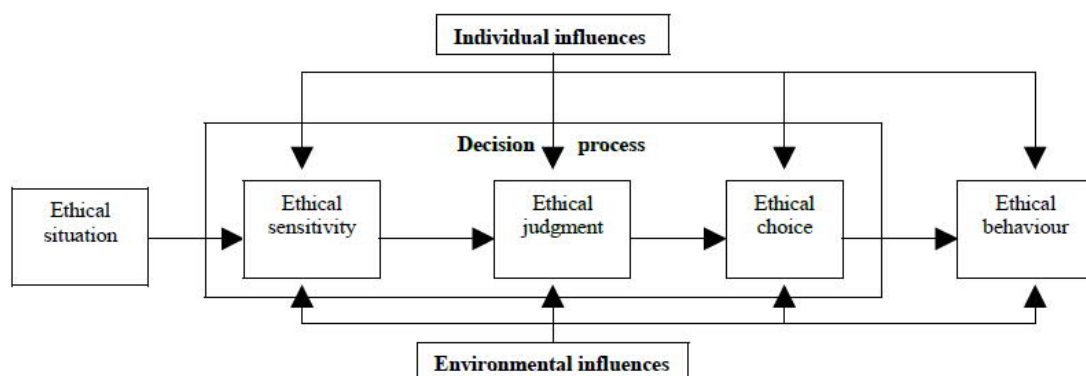
Figure 1.2. General model of ethical decision-making (cf. Wittmer 2001)

Wittmer (2001) argues that, despite the linearity of the model, its different components may overlap in time, and influence each other. The link between ethical choice and ethical behaviour is particularly problematic, as the literature provides mixed evidence that ethical beliefs and intentions lead to corresponding behaviour (see review by Treviño *et al.* 2006).

This being said, the component of the model which is particularly interesting for this thesis is the ethical judgement, or reasoning. Essentially, this is an evaluative exercise by which individuals appreciate the ethical quality of a certain course of action. I believe that it is mainly through this evaluative exercise that individuals' views towards ethics are expressed. Traditionally, ethical reasoning is considered to be a (predominantly) rational and conscious process, but this assumption has been challenged. For instance, Haidt (2001: 818) draws attention to the importance of moral intuition, understood as "the sudden appearance in consciousness of a moral judgement, including an affective valence (good-bad), without any conscious awareness of having gone through the steps of searching, weighting evidence, or inferring a conclusion". Other parts of the literature emphasize that emotions – particularly guilt, shame and empathy (see review by Eisenberg 2000) – influence ethical decision-making in important ways.

In sum, this means that individuals' ethical reasoning towards a particular situation will be supported by conscious deliberation, but also by taken-for-granted ingrained beliefs, and even emotions. To make things clearer, let us consider the tricky gift situation mentioned in section 1.1.3. In evaluating the appropriateness of accepting the gift, an individual will weigh in the circumstances of the case (i.e.: the applicable standards of behaviour, the consequences of (not) refusing), while simultaneously drawing on culturally-embedded meanings and scripted responses referring to gifts and hospitality. Emotions may also play a role, e.g.: possible embarrassment caused by refusing the gift. This multi-faceted nature of the process cautions against assuming a straightforward causal link between ethical reasoning and ethical choices (as suggested by the model in Figure 2). For instance, an individual may intuitively feel that accepting a gift is wrong (perhaps because of cultural conditioning), and will produce after-the-fact justifications (in the

form of ethical reasoning) for his/her initial intuition. For this reason, it is preferable to speak of views which are *expressed* through ethical reasoning, rather than choices which are *created* by it.

Officials' views towards ethics will be captured with vignettes. This methodological instrument is particularly fitting to the purposes of the research because it allows respondents to engage in the type of evaluative exercise described above. This is so because ethics cannot be debated in the abstract, but only in concrete (and ambiguous) situations. The vignette offers precisely this kind of material, which leads participants to start a process of ethical reasoning. Specifically, each vignette presented an ambiguous situation (i.e.: ethical dilemma) deliberately constructed to tap into the "grey" areas of ethics. In Chapter 2 the main characteristics of this methodological instrument are explained, as well as its development and deployment within this thesis.

1.2.2.: Influencing factors: the individual and organizational levels

This section identifies the main factors which have been empirically documented to shape individuals' thinking about ethics. As suggested by the general model in Figure 2 above, the relevant variables may be grouped on two levels: individual and contextual (see reviews by Ford and Richardson 1994, Loe *et al.* 2000, O'Fallon and Butterfield 2005, Wittmer 2001, 2005). This section is structured accordingly, reviewing first the individual-level factors, and then those at the organizational level. Because of the dearth of results in the administrative ethics literature, at this point the thesis employs insights from business ethics, a closely related field where empirical research has been more robust.

Before proceeding, two observations are in order. First, literature reviews in these fields tend to not always distinguish between the variables relevant for decision-making, and those relevant for behaviour (the implication being that the factors of interest would largely be the same, given close link between the two). The line will be kept here as well, because the distinction is not crucial to the purpose of this review, which is simply to place ethics policy in a bigger picture,

where other factors of interest are identified. Secondly, the model of ethical decision-making is used here merely as a framework for aggregating and presenting research results. It does not cover the causal mechanisms by which the different variables influence individuals' ethics, or interact with each other. This is in line with the sweeping critique of Brady and Hatch (1992), who demonstrate that ethical decision-making models decrease – rather than increase – predictability, because "the aggregation of disparate moderating elements […] introduces considerable uncertainty into the model, which is not compensated for by a concomitant increase in the amount of variance in behaviour explained by the model" (Brady and Hatch 1992: 311-312). The authors claim that such models actually "serve the purpose of reviving interest in the empirical research tradition, rather than providing any new theoretical insights." (Brady and Hatch 1992: 314).

1.2.2.1. Factors at the level of the individual

With regard to individual-level factors, much research has focused on psychological traits, perhaps a natural consequence of the fact that empirical testing in ethics has traditionally been driven by moral psychologists. Cognitive moral development is by far the most researched construct. The theory, introduced by Kohlberg (1969), and perfected by Rest (1986), holds that individuals' capacities to reason through moral dilemmas increase over time, with such reasoning becoming more sophisticated and (arguably) normatively better[20]. Examples of other psychological features deemed to influence ethical decision-making are: Machiavellianism (i.e.: preference for manipulative behaviour)[21], the locus of control (i.e.: the relative perception of how

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[20] Kohlberg (1969, 1981) identified three broad levels of moral development, each with a different basis for decision-making. At the pre-conventional level, moral thinking is driven by obedience to authority and fear of punishment, or exchange in relationships. At the conventional level, what is important are the expectations of significant others, as well as those imposed by rules and laws. Finally, at the post-conventional level, individuals determine morality in a more autonomous way, by reference to universal principles of justice. Significantly, research found that most individuals do not go beyond the conventional level of cognitive moral development (Treviño *et al*. 2006). .

[21] Machiavellian individuals tend to consider ethical problems as unimportant, and are less likely to take action (e.g.: Bass *et al*. 1999).

much control one feels over events in one's life), and ego strength (i.e.: the capacity to resist impulses and follow one's convictions) [22].

A different strand of research deals with the influence of demographic variables on ethical decision-making. Age and gender are the most frequently tested. While findings on age are split, gender has been repeatedly confirmed as significant, with most research revealing that women tend to be more ethical than men (see Ford and Richardson 1994, Collins 2000, Loe *et al*. 2000).

Finally, a third cluster of factors pertain to individuals' convictions and beliefs, and their socialization experiences. For instance, studies have shown that personal value systems, moral philosophies and religion influence ethical decision-making and behaviour, although the impact tends to be ambiguous (see reviews by Loe *et al*. 2000, Ford and Richardson 1994). Business ethics research has also confirmed that nationality influences ethical decision-making, although systematic studies are still missing (O'Fallon and Butterfield 2005). Moreover, education and work experience are positively related to ethical decision-making, although the type of education (e.g.: technical or non-technical degrees) does not seem to matter (O'Fallon and Butterfield 2005). Also, significant seems to be not the length of work experience *per se*, but one's experience with ethical dilemmas. For instance, in their survey on US civil servants, Stewart and Sprinthall (1993) found that familiar situations, which had been previously discussed, tended to elicit more principled moral reasoning, while unfamiliar dilemmas were resolved in a more self-serving manner.

The research questions guiding this thesis have a focus on the organizational-level variables, and not on the way individual characteristics (reviewed above) shape one's views to ethics. Nevertheless, these characteristics were considered when choosing interviewees, in order to avoid that the group of selected participants contains unwanted bias. Concretely, while scanning for psychological characteristics was beyond the limits of the project, the respondents'

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[22] According to Treviño (1986), those who regard outcomes as resulting from their own efforts (i.e.: internal locus of control) are more ethical than individuals who are inclined to view them as the result of chance, faith, or powerful others. Also, in individuals with high ego strength moral cognition is more likely to be congruent with action (i.e.: they do what they think is right).

gender and age were considered. The characteristics of the group of interviewees are presented in detail in section 2.3.2., in the next chapter.

1.2.2.2. Factors at the level of the organization

In what regards organizational influences, significant attention has been devoted to the way other people in the organization – leaders, as well as peers – influence individuals' position on ethics. Thus, it has been argued – and empirically proven – that the attitudes and behaviours of peers at the workplace[23] influence individuals' ethical behaviour (see reviews by Wittmer 2005, Treviño *et al.* 2006). Such influences increase as the frequency and intensity of interaction also increase (Zey-Ferrell and Ferrell 1982). Among workplace peers, particularly significant are the so-called ethical role models, who inspire other employees through their personal example. Importantly, ethical role models are not high-placed executives, but have direct and intense contact with their colleagues (Weaver *et al*. 2005).

Furthermore, leadership is frequently cited as a key factor influencing organizational ethics, in both the public and private sectors. Warnings that ethics regulation will fail without leadership commitment and the right "tone at the top" are commonplace. Leaders' influence among employees is explained primarily through social learning mechanisms (Bandura 1977, 1986, cited in Brown and Treviño 2006). Namely, because they are salient authority figures in the organization, leaders represent prime targets for employees seeking guidance and models to emulate. Leaders send messages as to the behaviour expected from organizational members not only through modelling such behaviour themselves, but also through what they reward and punish (Ford and Richardson 1994). In this connection, it is significant that the specialized literature defines ethical leadership as a bi-dimensional concept, i.e.: the ethical leader is at once a "moral person" (a dimension pertaining to the leader's personal traits and character) and a "moral

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[23] Usually termed as "referent" or "significant others" in the literature.

manager" (a dimension pertaining to the leader's efforts to influence ethics among his/her staff) (Brown and Treviño 2006).

Finally, certain elements in the culture of an organization influence employees' ethics. Most research in this area deals with the ethical climate, a concept developed by Victor and Cullen (1987, 1988), and defined as "the shared perceptions of what is ethically correct behaviour and how ethical issues should be handled" (Victor and Cullen 1987: 54). The authors distinguish between various kinds of ethical climates by analyzing the combination of two factors – the "ethical theory" (i.e.: the criterion used to make an ethical decision, which may be egoism, benevolence, or principle), and the "locus of analysis" (i.e.: the object relative to which the ethical judgement is made – individual, local, or cosmopolitan). Much empirical research on the subject has focused on validating Victor and Cullen's initial typology of ethical climates [24], with most contributions coming from empirical business ethics (but see Maesschalck 2004b, and Erakovich and Wyman 2009 for adaptations of the concept to public organizations). Without going in detail over findings, this literature is significant in the context of the thesis, because it demonstrates that elements in the organizational culture influence not only the issues which members consider as ethically pertinent, but also the criteria used in assessing and resolving such issues (Cullen *et al.* 1989).

Among organizational influences, the thesis targets particularly ethics policy, which is discussed in detail in the following section. Because the factors reviewed above also have an impact, it becomes important, on the one hand, to distinguish their influence from that of ethics policy (to the extent possible), and, on the other, to understand their interplay. The thesis does this by adopting the theoretical perspective of organizational socialization, which allows for a reinterpretation of organizational-level variables as different "learning sources" from which officials receive messages regarding acceptable behaviour in office. Section 1.4 below treats these

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[24] From the combination of "ethical theory" and "locus of analysis", Victor and Cullen (1987, 1988) identified nine ethical climate types: self-interest, company profit, efficiency, friendship, team interest, social responsibility, personal morality, company rules and procedures, and, finally, laws and professional codes.

questions in more detail. Before that, however, the following section casts a closer look at ethics policy, considering what it consists of, what its boundaries are, and how it is supposed to work.

1.3. Ethics management in public organizations

Drawing on the rather practitioner-oriented literature that deals with ethics management, this section presents the concept in detail. To set the boundaries of ethics management (which are often poorly defined), I explore the idea of an ethics infrastructure (or integrity management framework), which describes the policy instruments and processes through which ethics management is expressed in organizations. Moving on, I discuss the so-called compliance-integrity continuum, which indicates the mechanisms whereby ethics management influences the behaviour (and views) of organizational members.

1.3.1. The ethics infrastructure: components and functions

Within an organization, ethics management is a holistic approach, presuming the construction of an "integrity management framework"[25] (OECD 2009). Paraphrasing, the *integrity management framework* represents the sum of all instruments designed to stimulate and enforce integrity, and to prevent corruption and integrity violations, and takes into consideration their interdependence, as well as the processes and structures that support them. This concept is not a novel one. In 1996 the OECD proposed the "ethics infrastructure" as a device for benchmarking ethics policies in the public service, at a national level. This term has gained recognition in the academic literature as well (see, for example, the review conducted by Treviño *et al.* 2006, which identifies research on organizational "ethical infrastructures" as a distinct trend in a larger body of work dealing with behavioural ethics in organizations). In this thesis preference was given to the "integrity management framework" because of its focus on the organization level (OECD 2009),

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[25] In this context, "public integrity" refers to the application of public values and norms in the daily practice of public sector organizations. The term is preferred instead of "ethics" as it suggest an approach which focuses more on pragmatic aspects, rather than principles. (OECD 2009).

but also because, overall, it represents a more refined analytical device. Essentially, however, there is such a large overlap between the two concepts that they will sometimes be used interchangeably.

When thinking about the ways in which organizations manage ethics, a distinction should be made between *core measures*, whose "main goal [...] is to foster integrity and prevent integrity violations" (OECD 2009: 17), and *complementary measures*, which "do not have integrity as their primary aim, but they are important to realize the goals of the integrity management framework; typically, they are instruments that fit in other supportive functions such as personnel management or financial management" (OECD 2009: 17).

On the other hand, a sound integrity framework should fulfil four important functions, namely: (a) determining and defining integrity; (b) guiding towards integrity, (c) monitoring integrity and (d) enforcing integrity. The first function refers to defining what standards of behaviour public servants are expected to follow, as well as to analysing and responding to systemic risks in the organization (e.g.: identifying sensitive processes such as procurement, or inspections, and securing against vulnerabilities). The second function denotes the need to guide and coach organizational members on the application of values and norms in daily practice. Monitoring integrity implies the establishment of channels to report wrongdoing, but also regular checks for integrity violations in the organization. Finally, the enforcement function refers to providing effective and proportional sanctions for transgressions.

Considering in connection all conceptual distinctions presented above, the following typology of integrity instruments emerges:

	Functions			
	(a)Determining and defining	**(b) Guiding**	**(c) Monitoring**	**(d) Enforcing**
Core measures	➤ risk analysis ➤ codes of conduct/ codes of ethics ➤ conflict of interest policy ➤ gifts and hospitality policy ➤ post-employment arrangements ➤ structural arrangements (e.g.: staff rotation for sensitive posts) ➤ analysis of ethical dilemmas ➤ consultation of staff and stakeholders	➤ integrity/ ethics training ➤ oath, signing an "integrity declaration" ➤ specialized information and advice for staff ➤ integrating ethics issues in regular communication channels ➤ exemplary behaviour by management	➤ whistleblowing[26] policy ➤ complaints policy ➤ inspections ➤ integrity testing ➤ survey measurement of integrity violations and organizational climate ➤ probing for ethical dilemmas and issues among staff	➤ formal sanctions ➤ fair and appropriate procedures for handling investigations ➤ communication about integrity violations ➤ informal sanctions
Complementary measures	➤ assessing the fairness of reward and promotion systems ➤ appropriate procedures for procurement, contract mgt. and payment ➤ measures in personnel mgt. (e.g.: integrity as a criterion for selection, promotion etc.) ➤ measures in financial control (e.g.: "double key", transparency of financial information) ➤ measures in information mgt (e.g.: protecting automated databases)		➤ internal control and audit ➤ external control and audit	

Table 1.2. Typology of integrity management instruments
(based on OECD 2009)

Of course, a sound approach to managing ethics is not equal to adopting all instruments mentioned before – rather, it means that organizations will pick and choose whatever is likely to fit best with their existing systems, their culture, and the wider institutional context, with due care to ensuring that all four functions are reasonably fulfilled (OECD 2009). Implicitly, this means policy-makers will consider ethics management in a strategic manner.

The instruments and procedures presented in Table 1.2 above pertain to the organizational level. Ideally, they should be evaluated in connection to the overall checks-and-balances system outside of the organization. Practitioners advise that designing ethics policies should incorporate an appreciation of interlocking "layers of integrity", starting from the individual level (i.e.:

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[26] Generally speaking, whistleblowers are people who report wrongdoing which occurs in their organizations. Because such persons are at risk of suffering retaliation for their disclosures, whistleblower protection is an important element in any integrity strategy.

personal philosophy, professional values), moving up to the organizational level, then the national legal, political and administrative system, and finally considering the overall values, norms and culture in a society (Bossaert and Demmke 2005). However, since such a large-scale assessment exceeds the limits of this thesis, the focus will be mainly on the organizational level. Also for reasons of space, more attention will be given to the "core" integrity instruments.

1.3.2. Compliance and integrity-based ethics management

Having reviewed the specific instruments and functions of an ethics management system, it is important to understand the mechanisms by which it exerts influence on organizational members.

At this point, it is useful to consider the so-called "compliance-integrity continuum" (also known as the distinction between rules-based and values-based systems, or between "the low road" and "the high road")[27], which currently serves as the main analytical device for classifying approaches to ethics management. It has been consistently used to survey ethics measures in OECD member states (OECD 1996, 2000), and has also been deployed for analyzing ethics at the Commission (see particularly Cini 2007a, 2007b, 2010). The essential distinctions are the following:

> "The rules-based approach to integrity management emphasizes the importance of external controls on the behaviour of public servants. It prefers formal and detailed rules and procedures as means to reduce integrity violations and prevent corruption. The values-based approach focuses on guidance and 'internal' control, i.e.: control exercised by public servants on themselves. This approach aims to stimulate understanding and daily application of values and to improve ethical decision-making skills though interactive training sessions, workshops, ambitious codes of values, individual coaching etc." (OECD 2009: 12)

Typical compliance instruments are detailed legislation and procedural codes, as well as extensive control mechanisms (both internal and external to the organization), while the integrity-based style recommends the use of interactive ethics training sessions, ethics counselling and

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[27] The Organization for Economic Cooperation and Development (OECD) has probably been the most prominent voice publicizing the compliance-integrity continuum. However, the distinction does not originate with the OECD, but is a fundamental one in the literature on ethics management (see for example Rohr 1978, Lewis 1991, Paine 1994).

ambitious codes of values (Maesschalck 2005). The two opposing ends of the continuum reflect diverging strategic approaches – focusing on *what not to do* or on *what to do* (Pope 2008) – which have concrete implications for policy design. Unsurprisingly, the OECD (1996: 59) suggests that the traditional, Weberian model of public administration (where the principles of legality and hierarchy form the core of bureaucratic control) fits with a compliance-based approach, while the integrity style is better suited to the NPM model (which cultivates use of discretion by public administrators, and a results-based control system).

Compliance-based systems:
the "low road"

Integrity-based systems:
the "high road"

Adherence to rules
& policing bad behaviour

Aspirational values
& encouraging good behaviour
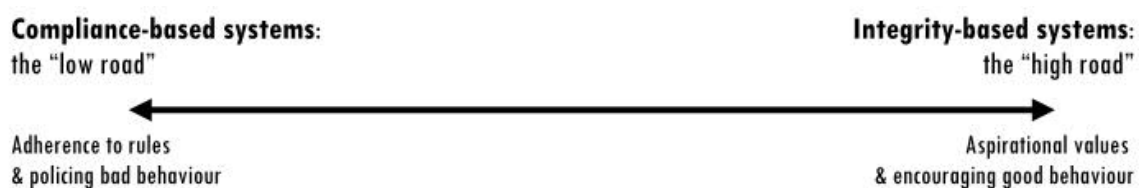
Figure 1.3. The compliance – integrity continuum

It is evident that the discussion around compliance and integrity-based ethics management reflects broader theoretical debates on the determinants of human behaviour – more specifically, the time-honoured dispute between economics-inspired perspectives, which portray individuals as utility maximizers, and sociological explanations, which emphasize the centrality of values and group ties. To be clear, in the compliance approach the manipulation of incentive structures is seen as the principal means of obtaining the desired conduct from employees, while the integrity side emphasizes instead the internalization of values and norms by public employees (Cini 2007a :19). To borrow March and Olsen's (1989, 2006) famous terminology, "low road" ethics is consistent with the logic of consequentiality, while "high road" ethics reflects the logic of appropriateness. Because most people, most of the time, are motivated by some combination of incentives and norms, the recommendation is that, in practice, the compliance and integrity approaches should be combined in a mutually-reinforcing manner [28].

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[28] For example, point 9 in OECD's *Recommendation on Principles for Managing Ethics in the Public Service* (1998: 4) states: "government policy should not only delineate the minimal standards below which a government

As discussed at length in Chapter 3, the ethics management system which applies to the European Commission services indeed blends both sets of instruments. The Commission emerged from the Kinnock reforms with a compliance-based ethics regime, after which attempts were made to move to an integrity-based style during Siim Kallas's mandate (2004-2009). While recommended by practitioners, the blend of compliance and integrity approaches raises important analytical difficulties – more precisely, because both mechanisms work towards the same outcome, isolating their respective effects is methodologically challenging. Indeed, there are not many such projects in the specialized literature. One interesting exception is Treviño and Weaver's (1999) study, which attempted this exercise with a large financial services company as case study, only to confirm that the compliance and integrity orientations indeed produce virtually the same results[29]. This thesis does not aim to disentangle the effects of incentive-altering and value-altering mechanisms within the Commission's ethics management system, but rather to say something about their combined impact.

1.4. The perspective of organizational socialization

The compliance-integrity continuum, presented above, represents the standard analytical position in the ethics management literature. The thesis departs from it, by adopting the theoretical perspective of organizational socialization. OS is defined as a process of social learning – more specifically, as "the process by which an individual comes to appreciate the values, abilities, expected behaviours and social knowledge essential for assuming an organizational role and for participating as an organizational member" (Louis 1980: 229-30). Simply put, OS pertains to learning what it means, and what it takes, to be part of an organization. In this view, ethics (understood as public role morality) is something that can be learnt, just like other aspects of the

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official's actions will not be tolerated, but also clearly articulate a set of public service values that employees should aspire to".

[29] Except for employees' willingness to deliver bad news, which is associated only to the integrity orientation.

organizational role. To go back to the research question guiding this thesis, the assumption is that individuals' views towards ethics are shaped in the process of learning their organizational roles.

The OS perspective is preferable to the standard analytical position in the literature because the compliance-integrity continuum focuses on behaviour. Essentially, it suggests that individuals can be induced into (more) ethical behaviour by manipulating the incentives and the value structures to which they are subject. This is very much in line with what ethics management is, namely a regulatory exercise meant to shape individual conduct. This research, however, aims to uncover how individuals *think* about ethics (not necessarily how they *behave*), and, for this purpose, a theoretical framing which places emphasis on learning seems more appropriate. In this optic, ethics management – more accurately, the ethics infrastructure (which is, essentially, its "operationalization" within the organization) – represents not so much a framework which both enables and constrains behaviour, but a source from which employees learn their ethics. They receive messages, from this conglomerate of managerial instruments and structures, as to what it means to be "ethical". It is significant, for the point made here, that some authors have actually presented ethics management in terms of learning – for instance, Menzel (2007: 22) notes that "ethical behaviour is learned behaviour, and managers can build organizational processes and strategies that contribute to this learning effort".

A re-interpretation of the ethics infrastructure in the terms proposed above is not far-fetched. In fact, many of its elements are specifically designed to define and communicate the type of conduct desired from employees. Thus, an organization will typically have a code of conduct, or a statement of values, which defines an "ethics" area by setting out, in a general fashion, values and behavioural standards. In addition, there will be a number of regulations on specific ethics issues, such as conflict of interests, gifts and hospitality, post-employment arrangements etc., which will explicate how these values and standards play out in certain areas deemed of particular importance. All this ethics literature will then be communicated to staff through manuals, trainings, presentations, and various other types of actions meant to ensure

ethics guidance. Of course, there are other functions of an ethics infrastructure – namely, monitoring and enforcement – which do not have a communication purpose. But even here, employees will still learn something about ethics, by observing whether their (and others') behaviour is being monitored, and whether ethical conduct is being rewarded, and transgressions punished.

1.4.1: A brief introduction to the organizational socialization literature

In the specialized literature, organizational socialization is depicted as a process which occurs when an individual crosses organizational boundaries – whether external (i.e.: between organizations), or internal (i.e.: between different parts of the same organization) (Van Maanen and Schein 1979). Generally, the research focus is on external boundaries, namely on how newcomers become accommodated to organizations (i.e.: passing from "outsider" to "insider").

This thesis draws on a particular portion of the OS literature, which deals with the ways newcomers learn their organizational roles[30]. Although it focuses on novices, the theoretical insights of this literature are valuable for other organizational members as well. Namely, it can be argued that role-related learning can occur outside the initial adaptation phase as well (although surely to a lesser degree), if there are organizational changes important enough to require a re-adjustment. In what follows, I will not offer a review of this literature, but simply draw some insights and pointers from it.

A good starting point is Louis' (1980) influential sense-making model, which focuses "on the cognitive processes that individuals employ in organizational settings to cope with surprise and novelty" (Louis 1980: 244). The author shows that, in a new organizational setting, people are likely to experience surprises (i.e.: discrepancies between anticipations and actual experiences), which trigger an effort to explain and attribute meaning to these unexpected realities. In this

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[30] This literature focuses on newcomers, but its theoretical insights are valuable for other organizational members as well. Namely, it can be argued that role-related learning can occur outside the initial adaptation phase as well (although surely to a different degree), if there are organizational changes important enough to require a re-adjustment.

effort, newcomers draw on the local interpretation schemes of the organization, and on the insiders' interpretations, but also on their own past experiences, and predispositions. Louis' model inspired much research focusing on newcomers' information seeking strategies, and the employment of various learning sources (e.g.: Ostroff and Kozlowski 1992, Miller and Jablin 1991, Morrison 1993, Chao *et al.* 1994).

This literature distinguishes between different domains in regard to which learning takes place. Despite the variety[31], broadly speaking it is understood that learning is either role-related, or concerns more generally the culture of an organization. The utility of learning sources varies depending on the domain where they are employed. But – again, broadly speaking – OS research suggest that individuals employ organizationally-sanctioned sources (such as manuals, guides, or training programs), but also informal sources (their peers and leaders), and that the latter category is preferred over the former. For instance, Cooper-Thomas and Anderson (2006) identify, based on an extensive literature review, five learning sources – organizational literature, formal socialization programs, mentors, supervisors/managers, and colleagues. The first two are seen as formal learning sources, while the remaining ones are informal. The authors show that the level of organizational control decreases along this range of sources, with organizational literature being closest to organizationally-sanctioned messages, and colleagues furthest away. In this context, "since informal sources are usually found to be more useful, when information is available from multiple sources, these informal sources are likely to be preferred" (Cooper-Thomas and Anderson 2006: 503). This opens the possibility of discrepant results, which means that the challenge for organizations is to ensure coherent messages throughout the entire range of learning sources.

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[31] To give just two examples, Ostroff and Kozlowski (1992) proposed four domains of learning – task, role, group processes (social), and organization – and Chao *et al.* (1994) have six domains – people, politics, history, performance, language, and goals and values. Cooper-Thomas and Anderson (2006) note that this type of scales generally require further development and empirical validation.

1.4.2. Organizational socialization and learning ethics at the European Commission

Drawing on the remarks above, in this section I explain how the OS perspective applies to the research questions of this thesis.

Firstly, this framing requires that the Commission's ethics infrastructure should be analyzed as a learning source. The purpose of this exercise is to decode the messages which were conveyed to organizational members. This aim is larger than the norm in OS research, which generally takes into account only those instruments and strategies that are designed by organizations specifically to socialize new members (e.g.: induction trainings). However, stopping at this level would not be fruitful here. As mentioned before, values and ethical standards tend to be quite abstract and undisputed, gaining substance only in context. In order to determine whether officials' views are influenced by the Commission's ethics policy, it is necessary to understand this substance, i.e.: the specific meanings that ethics takes on in the European Commission. And this can only be achieved by going beyond the declaratory level of official documents.

To be clear, the analysis does cover the official documents of the Commission (e.g.: the Staff Regulations). It also includes the administrative practice connected to ethics management, looking at the internal materials intended for staff use (such as codes of conduct and administrative guides, training manuals, presentation leaflets), as well the communication between the Commission's internal ethics experts and "regular" officials. But, in addition to this, the historical and political circumstances are taken into account. The Commission did not implement ethics reforms in a vacuum – on the contrary, external pressures were very important determinants for both their introduction, and their evolution. Consequently, an adequate understanding of what ethics means nowadays, at the Commission, cannot be complete without bringing in this element of context.

Within the social learning perspective proposed here, the orientation of the Commission's ethics regime (i.e.: compliance- or integrity-based) also matters. As shown in the previous section,

"high road" and "low road" ethics represent fundamentally different notions about what ethics is, and how individuals get (and stay) ethical. The idea of a policy continuum suggests that they are compatible, on a policy level; however, on a perceptual level, these two system orientations may end up communicating different things. Thus, a compliance-based regime might signalize that ethics is about staying safe, while an integrity-based one may transmit that ethics is about achieving certain types of good behaviour.

As shown in section 1.2.3.2, there are several organizational factors which impact on individuals' thinking regarding ethics. The focus of this inquiry is, however, on managerial instruments – therefore, it is important to distinguish analytically between them, and other organizational-level factors. This can be done by re-interpreting the variables which influence ethical decision-making (and behaviour) in organizations as various sources from which individuals learn their ethics. In fact, there is a good deal of convergence between the ethics and OS literatures, which makes possible this equivalence. To come back to Cooper-Thomas and Anderson's (2006) classification presented above, what the authors present as formal learning sources (i.e.: organizational literature and formal socialization programs) are, in fact, fairly common elements in organizational ethics infrastructures (for instance, ethics codes, topical guidelines and brochures, ethics training courses). Furthermore, their observations on mentors, supervisors and colleagues representing informal learning sources correspond with what the empirical ethics literature suggests on the role of leaders and peers. Their influence is explained precisely in terms of social learning – namely, the literature holds that, in an organizational context, individuals take cues from each other on ethics, thus figuring out what to do, and what not, through the observation of others. Based on this, and with some simplification, it can be argued that individuals learn about public ethics from formal sources (in the ethics infrastructure), and informal sources (the people around them).

The OS literature suggests that individuals find more helpful (and prefer using) informal, rather than formal learning sources. Translated in context, this means that it will matter where

(more precisely, with whom) in the Commission officials learn their ethics. The Commission's tendency towards bureaucratic fragmentation makes this observation is all the more pertinent. Indeed, research has provided consistent evidence of division across the lines of Directorate Generals, which tend to develop distinct operating styles and sub-cultures (see, for example, Cram 1994, Cini 1997, Christiansen 1997, and more recently Schön-Quinlivan 2008). These aspects are taken into account in the research design.

The purpose of this thesis is to explore how the Commission's ethics management system feeds its employees' learning about public ethics. The accent is on the mechanisms of influence, and less on the outcome – however, in order to be able to say anything about them, one should be able to determine whether there is any influence to begin with. In other words, what is needed is a definition of the socialization outcome.

This is defined here by two elements. The first is homogeneity in the answers officials give to vignettes. It is reasonable to assume that people do not enter the European Commission with quite the same notions about ethics, especially given that they come from different backgrounds (in terms of nationality, work experience etc.). Therefore, the fact that staff members think in similar terms about ethics may be considered an effect of organizational socialization. Although the process of influence is definitely more complex, it is reasonable to assume that policy elements do play a role in it. After all, one of the purposes of having an organizational ethics management system is precisely to get everybody on the same page about what is acceptable, and what not. Furthermore, the Commission clearly aimed to achieve this kind of standardization – most notably by engaging in vigorous awareness-raising actions, and setting up the network of ethics correspondents[32], which made it possible to coordinate and send the same message across the organization. Still, homogeneity alone is not enough to indicate the impact of ethics policy on the work-floor. To better isolate these effects, I also look at the fit between official messages regarding ethics, and the comments and positions expressed by employees on

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[32] Each DG in the Commission has appointed an "ethics correspondent", i.e.: a person who serves as a point of contact for staff, on all ethics-related issues, with strictly advisory attributions.

the subject. If the specific concerns and framings which pervade the "formal" discourse are reflected in the officials' ethical reasoning, this would more clearly indicate that they have learned about ethics (at least partially) from this source.

Before moving on, it should be noted that the research design employed in this thesis differs from what is generally the recommended approach in OS studies – namely, a longitudinal investigation, in which a panel of newcomers are administered surveys at several points during their socialization (Saks and Ashforth 1997). While this set-up can better capture the dynamics of organizational socialization, it could not be used for this thesis given the financial and time constraints. The sensitivity of the research topic was an additional problem, making it highly improbable that the same group of respondents could be accessed repeatedly, as required by a longitudinal design. The alternative solution, used here, was to rely on a strategically selected group of interviewees, who had already been socialized. Specifically, all participants had worked for the European Commission for at least one year (but in many cases significantly longer), which translates into a reasonably long period of exposure to the organization [33]. This means that their views about ethics are informed by what they have learned and experienced in the Commission.

1.4.3. Socialization in the EU integration literature

Socialization is a popular theme in EU integration research, which has taken off particularly in the last two decades, stimulated by the so-called constructivist turn in the International Relations field (Checkel 1998). This literature defines and conceptualizes socialization in quite a distinctive way, which differs from the approach of this thesis. For the sake of clarity, then, it is important to explain what these differences are, and where they come from.

First, the subject relative to which socialization is investigated is not the same. The focus in EU research is on whether, and how European socialization sites instil in their inhabitants distinctively European features. The phenomenon is often referred to as "going native" in

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[33] OS research shows that socialization effects occur rather quickly after newcomers join the organization (approximately one month), and do not change much afterwards. (Saks and Ashforth 1997).

Brussels, and the distinctively European features are regularly understood to be supranational orientations. Different research questions are being explored around this common core, pertaining to Commission officials' political views, or preferences (Hooghe 2001, 2005, 2011, Ellinas and Suleiman 2011, Dehousse and Thompson 2012), decision-making patterns (Egeberg 2006, Wonka 2008, Thomson 2008, Trondal *el al.* 2010), networking practices (Suvarierol 2008), or self-perceptions (Murdoch and Geys 2012). At the risk of simplifying, EU socialization research is largely framed along the classic opposition between supranationalism and intergovernmentalism. This thesis, however, investigates officials' views towards ethics – an area where this tension does not apply.

Furthermore, there are objective differences in how the socialization process is structured with respect to these two subjects (political norms relating to EU integration, and ethics respectively), which translate into distinct conceptualizations of the phenomenon. In most Commission literature, socialization appears as somewhat of an organic process which occurs when an individual comes in contact with the organization. This is simply because, when understood as "going native" in Brussels, socialization is not something which is planned and managed by the Commission. To put is simply, there are no managerial instruments expressly designed to make staff into true-blue Europeans. The situation is different when it comes to ethics. In this area, the Commission does not simply rely on its "natural" socializing capabilities, but actually has at its disposal a large array of policy instruments which can influence the thinking and behaviour of its employees. Therefore, for the purposes of this thesis, socialization required a conceptual framework that acknowledged the organizational policies which have an impact on the process (some of which are expressly designed to do so). The OS literature, briefly introduced above, has a more straightforward public management perspective, and, as such, it does account for the deliberate efforts that organizations make to integrate their members.

Finally, and perhaps most importantly, the approach taken in this thesis differs from the mainstream approach in the EU field, which is to define socialization in terms of norm

internalization. Checkel (2005: 804) sums up this trend very well, defining socialization as "a process of inducting actors into the norms and rules of a given community. Its outcome is sustained compliance based on the internalization of these norms". Internalization means that the new rules and norms cease to be foreign to the actors, so that they will comply with them even in the absence of any incentives to do so. Following this line, much stress is put in the literature on distinguishing internalization from other forms of adaptive behaviour, such as instrumental calculation, or role-playing. Strategic adaptation is considered to be much thinner than internalization, and, for many authors, it would actually not count as socialization (cf. Beyers 2010). However, in empirical research it is often very difficult to tell whether compliance with certain norms is due to strategic calculation, or internalization (Flockhart 2004).

In this thesis, socialization is not equated with value internalization. Learning is a less exigent definition, which implies that an individual is socialized when he/she has mastered how to function as an effective organizational member. I do not go further to determine whether this state is supported by strategic adaptation, or value internalization. To put it simply, one does not have to be a "true believer" to be socialized.

Adopting the internalization standard for this thesis would be impractical from a methodological standpoint, and not very useful from a policy perspective. As mentioned above, at the level of research design it would imply being able to distinguish between internalization and other types of strategic adaptation – in other words, to tell whether actors' positions are supported by a logic of appropriateness, or one of consequentiality (Checkel 2005). However, the Commission's ethics infrastructure contains a blend of "soft" and "hard" instruments, which means that both these perspectives are covered, and it would be exceedingly difficult to disentangle their respective effects on someone who is working in the organization. Furthermore, it is unclear what value such an exercise might have for policy practice. It is by now accepted wisdom that ethics management systems ought to contain instruments which, in the words of Terry Cooper (1998: 163), "discourage those inclinations towards indulgence of self-interest" and

"encourage the most socially constructive, idealistic, altruistic and creative impulses". Thus, although it may be interesting, from an academic viewpoint, to delve deeper into the relative importance of incentives and values for structuring behaviour, from a policy perspective there would not be much added value.

1.5. Conclusion

This chapter has presented the analytical framework of the thesis. It was established that "ethics" has a situational character, referring to appropriate behaviour in public office. As such, it may be equated with public role morality. The parameters of "ethics" are defined by reference to the core values and standards of behaviour which ground the operation of the civil service (i.e.: objectivity, impartiality, loyalty etc.). From the perspective of the individual civil servant, ethics becomes significant in those situations of choice where the values and standards mentioned above are likely to be jeopardized. The ethical dilemma is one such choice situation, which is particularly interesting because it features two (or more) values which are in conflict, thus making it difficult to judge what the ethical course of action is. It is those "grey" areas that trigger individuals to seriously consider ethical aspects, and it is also here where differences of views might become visible.

After establishing these conceptual reference points, the chapter dealt more extensively with ethical decision-making, drawing on the administrative and business ethics literatures. Ethical decision-making is relevant here because Commission officials' views will be elicited in the context of ethical dilemmas – which are, essentially, decision situations. It has been established that this process is a (predominantly) rational and conscious one, which can, however, also be informed by ingrained beliefs, and even emotions. Traditionally, influences on ethical decision-making are grouped in two clusters – individual-level and organizational-level factors. Managerial instruments are, obviously, among the latter. The other important influence here comes from leaders, close work peers, and those who serve as role models.

Moving on, the chapter dealt with ethics management, understood as "a systematic and conscious effort to promote organizational integrity" (Menzel 2005: 29). Within an organization, ethics management is expressed through an "ethics infrastructure", an umbrella term which covers a range of institutional structures and procedures that, taken together, fulfil four complimentary functions: defining, guiding, monitoring and enforcing integrity. The principal analytical device present in the literature is the compliance-integrity continuum, which suggests, in a nutshell, that (organizational) ethics management works by creating the right combination of incentives and norms, thus simultaneously discouraging misconduct and encouraging good behaviour.

Although the compliance-integrity continuum is kept as a reference point throughout, the analysis of ethics management will be done mostly through a different theoretical perspective, namely organizational socialization. The last part of the chapter was dedicated to defining this process and its characteristics. Namely, OS is understood as a process of social learning through which an individual comes to appreciate the knowledge, values and expected behaviours associated to an organizational role. In this perspective, ethics becomes something that – like other parts of the (public) role – can be learnt. An organization's ethics policy is one of several sources which can be used in this endeavour.

The following chapter deals with matters of research design and methodology. A good part of it explains the criteria on which participants were selected for in-depth interviews. In drawing up these criteria, I relied on the observations made here regarding organizational socialization. Namely, the characteristics of the EU staff body were surveyed in order to pick out those features which are significant for individuals' socialization within the Commission, regarding ethics in particular. Furthermore, the research design also reflects a point made in this chapter, regarding the existence of multiple learning sources on which individuals draw in the process of learning their organizational roles. Namely, an option was made to focus on administrative units, which are the smallest organizational components in the European Commission. As it will be argued, these units represent primary sites of organizational

socialization, which allow the researcher to capture how individuals work together as a group, and how they approach ethical questions in this context. This makes it possible to account for the influence of work peers and supervisors on individuals' ethical stances, and, moreover, to identify the connections between these factors, and the official policy framework.

CHAPTER 2
THE ORGANIZATIONAL PROFILE OF THE EUROPEAN COMMISSION

This chapter deals with questions of research design and methodology. In the Introduction I have pointed out that this research project was executed in two distinct phases – first a preparatory stage, in which the Commission's ethics management system was mapped, followed by a second, more consistent phase, which dealt with what might be broadly defined as ethics on the Commission's work-floor. Both phases required significant methodological preparation; however, for the first one, these aspects were somewhat more straightforward, and will therefore be covered separately, and more briefly, in Chapter 3. Consequently, the observations in this chapter refer only to the second phase of the research project.

The first section of the chapter introduces the reader to the European Commission, by presenting its functions in the EU political system, its internal structure, and its staff. The second section explains the criteria on which participants were selected for in-depth interviews. It has been argued, in the Introduction, that the Commission represents a hard case in ethics management, because its internal heterogeneity poses above-average challenges in terms of instilling a common line among staff. In line with this argument, interviewees were selected to form a sample which reflects this internal heterogeneity. The third section discusses the characteristics of the 30 officials which make up this maximum variation sample. The fourth and final section of the chapter deals with research methods – for the most part, with the way in which vignettes were used to elicit participants' views towards ethics.

2.1. Introducing the European Commission

To say that the European Commission is a complex organization would probably be an understatement. Therefore, as a preliminary step, a basic guide to its intricacies would be needed.

The following pages serve this purpose, by introducing the reader to the Commission's institutional functions, its internal structure, and its staff.

2.1.1. The functions of the European Commission

Commonly dubbed as the motor of European integration, the European Commission is placed "at the heart" of the EU system of governance (Nugent 1997: 6) and, as such, it fulfils a variety of institutional roles. This section answers a fundamental question – "what does the Commission *do*?" (Cini 1996: 13, emphasis in original) – but one which, perhaps more than anything else, reveals the Commission's unique nature, compared to national and international counterparts. To be clear, the Commission's attributions are larger than it is generally the case for an international secretariat and less substantial than what a national government does [34]. Moreover, in a national context, they would be distributed between different institutions. The analysis below will follow the line usually adopted by EU scholars, which is to distinguish between various functions of the Commission. Namely, three core functions are identified: initiation, execution, and enforcement of policy [35].

2.1.1.1. Policy initiation

Although its position as the heavyweight in EU policy-making, and its power in relation to the Council and the European Parliament are debated, no one would question that the Commission develops most of the policy initiatives launched at EU level. This pivotal position is due to the

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[34] It is no coincidence that precisely this state of *in-betweenness* is what usually causes scholars to affirm the *sui generis* nature of the EU political system. This is clear in celebrated definitions such as "less than a federation, more than a regime" (Wallace 1983: 403), "neither a state, nor an international organization" (Sbargia 1992: 257) or "the middle ground between the cooperation of existing nations and the breaking of a new one" (Scharpf 1988: 242).

[35] The EU literature generally lists five or six functions of the Commission – e.g.: Nugent (2001) enumerates policy initiation, legislative functions, executive functions, legal guardianship, external representation, mediation and brokerage of interests, and mobilization of policy support. There is, however, significant overlap between those functions to justify a more crisp approach (for example, policy initiation implies a legislative exercise, as well as consensus-building, brokering between opposed interests etc.). Admittedly, the classification used here neglects the attributions of external representation, although there are reasons to consider them part of the Commission's managerial/ executive role (Cini 1996: 25).

Commission's exclusive right to draft legislative proposals, although in doing so it often acts on the request of other EU institutions (particularly the Council). Moreover, the Commission is in a privileged position of control, being the only institution represented in all stages of the convoluted EU decision-making process. Although not much can be changed substantially once drafts leave the College, the Commission is able to steer them through the process, and still retains a *de facto* veto power, as it can decide at any stage to withdraw a proposal altogether [36] (Nugent 2001, Hooghe and Nugent 2006). The EU political system, encompassing a wide variety of actors with different interests and views, encourages the pre-cooking of decisions before entering the formal stages of decision-making. This leads the Commission, when acting as policy initiator, to engage in a lot of informal activity, from floating ideas and advocacy work, to checking the pulse in other EU institutions and inter-institutional committees, and promoting dialogue with societal interests.

2.1.1.2. Policy execution

The vast majority of EU policies are not implemented directly by the Commission [37], but by national or regional governments, or external agencies. As policy executor, the Commission is in fact mostly responsible for the coordination and supervision of front-line implementation in the Member States. This implies several different aspects. Firstly, the Commission produces implementing legislation (generally in the form of regulations and decisions), which must be channelled through the so-called comitology committees, composed of national officials delegated from Member States. Moreover, it issues a large number of guides and codes, explaining in detail the application of particular rules. In checking the implementation of EU law, the Commission relies primarily on a notification system which requires Member States to report to Brussels steps taken to adapt their national legislation to EU law. Finally, financial management is another part

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[36] Except for the co-decision procedure, once the Council and the European Parliament convene in a conciliation meeting.

[37] Competition policy, where virtually all powers are vested in the Commission, is oftentimes presented in the EU literature as the big exception to the indirect implementation rule. However, in this policy field, the Commission's activity is essentially quasi-judicial. For this reason, I place competition policy under the third function, i.e.: policy enforcement.

of the Commission's executive role. The Commission oversees the collection of EU budgetary revenue, prepares the EU budget, and manages expenditure. The vast majority of EU funds are spent either under centralized management (22% of funds, where money is managed directly by the Commission, or its subordinated agencies), or under shared management (76% of funds, where budget implementation is delegated to EU countries, with the Commission retaining a supervisory and audit role)[38]. Therefore, the Commission handles directly only a small part of the EU budget, but it is, nonetheless, the institution ultimately held responsible for its implementation.

2.1.1.3. Policy enforcement

Finally, the Commission also acts as "guardian of the Treaties", ensuring that EU law is implemented and respected at national level. Here a distinction should be made between the regular infringement work, and the Commission's attributions in competition policy. Very simply put, with the usual infringements, the Commission operates somewhat as a prosecutor, having the power to initiate legal action against Member States, should they fail to comply with EU law. The European Court of Justice decides on the cases. In competition policy, however, the Commission is the direct enforcer, which means that its responsible unit – DG Competition – functions as a quasi-judicial entity. It not only builds cases against companies and Members States in breach of EU competition rules, but also adjudicates these cases, and imposes sizeable penalties. Competition decisions can be contested at the European Court of Justice, although appeals rarely lead to changes in the original decision (Nugent 2001). In the enforcement of competition policy, the Commission is at the height of its institutional power.

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[38] For more information on the management of the EU budget, see: http://ec.europa.eu/budget/explained/management/managt_who/who_en.cfm .

2.1.2. The internal structure: political and administrative levels

Having reviewed the Commission's functions in the EU institutional framework, I now turn to its internal structure. Essentially, the European Commission is composed of a political branch, similar to an executive cabinet (i.e.: the College of Commissioners [39]), and an administrative one (i.e.: the Directorates General and special services [40]). The DGs look like national ministries, and the Commissioners resemble ministers. Reportedly, a former Secretary General described the Commission as "basically a structure of mini-Ministries called Directorates General" (Williamson 1991, cited in Spence 2006a: 129). Of course, this analogy should not be taken too far, but it does provide a good starting point for understanding politico-administrative arrangements in the European Commission.

This research project does not explore ethics at the political levels of the Commission. However, a brief description of the political branch is necessary in order to properly represent the Commission as an organization, and to understand the context and pressures which frame activity in the services.

The College of Commissioners sits at the apex of the Commission and provides its leadership. All major decisions pass through here. Currently, the College is made up of 27 Commissioners[41], one for each EU Member State, enjoying a five-year mandate. As a rule, each Commissioner is responsible for a specific policy portfolio under Community competence, and as such he/she is overseeing the DG(s) tasked with it. The College acts under the "political direction" of the President, who – among others – convenes and chairs College meetings, sets their agenda, and is a member of the European Council. Treaty reforms have gradually bolstered the role of the President, however the actual level of political leadership it can provide remains highly dependent on the character and personal style of the incumbent (Nugent 2001, Spence 2006b, Peterson

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[39] Also referred to as "the College" or, confusingly enough, "the Commission".

[40] Also globally referred to as "the services".

[41] Including the President of the Commission and the High Representative for Foreign Affairs and Security Policy.

2006). The College acts on the principle of collective responsibility, and, as a rule, decision-making is highly consensual, although it formally decides by simple majority voting.

Although it represents a political body, the College is appointed, not elected, with Member States being the principle actors in the process. The European Council nominates the candidate for Commission President (who must be approved by the European Parliament), while national governments, on common accord with the President nominee, propose the Commissioners. The European Parliament holds hearings for each candidate, although it cannot reject them as individuals, but only censure the Commission as a whole. As the supranational institution *par excellence*, the Treaties provide that the Commission's political leadership be free from national pressure[42]. In practice, a fine balancing act characterizes the Commissioners' activities – while being sensitive to national interests is normal, advocating them too blatantly is critically received by the rest of the College, and ridiculed by the press (Spence 2006b).

Situated between the College and the services are the *cabinets*. Each Commissioner has a *cabinet* – essentially a personal team of advisors – made up of about 20 people or more – whose main task is to coordinate policy-making, and, in doing so, to ensure liaison with the administrative services under the Commissioner's authority, but also with other Commissioners, the Member States, and EU institutions. *Cabinet* members are hand-picked by their Commissioner and hold office at his/her discretion.

The *cabinets* represent the nexus between Commissioners and the EU administration. Policy drafts are channelled from the services, through the responsible *cabinet* member, to the Commissioner, and, conversely, requests and views from the Commissioner reach the services through the mediation of his/her *cabinet* (Spence 2006b). The relationship is not always an easy one, although much depends on the Commissioners' personal styles. Particularly during Jacques Delors' presidencies, cabinets were accused of side-stepping the official hierarchy, and relying instead on input from their personal contacts in the services, who were, aggravatingly, mostly

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[42] The Treaty requires that "Member States shall respect their independence and shall not seek to influence them in the performance of their tasks" (Art. 245 TFEU)

French (Cini 1996, Nugent 2001). Another problem was the practice of appointing ex-cabinet members to senior posts in the services, after their Commissioner's mandate was up (i.e.: so-called *parachutage*[43]), which was seen as unfairly cutting chances for European civil servants to make it to the top (Spence and Stevens 2006). However, certain reforms introduced during the Kinnock era (i.e.: the requirements to have more nationalities represented in the *cabinet*, and to recruit part of the members from the services) are likely to have reduced some of the tensions.

The administrative services of the Commission are composed of 33 Directorate Generals, and 11 special services. To borrow Gulick's (1937) famous terminology, the Commission is organized according to the principles of "purpose" and "process" – that is, each of these organizational units deals either with a specific policy area, being actively involved in making and implementing policy (e.g.: DG Competition, DG Agriculture, DG Health and Consumers, DG Environment), or, respectively, has internal, administrative tasks, or inter-service coordinating functions (i.e.: the Secretariat General, DG Budget, DG Human Resources, DG Translation). Another way of thinking about this is to distinguish between, on the one hand, "policy", or "operational", or "vertical" units, and, on the other, "administrative", or "horizontal" ones. Most of the DGs are "vertical", while the special services are mostly "horizontal", dealing with more general administrative issues, or having a specific mandate, e.g.: fighting fraud, or creating statistics. There is a lot of variation in terms of size between DGs and services, with the smaller ones totalling around 300-400 staff, and the larger ones with over 1000 employees [44]. Regularly, each DG is made up of three to five Directorates, which in turn contain between three and seven administrative units. The administrative units are also varying in size, with the average being around 20 employees.

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[43] *Parachutage* generally refers to recruitment from outside the Commission. It applies to the top positions, where the norm has been to ensure a proportional representation of nationalities. This balance was impossible to achieve relying only on promotions from the services, which meant that the Commission had to employ alternatives. The challenge was particularly visible during enlargements.

[44] The smallest unit is the Bureau of European Policy Advisers, with 34 staff, while the largest one is DG Translation, with 2 435 employees – for more on this, see the European Commission staff figures, available online at: http://ec.europa.eu/civil_service/about/figures/index_en.htm .

This thesis focuses on the "policy", or "vertical" DGs, because, as opposed to the "horizontal" ones, they exhibit the entire range of ethics challenges confronting the Commission. This is particularly true regarding the third type of ethics issues, pertaining to relationships with the organization's stakeholders (see Chapter 1). Thus, although the horizontal units are by no means insulated from the outside world (they deal with third parties such as contractors, or lobbyists), the contact is likely to be both less varied, and less intense. More significantly, with a few notable exceptions (i.e.: the Secretariat General), horizontal units are less exposed to political tugs-of-war, simply because their activity does not impact directly on Member States, or societal interests (through regulation, distribution of funds etc.).

2.1.3. The staff of the European Commission

Before moving on, a few introductory remarks are in order also regarding the staff of the European Commission.

Structurally, the EU civil service is not unusual from a European comparative perspective. There are two broad categories of officials: administrators (AD) [45], with responsibilities in policy development and execution, and assistants (AST), with administrative responsibilities. There is a single career system with 16 grades, within which assistants can occupy grades 1-11, while administrators can occupy grades 5-16. The hierarchy of the European civil service resembles a traditional Weberian pyramid, with the topmost position being the Director General (AD 16), followed by Director (AD 14-15), Adviser (AD 13-14), Head of Unit and Deputy Head of Unit (AD 9-14), and the rest of the positions being non-managerial.

As a rule, a job in the European Commission is highly desirable. Salaries in the European administration are sizeable (above the public administration pay scales in many Member States [46]), complemented by advantageous social security plans, and a series of additional benefits justified by relocation from one's home country. Add to that the prestige of working for an institution

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[45] Also referred to as *fonctionnaires*.

[46] Although, as Page (1997) and Stevens and Stevens (2001) note, precise comparisons are difficult to make.

considered to be "the engine of Europe". Prestige also comes from the fact that entry to the Commission is preceded by a very long, demanding, and highly competitive selection procedure known as the *concours*, managed by the European Personnel Selection Office (EPSO). The strenuous conditions give the *concours* a symbolic gate-keeping function, and so those who successfully go through are considered members of a special elite (Ban 2010). It is mainly these features – complemented by a shared enthusiasm for building the institutions of Europe (Page 1997), and the common work location and lifestyle as expatriates (Stevens and Stevens 2001) – that give the European civil service its cohesive character.

2.2. The officials of the European Commission and their organizational socialization

It has been argued, in the Introduction, that the Commission represents a hard case in ethics management, because its internal heterogeneity poses above-average challenges in terms of instilling a common line among staff. In line with this argument, the thesis uses a sample of respondents which reflects this internal heterogeneity. The purpose of the current section is to explain the selection criteria on which this sample was constructed. Namely, in what follows I analyze the characteristics of the European Commission staff with an eye to picking out those features which could determine officials to think about ethics in different ways (and which, implicitly, represent hurdles for managing ethics).

The analysis draws heavily on the EU literature on Commission socialization, and is complemented by insights from research on ethical decision-making. This literature choice is motivated by the fact that, as argued in Chapter 1, the process by which ethics policy shapes individuals' thinking about ethics can be understood as organizational socialization (more specifically, as learning the ethics of the public role). Therefore, previous studies on socialization in the Commission represent a natural starting point. However, as pointed out before, this literature debates the phenomenon in terms of "going native in Brussels", which means that its

findings should be employed here with caution. Namely, I will only consider those factors, which are relevant for socialization in the supranational/intergovernmental logic, and can be reasonably assumed to matter for officials' positions on ethics, as well.

In what follows four key variables will be discussed, i.e.: nationality, organizational position, type of employment, and professional background. Of course, as the ethical decision-making literature (reviewed in the previous chapter) clearly shows, there are many other individual-level factors which can influence individuals' ethics. However, these four variables are considered to be the most significant ones, in the context of the European Commission.

2.2.1. Nationality

By far the most important variable investigated in the EU socialization literature is nationality – or, to put it more accurately, national orientation. The interest has been to determine whether the Commission's supranational character translates into corresponding decision-making behaviour and attitudes – that is, whether those who work here "primarily emphasize supra-national concerns rather than simply 'uploading' the interests of their country of origin" (Egeberg 2012: 2).

Research results generally indicate that the Commission is permeated by a supranational ethos, especially in what concerns the permanent officials. For instance, Shore's (2000) detailed anthropological examination of the Commission has concluded the European civil service espouses a strong *esprit de corps* and loyalty to their employer institution. Also, the manner in which the Commission defines itself as the motor of integration and an "honest broker" between national and sectoral interests is strongly reflected in the identity of EU bureaucrats: "the notion of a *fonction publique europeenne* and the idea of being positioned 'above' national politics have become [..] key themes in structuring the identity and self-image of Commission officials" (Shore 2000: 178). Newer research (Ellinas and Suleiman 2011) goes along similar lines, showing that the majority of Commission officials espouse supranational views. But there is also evidence

pointing to a plurality of views among Commission officials – although pro-integration stances dominate, there are sizeable minorities of intergovernmentalists (Dehousse and Thompson 2011, Hooghe 2001, 2011) and "institutional pragmatists" (Hooghe 2011).

Nationality has also been approached from a different angle – namely, as an independent variable. Hooghe (2001, 2005, 2011) has proposed that officials' nationality would influence their views on the appropriate split of power between national governments and the EU, but also their economic ideology. These hypotheses have been confirmed to a good degree [47], leading the author to conclude that supranational preferences are explained less by contact with the Commission, and more by extra-organizational experiences (most notably, national socialization).

Nationality is relevant for Commission officials' views towards ethics. Namely, there are important differences between European countries in what regards their political and administrative cultures, which may also imply different understandings regarding appropriate behaviour in public office. Therefore, insofar as Commission employees are bearers of their respective national cultures, nationality is a factor to be taken into account.

In fact, nationality has proven to be the "usual suspect" for the existence of different understandings of ethics in the Commission. In the aftermath of the Santer resignation in 1999, there was widespread talk of a "clash of cultures" in Europe, between the "clean" countries of the North and the "corrupt" ones in the South. It seemed that Commissioners, officials and Members of the European Parliament (MEPs) abided by quite different standards of public behaviour, depending on their country of origin (Pujas and Rhodes 1999). It did not help that Edith Cresson, one of the Commissioners singled out in the CIE reports, publicly defended herself by arguing that she did nothing which wasn't in line with the standards practised in the French administration (Shore 2005).

It does not seem difficult to find supporting arguments for the "clash of cultures" thesis. There are numerous anthropological studies documenting the spread and centrality of patronage

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[47] By-and-large, findings show that senior officials who come from federal states, or countries characterized by multi-level governance, are more in favour of supranationalism, compared to those from unitary states.

systems in the countries of Southern Europe[48]. Central and Eastern Europe also has a strong culture of informality – resulting partly from the Communist legacy and partly from institutional weakness during transition[49]. Even a cursory look at Transparency International's *Corruption Perception Index*[50], shows striking divergence between the 27 EU Member States. In 2011, the scores varied from 9.4 (Denmark and Finland) to 3.3. (Bulgaria).

More importantly, the "clash of cultures" has been documented inside the Commission. Maryon McDonald (1997, 2000) writes about a persistent North/South division in conceptualizing the frontiers between administration and politics, public and private, ethical and not ethical. For those in the South, patronage and personal connections "operate as an important, if not the only moral system [...] Honour and manliness are the rewards of knowing how to work this system, and shame, naivety and stupidity are among the sanctions on ignorance" (McDonald 1997: 66-67). For those in the North, imbued with ideals of rationality and impartiality of the administrative system, the Southern practices may be easily characterized as corrupt, or at least unethical. With the advent of new personnel from Central and Eastern Europe (following the enlargement waves of 2004 and 2007), the Commission may be even more strained by divergent (culturally-determined) standards of public behaviour. These differences hamper effective ethics management – as Cini (2007b: 134) writes, even though objectively the gap may not be that large, there is a potential to exploit politically the discourse on North-South divisions, with damaging consequences.

Although nationality indeed has much potential to shape understandings of ethics differently, its impact should not be overstated. It is important to note that, after all, the "clash of cultures" thesis has been dismissed as a determining factor in the fall of the Santer Commission. In their study, Pujas and Rhodes (1999) find the institutional explanation more helpful –

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[48] See McDonald 1997 for an indication of relevant titles.

[49] See Grødeland 2007 for an illustrative study of informal networks in the Czech Republic, Slovenia, Bulgaria and Romania.

[50] The *Corruption Perception Index* (CPI) is a composite index drawing on corruption-related data from expert and business surveys carried out by a variety of independent and reputable institutions. The CPI ranks countries based on the degree to which corruption is perceived to exist among public officials and politicians. It uses a scale of 10 ("completely clean") to 0 ("completely corrupt"). For more on this see http://www.transparency.org/policy_research/surveys_indices/cpi.

essentially, what caused the 1999 crisis was the democratic deficit of the European institutions, coupled with the weakness of control and accountability systems. Along similar lines, Shore suggests that the Commission's overarching culture of informality was more significant than national differences. He attributes the fall of the Santer Commission to "a vibrant, anti-Weberian 'informal' system of administration, based on private interests, personal networks and 'pragmatic' codes of conduct" (Shore 2005: 138).

2.2.2. Organizational positions

Another important variable for socialization in the Commission is the organizational position individuals occupy. Egeberg (1999, 2004, 2012) points out that, unlike other international governmental organizations, the main principles of specialization in the Commission are sectoral or functional – rather than territorial (national). This type of organizational structure is thought to emphasize the portfolio (rather than nationality) as the most relevant influence on officials' decision behaviour and, ultimately, on their identity. A good deal of empirical research supports this view. For instance, Suvarierol (2008) demonstrates that, contrary to received wisdom, officials' networking behaviour is dictated not by nationality, but by the *dossier* they handle, since it is technical expertise that determines the value of a network contact in the Commission. The Commissioners' decision-making behaviour is also heavily influenced by their functional and sectoral responsibilities. Egeberg (2006) found that the "portfolio role" was the most frequently evoked in College meetings, while Wonka (2008) demonstrates that, in these decision-making processes, a mix of national and sectoral concerns are evoked. Interestingly, the portfolio logic also carries weight with groups more loosely affiliated to the Commission. Thus, Trondal *et al.* (2008) show that the decision-making of seconded national officials is characterized by a mix of epistemic, departmental, and supranational considerations, with intergovernmental arguments being much less significant than one might presume.

Organizational position may also be significant for shaping officials' views on ethics, although not as a counterweight to national orientations (which is how the EU literature frames it). In what concerns ethics, where officials work is relevant because the functions fulfilled by the Commission in the EU institutional framework may entail different ethics problems and "hot spots". Then, if the portfolio logic is indeed a strong influence on the officials' identities, these potential differences become important.

In fact, it is not difficult to imagine that the Commission's institutional functions would entail some variation in terms of ethics profile. After all, the main criticisms received by the Commission over ethical standards do apply to some activities more than others. For instance, when it acts as policy initiator, the Commission represents a prime target for private interest lobbying. In recent years the Commission has been heavily criticised over its relationship with the lobby, particularly for being partial to corporate interests[51]. In its executive role, the Commission has proven vulnerable to irregularities and financial fraud. The most problematic are the funds under shared management, which have represented probably the single most important reason why, for many years, the Commission has failed to obtain a clean bill of health in the annual audit reports of the European Court of Auditors[52]. Finally, political considerations play a crucial role in the Commission's enforcement activity, which raises questions on its impartiality as "guardian of the Treaties". The Commission picks its legal battles very carefully, because it has scarce resources at its disposal, and needs to consider the repercussions of antagonizing a national government (Nugent 2001). Therefore, the decision to go to court is very often a political one, which can run counter to the Commission's obligation to ensure equal application of EU law, and the equal treatment of Member States.

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[51] These criticisms will be presented at length in Chapter 4.

[52] More precisely, the Court has regularly mentioned, in the "Statement of Assurance" which accompanies its annual audit reports, that certain categories of payments (those corresponding to funds under shared management particularly) were "materially affected by error" (i.e.: not all formal rules had been respected), which signals that supervisory and control systems are "partially effective".

These observations make it clear that there is a possibility that officials working in different parts of the Commission do not get exposed to quite the same problems. Consequently, functional differentiation is an element to consider for case selection. If the group of interviewees is to be a significant one, it should include people who experience the entirety (or a relevant range of) ethics questions which life in the Commission throws up.

2.2.3. Types of employment

Another aspect to consider is the type of employment contract which officials have. Most (71.9%)[53] of those working in the services are European civil servants, enjoying life-long tenure. Apart from them, however, there are several types of non-permanent staff in the European Commission. Thus, the temporary agents (5.8%) and the contractual agents (18.7%) are employed for limited periods of time, ranging between 3 and 6 years (but sometimes less). A distinctive category are the Seconded National Officials (SNEs, 3.51% of total staff), who are recruited mostly from the national civil services of EU countries to spend a limited period (minimum six months, and maximum four years) working full time for the Commission, while continuing to be on the payroll of their original employer.

The type of employment contract matters because it can affect individuals' motivation to be (and stay) loyal to the Commission. In the EU literature, this argument has been made in relation to SNEs, assumed to retain allegiance to their national civil services while working for the Commission (Cox 1969, Coombes 1970). In fact, SNEs are sometimes used as a crucial test group for Commission socialization, precisely because they are thought to be the least likely to develop supranational loyalties (see, for instance, studies by Trondal 2006, Trondal *et al*. 2008).

In what concerns ethics, what can cause problems is not necessarily the link to a national employer, but more generally the lack of tenure – even though the non-permanent officials in the

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[53] The percentages are calculated based on the European Commission staff figures, available online at: http://ec.europa.eu/civil_service/about/figures/index_en.htm .

Commission enjoy comparable working conditions, salary and benefits[54], and the disciplinary regulations are fairly similar[55]. Tenure in the civil service has long been considered a must for achieving a professional, neutral administration, able to resist pressures from the politicians of the day, or from powerful private interests. Without the security afforded by a permanent position, officials are likely to be more susceptible to such influences. These arguments suggest that the difference in conditions of employment, by giving rise to different incentive structures, may end up shaping differently officials' positions towards ethics.

2.2.4. Professional backgrounds

Officials' professional background is not emphasized in the literature on Commission socialization, but it is an important factor for ethics. The logic is the same as for nationality, namely that individuals may bring into the Commission different understandings of appropriate behaviour – this time depending not on their country of origin, but on where they previously worked. To be clear, it makes a difference whether an individual has experience in the private, or public sectors. This is because the logic of the two sectors is fundamentally different (i.e.: bottom-line profit vs. the public interest), which means that what might be labelled as initiative in a private firm could well constitute misconduct in a public bureaucracy (OECD 1996). Individuals coming from the private sector may be less sensitive to the ethical rigours of the public service.

A different argument, but pertaining to the same difference between the public and private sectors, concerns the so-called "public service motivation" (PSM), generally understood as one's motivation to contribute to the common good, and the well-being of society at large. It has been hypothesized that, by its very nature, the public sector attracts people with such an altruistic drive

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[54] This is broadly speaking. In particular, temporary agents do enjoy the same conditions as permanent officials. Contract agents have their salaries capped to € 5,800, but otherwise have the same benefits as temporary agents. SNEs remain covered by the social security provisions of their employer, but the Commission offers compensation costs for living and working abroad, which can be very significant in some cases.

[55] To avoid conflicts of interests, there are special additional restrictions applying for SNEs. For instance, they assist Commission officials and temporary staff, but cannot themselves occupy middle or senior management positions.

(Perry and Wise 1990), which may, in turn, be connected to more ethical behaviour (Brewer and Selden 1998). Thus, an argument can be made that those who work in the private sector (or who have joined a public organization from such a position), may display lower levels of PSM, which in turn affects their ethical stance.

2.2.5. The Commission's hiring methods and its recruitment pool

A few observations are in order regarding the Commission's hiring methods, and the characteristics of its recruitment pool. As already stated, two of the variables identified above – nationality and professional background – relate to officials' previous experiences and socialization. Their importance, then, needs to be assessed in connection to the employee selection process, more specifically the degree to which it allows for recruits with (very) different previous "baggage" to pass through.

First of all, one should appreciate that the Commission's recruitment pool is fairly well defined, which means that, although people do come into the Commission from all walks of life, overall staff diversity is subject to clear boundaries. According to the so-called Attraction – Selection – Attrition framework (Schneider 1987), organizations and persons seek each other based on common values and goals. Therefore, people will, to a certain extent, self-select themselves into organizations, and these, in turn, will look to hire recruits who have both the necessary skills and the matching cultural values (Cable and Parsons 2001). This is very much the case with the Commission, where entry is (generally) preceded by the very thorough *concours*, which generates a specific profile of recruits: "a sophisticated, middle-class group, well-educated, almost all with international experience, and often with considerable prior knowledge about the European institutions" (Ban 2008: 5). Suvareirol (2011) also confirms that the Commission recruits from a "cosmopolitan" pool (i.e.: people who have studied, lived, or worked abroad, who come from a multinational family, or have a partner of different nationality). Even before the creation of EPSO in 2000, which standardized the selection procedure, international experiences

were frequent among newcomers. As Hooghe (2001) notes in her study of senior Commission officials, nearly 40% in this group had studied abroad, in other European countries or in North America.

These characteristics in the Commission's recruitment pool are relevant at least in one regard, namely that previous international experiences may dislocate, or weaken any nationally-peculiar views on ethics. Exposure to international environments renders individuals more sensitive, understanding, or at least more curious about other cultures. Therefore, prior to joining the Commission, officials are not the typical French, Italian, German, Swede, or Romanian. Not representing fully their respective national cultures, they are also less likely to embrace the divergent ethical standards associated to them. On a more general level, the fact that there is some homogeneity among prospective EU officials diminishes the likelihood that they would entertain (very) different views on ethics before joining the Commission.

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In conclusion, the staff of the European Commission is a diverse body, and some elements in this diversity are relevant for officials' socialization experiences, with regard to ethics. Firstly, officials' nationality is significant, since EU Member States are quite diverse in their political cultures and administrative norms, which potentially translate, inside the Commission, into "clashes of culture" between North and South, East and West. Secondly, the organizational position matters, because the Commission's institutional functions may entail some variation in terms of ethics profile. Therefore, officials working in different parts of the organization get exposed to distinct questions and problems. Thirdly, the lack of tenure, and, in the case of SNEs, the double subordination to national and supranational administrations, may weaken officials' loyalty to the Commission. Finally, the professional background is noteworthy, because those who have worked in the private sector may understand differently what passes as acceptable in order to get things done.

2.3. Choosing a significant group of officials

This section introduces the group of Commission officials who have been interviewed in the framework of this research project. It starts with explaining a choice made, in terms of research design, to focus on administrative units. Then, the characteristics of the sample are discussed, following the list of variables identified in the previous section as having a potential to determine differences in way Commission officials view ethics. The section ends with a discussion on the method by which participants were recruited for interviews.

2.3.1. Administrative units as primary sites of organizational socialization

I have argued in Chapter 1 that it matters where (with whom) in the Commission officials are socialized. This is so because, in an organizational context, people learn about normatively appropriate behaviour by observing those around them and, moreover, as the OS literature suggests, they prefer this type of learning over using formal sources. Therefore, a research design solution was needed to account for the influence of work peers and supervisors on individuals' ethical stances, and, moreover, to allow indentifying the ways in which these factors interrelate with the Commission's ethics policies.

This solution is represented by a focus on administrative units, seen here as primary sites of organizational socialization in the Commission. As mentioned before, the administrative unit is the smallest organizational component of the Commission. Essentially, it is a team of officials (containing on average 20 members), who have been working closely together, for a reasonably long period of time. Arguably, these individuals have undergone organizational socialization under similar conditions – they have access to the same organizational literature and training/ coaching programs, their peers and leadership are the same, they work on more-or-less similar issues, and they share a common group history, and a common work space. In other words, the members of an administrative unit learn their ethics under similar conditions.

To be clear, the interviews were carried out in four DGs. In each of those I selected respondents who belonged to the same administrative unit, or to units which were working closely together. In this way, it was possible to capture the way officials worked together as a group, and how they dealt with ethical questions in this context.

2.3.2. Characteristics of the sample

The group of informants had to illustrate the internal heterogeneity of the Commission. For this purpose, an option was made to use a maximum variation sample [56]. As Rubin and Babbie (2009: 150) show, the aim when using such a sample is to capture the diversity of a phenomenon with a small number of cases, which can be studied intensively. Namely, a maximum variation sample includes cases which display significant variation along a number of criteria of interest, the purpose being to represent "all the important dissimilar forms present in the larger population" (Weiss 2004: 23). Generally, this strategy is recommended as an alternative to random selection, if the researcher is working with a small number of cases (less than, or about 30) (List 2004). A maximum variation sample permits to generalize to a larger population precisely because it contains very dissimilar cases. The logic is that any common patterns that emerge from a highly heterogeneous group would hold for the wider population as well (Patton 2002, Weiss 2004).

The sample used in this thesis consists of 30 informants, and displays variation along the four variables (i.e.: nationality, organizational position, type of employment, and professional background), identified in the previous section as having a potential to determine differences in way Commission officials view ethics.

In terms of *nationality*, the sample includes 19 staff members from the "old" EU-15 Member States (4 British, 4 French, 2 Spanish, 2 Italian, 2 Greek, 1 Austrian, 1 German, 1 Danish, 1 Dutch, and 1 Belgian), and 11 from the "new" Member States (3 Lithuanians, 2 Hungarians, 2 Bulgarians, 1 Polish, 1 Estonian, 1 Slovene and 1 Romanian). The North-South

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[56] Sometimes called a maximum diversity sample, or a maximum heterogeneity sample (List 2004).

division is also represented, with the British, German, Austrian, Danish and Dutch on the one hand, and the French, Spanish, Italians and Greeks on the other.

In terms of *organizational position*, the recruited officials came from four DGs: the Directorate-General for the Internal Market and Services (DG MARKT), the Directorate-General for Regional Policy (DG REGIO), the Directorate-General for the Environment (DG ENV), and the Directorate General for Competition (DG COMP). These DGs were considered representative for the Commission's institutional functions, discussed in section 2.1.1 (their representativeness is explained in Table 2.1 below).

Commission function	Selected DG	Reason for selection	Interviews
Policy initiation	DG Internal Market (MARKT)	DG MARKT is active in one of the oldest (and most heavily lobbied) policy areas under Community competence.	6 interviews in 2 units
Policy execution	DG Regional Policy (REGIO)	DG REGIO manages spending for regional policy, which traditionally has been the second largest spending area of the EU budget, after agriculture and rural development[57]. This is also the area where the specifically-EU mode of shared management is used.	7 interviews in 2 units
Policy enforcement	DG Environment (ENV)	DG ENV is active in the one area of the *acquis communautaire* which is generating the most significant case load of the Commission, both in terms of open cases under investigation, and in terms of infringement cases[58].	5 interviews in 1 unit
Policy enforcement	DG Competition (COMP)	DG COMP enjoys the highest powers in the Commission.	12 interviews in 3 units

Table 2.1.: Selected Directorate Generals

It is important to point out that most of the Commission's operational DGs generally perform all three institutional functions (i.e.: they contain administrative units, or perhaps entire directorates, dedicated to policy initiation, execution, and enforcement respectively). Thus, it

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[57] Agriculture and rural development make up 43% of EU budget expenditure, while regional policy represents 27.7%. For more in this see: http://ec.europa.eu/budget/figures/fin_fwk0713/fwk0713_en.cfm#cf07_13 .

[58] On average, 20% of Commission infringement actions are handled by the DG ENV. For more on this, see: http://ec.europa.eu/environment/legal/law/statistics.htm .

would be incorrect to speak of "pure" executive, or enforcement DGs, but of DGs which exercise these functions in different proportions. For instance, some are big spenders (e.g.: the Directorate-General for Agriculture and Rural Development, the Directorate-General for Regional Policy, the Directorate-General for Employment, Social Affairs and Equal Opportunities), while others are more involved in policy-making (e.g.: the Directorate-General for the Internal Market and Services, the Directorate-General for Taxation and Customs Union, the Directorate-General for the Information Society and Media). So, it is in this sense – i.e.: the predominance of a specific function – that representativeness of the selected DGs is to be understood.

I ensured that both the units where interviewees were located, as well as their DG as a whole, would be representative for each of the three functions. An exception was made for policy enforcement. Generally, DGs have one or several administrative units which deal with enforcement in their respective policy areas. DG ENV is an example of this common set-up. By way of exception, DG COMP, also included in the sample, is the only DG in the Commission dedicated almost entirely to enforcement. It was included because, during interviews, internal ethics experts consistently indicated DG COMP as being particularly sensitive from an ethics viewpoint. Furthermore, it was not always possible to respect a strict demarcation along functional lines for the selected units. The units in DG MARKT particularly were a mix between policy initiation and execution – namely, they were each in charge of a particular directive, which included legislative design, as well as monitoring implementation.

Moving on, the sample is diverse also in terms of hierarchical level, and *type of employment contracts*. With one exception, all interviewees were from the AD group. Most of them were permanent officials, with the exception of two temporary agents, and two seconded national experts. 10 people held managerial positions (Heads of Units or Deputy Heads of Units), while the rest occupied lower ranks in the staff hierarchy.

Finally, in terms of *professional background*, a bit over half of the respondents (17) had previously worked in public administration, either at national or local levels, while 8 had a

background in the private sector, 4 had been employed by other EU institutions, and 1 held an academic position before joining the Commission. There were 16 women and 14 men in the group. Moreover, all respondents had at least one year worth of work experience in the Commission – which translates into a reasonable period of exposure to organizational socialization.

In conclusion, the selection was sensitive to the multitude of factors (discussed in section 2.2) which could be reasonably considered to have an influence on officials' views to ethics. This composition allows for findings to be extrapolated to other parts of the Commission. However, because of the relatively small number of interviews, the sample is not fit for determining the impact of these factors, considered individually (for instance, it cannot tell us whether nationality matters for the way Commission officials understand ethics). The most it can do is to suggest pointers for future research, which would be pursued with different types of samples and research methods. I will come back to this aspect when discussing the findings of the thesis, in Chapter 4.

Before moving on, the limits of the sample should also be discussed. As already mentioned, the thesis does not cover the political levels of the Commission, or the administrative DGs. Furthermore, it is limited to a certain hierarchical level, namely middle management (Head of Unit) and below (because of the decision to focus on administrative units). Largely as a consequence of this, the participants' age range is also limited – the sample includes mostly young people, with only a few officials above 50.

2.3.3. Gaining access and recruiting participants

This sub-section explains the method through which interviewees were recruited. This is an important aspect because, generally, research dealing with sensitive topics – such as ethics – faces significant access problems. Simply put, people are reluctant to discuss with others (particularly outsiders) a potentially explosive topic, and, in doing that, to expose themselves to judgement, and other adverse consequences. Offering confidentiality certainly helps to garner

support and trust, but it is, however, only part of the solution. Also very important is how the researcher gains entry in the organization in the first place, and the routes by which he/she reaches potential interviewees. In this case, access was achieved through internal channels – particularly, the entry point were the Commission's ethics officials. Interviewees were recruited either through calls for interviews circulated internally by the DGs' ethics correspondents, or through the snowballing technique (i.e.: acting on the recommendation of ethics officials in the Commission, I approached several Heads of Units in the desired DGs, some of whom eventually agreed to participate in the project). In parallel, hierarchical lines were used – in most cases, I contacted first the (Deputy) Heads of Units, who have circulated my calls for interviews among their staff.

The recruitment method described above implies some trade-offs. The advantage was that, coming through internal channels, and with the "blessing" of ethics officials and the hierarchy, the requests for interviews were likely to meet with less suspicion, and more cooperation. This access route sent a message that it was "legitimate" to participate in the research project, although the voluntary nature of the participation was stressed at all times. The disadvantage was that of potential selection bias – namely, the group may show only the "good" face of the Commission. Because ethics experts were the entry point, it is possible that they directed me towards people whom they considered to be of good standing. Moreover, as participation was voluntary, interviewees have, to a certain extent, self-selected themselves into the project. Conceivably, the decision to participate would be motivated by a personal interest towards ethics, or an acknowledgement of its importance in the organization. Finally, the investigated units enjoyed good leadership – the Heads of Unit were clearly people who didn't have a problem with discussing about ethics. It is hard to imagine that units with a history of scandal, or where staff relations are not good, would have agreed to participate.

This being said, the risks of bias discussed above are justified given the access limitations connected to the research topic. Furthermore, considering the aims of the project, the potential bias is not a stumbling block. Firstly, officials' views towards ethics are elicited in the context of

ethical dilemmas. Given the highly ambiguous nature of these situations, the interviewees' good character would not pre-dispose them to a particular assessment. On the other hand, the supportive leadership in the selected units does not obscure findings, since the point here is to understand how ethics policy *combines* with other organizational factors to shape individual attitudes – rather than whether or not it works in separation.

2.4. Methodological observations

Interviews were conducted with the selected participants, following a topic guide which contained open questions and three vignettes (see Annex 2). Essentially, this represents a multi-method approach, where the two techniques were used in complementary fashion to tap various aspects of "ethics in practice" within the European Commission. On the one hand, the open questions revealed how officials view their socialization experiences in the EU administration, their experience with, and perception of ethics management instruments, and the ethical challenges in their jobs. On the other hand, the vignettes revealed the individuals' positions and reasoning regarding ethics, and offered a concrete benchmark for comparison.

Due to their centrality in the research project, in what follows I offer an extensive discussion on vignettes, covering first the main characteristics of this methodological instrument, and afterwards its deployment in the thesis. This latter part explains how the vignette technique was used to address questions of validity (which represents an important challenge in ethics research), and how officials' answers were analyzed.

2.4.1. General observations on the vignette technique

Vignettes have been extensively used in sociological research to elicit data on group beliefs and values (Finch 1987; Hughes 1998; Jenkins *et al.* 2010), and particularly in studies dealing with sensitive issues, or vulnerable groups [59]. One of the key advantages of this technique

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[59] See, for example Hughes (1998), Barter and Renold (2000).

is that it minimizes social desirability bias, as respondents find commenting on fictional situations to be less threatening than answering direct questions, and, thus, they are less likely to dissimulate their attitudes (Finch 1987; Renold 2002). So, vignettes offer a non-intrusive and fruitful way of exploring issues which would otherwise be troublesome – an advantage which, unsurprisingly, made them particularly popular in ethics research [60]. Moreover, vignettes elicit attitudes in a much contextualized manner, thus avoiding answers which are overly generalizing and impossible to interpret (Finch 1987). Finally, by comparison to other methods, they can be more interesting and enjoyable for informants, and stimulate their creativity (Schoenberg and Ravdal 2000).

Discussions around the limitations and challenges of the vignette method generally highlight two aspects. Firstly, vignettes are most productive when they appear authentic and relevant to participants, and, thus, they should be developed on a thorough knowledge of the environment facing the target group. Secondly, vignettes are effective in revealing attitudes, beliefs, or decision-making patterns, but have limited value in predicting actual behaviour. As Jenkins *et al.* (2010: 178) caution, the aim "should not be to arrive at an accurate prediction of an interviewee's behaviour, but instead to achieve insight into the social components of the participant's interpretative framework and perceptual processes".

In ethics research, vignettes have typically been employed in quantitative studies, where participants are presented with a scenario, and asked to choose from a list of pre-determined answers. One relevant illustration is the Defining Issues Test (DIT) – a widely-used[61] measure of moral development developed by psychologist James Rest (1986), where participants are presented with three to six story dilemmas, and asked to identify what action should be taken, and rank a number of issues raised by the stories, according to their moral importance. In opposition to

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[60] For instance, O'Fallon and Butterfield (2005) find in their review that scenarios are the most widely used method for probing ethical decision-making in the business ethics field. With regard to the administrative ethics literature, Frederickson and Walling (2001) argue that vignettes are often used in studies which take an experimental approach.

[61] The DIT is the instrument of choice in research dealing with moral development. Based on the DIT, Stewart and Sprinthall have developed the "Stewart-Sprinthall Management Survey"/ SSMS test, which uses adapted to the specificities of public service (see Stewart and Sprinthall 1991, Stewart and Sprinthall 1993; Stewart *et al.* 1997, Stewart *et al.* 2002).

the general trend in ethics research, in this thesis, vignettes are used in a qualitative fashion. This approach has the advantage of leaving "space for participants to define the situation in their own terms" (Renold 2002: 3), thus yielding richer data, which taps into the complex interpretative frameworks which are applied in ethical decisions. Although qualitative vignettes are rarely used in ethics research, there are authors advocating in their favour. Wilks (2004), for instance, discusses vignettes in the study of social work values, noting that quantitative studies are reductionist, reflecting researcher-defined understandings of values and the nature of ethical decision-making. By comparison, a qualitative approach, which empowers participants, highlights the meanings they themselves ascribe to situations, their discourses and rhetorical positions, thus better capturing the complex morality of social work. Vignettes can generate this type of data because, as Jenkins *et al.* (2010) point out, they lead respondents engage in acts of perceptual orientation. Specifically, respondents associate with the character portrayed in the vignette, and, in doing so, "assume that the protagonist is exposed to the same group norms as themselves, and so explicate those norms in their responses to the vignettes" (Jenkins *et al.* 2010: 180-181). In other words, responses, even if pertaining to a fictional character, will reflect the respondents' own experiences, memories, and understandings of similar situations.

2.4.2. Validity and vignettes

The vignette technique was chosen in this thesis for two main reasons. Firstly, as already pointed out in Chapter 1, vignettes have the advantage of leading interviewees into an evaluative exercise (i.e.: ethical reasoning) through which their views are revealed. Secondly, as indicated above, the technique has a good potential to yield valid data (with minimum social desirability bias), thus addressing a challenge which is particularly important in ethics research. In what follows I explain how the vignette technique was used in the thesis to address the validity issue.

It is appropriate to begin this discussion by acknowledging that validity is a general problem in interview research. To put it simply, researchers who use interviews are highly

dependent on the cooperation, good will, and memory of their respondents, and as such have no guarantees that they are being supplied with truthful and complete answers. The problem is not so much outright lying (which is far less frequent than one might imagine), but that the respondents present (intentionally or not) a slanted, or incomplete version of whatever the inquiry is about (Weiss 2004). Shading the truth is more likely when dealing with opinions, attitudes, or beliefs, as respondents will seek to present a positive image of themselves. This problem becomes exacerbated with sensitive research topics (such as ethics) because the risk of revealing unflattering information is higher and, as Weiss (2004: 149) notes, "[p]eople will not endanger themselves to contribute to social research".

Generally speaking, the reason why vignettes are thought to yield truthful answers is because informants find it less threatening to comment on hypothetical situations rather than answer questions about their own lives. In this thesis, a further precaution against social desirability bias was taken, in that all the vignettes display ambiguous situations (i.e.: ethical dilemmas). In essence, interviewees would not answer in a biased way simply because there is no pre-determined "right" answer to the vignettes, or at least not one which is immediately visible. To achieve this ambiguity, all vignettes were placed in the "grey" spaces of the Commission's ethics regulations. Namely, none of them presents an outright transgression of the rules. However, the conduct of the central character in these stories – "John" – can raise some eyebrows, and there are reasons to both criticize and justify it. The coverage of the legal framework was defined through my own analysis, and confirmed by several senior ethics experts in the Commission, whom I asked for input.

Furthermore, the vignettes were tested, before large-scale use, in 7 pilot interviews with volunteers who had worked, or were working at the time in the European Commission, in various positions and DGs[62]. This preparatory work served to ascertain whether vignettes seemed "real" to

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[62] The institutional membership of the interviewees is the following: the Secretariat General (SG), DG Enterprise and Industry (DG ENTR), DG Humanitarian Aid (DG ECHO), DG Trade (DG TRADE), DG Enlargement (DG ELARG), DG Information Society and Media (DG INFSO), DG Mobility and Transport (DG MOVE).

insiders, and adequately reflected the specific working environment of the Commission. It also served to check whether they indeed appeared dilemmatic – which, in this context, meant evidence of genuine reasoning (i.e.: slowness in responding, false starts etc.), and, most importantly, a variation between responses. The stories were gradually improved based on the feedback gathered in the pilot interviews.

Another measure to strengthen the validity of the measurement instrument was to strategically place the vignettes in the second half of the interview guide, in order to allow for rapport to be built between interviewer and interviewee, by the time they were introduced. Being more relaxed, participants were also more likely to approach the scenarios in a genuine way. Moreover, the vignettes were all introduced with a clear explanation that respondents should simply give their views and opinions, and not interpret them as tests. On a more general level, it also helped that the interviews were confidential, and that respondents were recruited in a non-coercive way.

In fact, there is some encouraging evidence suggesting that the interviewees in this project were being truthful. Firstly, the vignettes have triggered different responses (as it will be shown at length in Chapter 4). This can be interpreted as proof of the authenticity of the reactions elicited – otherwise, all or most interviewees would have been able to identify a socially desirable answer (if there was one), and present it. Secondly, many respondents were willing to broach subjects which were less comfortable – specifically, they narrated events which put the Commission in an unfavourable light, or instances in their professional careers when they made mistakes, or acted in questionable ways. For example, one official recounted a time when she discovered that burglars had broken into her car and stolen, among others, several confidential documents from work. Another official told me how she delayed telling her boss of her decision to move to another DG, causing a row. Yet another reported a time he participated in a meeting with a lobbyist who had internal documents he was not supposed to have access to. The interview material contains

numerous such cases, which show that participants have approached the interview in a genuine way. However, having no more than anecdotal value, these cases will not enter the analysis.

2.4.3. Coding and analysis of the vignettes

The vignettes featured two successive stages, where the second stage adds a layer of complexity, and makes it less straightforward to judge the acceptability of the behaviour. They were presented to interviewees on separate sheets of paper, the second stage after they had already read and commented through the first one. Chapter 4 goes into specifics on this, by presenting the three scenarios, and discussing the interviewees' responses to them. For now, I will just make a few remarks on the type of data yielded by vignettes, and the ways in which it was analyzed. This serves to clarify the point made earlier regarding the qualitative use of vignettes in this thesis.

The vignettes should not be understood as a test of how "ethical" EU officials are, but rather as a stimulus for discussing ethics. Participants were allowed to more-or-less freely comment on them, asking only whether they found the situations to be acceptable, and why (not)[63]. Follow-up and probing questions were used only to clarify, or expand further on certain points, collect examples, or encourage the less forthcoming respondents. This approach allowed respondents to engage extensively in a process of ethical reasoning, and explain the reasons why they judged certain types of behaviour to be (un)acceptable. Moreover, it encouraged them to go beyond the narrow scope of the vignettes, and explain what could be a reasonable solution to the dilemma presented therein, or draw parallels to similar real situations which they have encountered throughout their career. Hence, the vignettes generated long and relatively unstructured answers, which pertained not only to ethical reasoning per se, but more broadly the participants' rhetorical positions, the repertoire of organizational practices connected to ethics.

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[63] The standard approach is to ask participants what they themselves would do, or what a third person would do, sometimes both (Finch 1987, Renold 2002). The slightly different approach taken here was judged to be more efficient to get respondents to evaluate the scenarios, and thus express their ethical reasoning.

The main purpose of this open-ended approach was to capture ethics as perceived and experienced by participants themselves. For the same rationale, the data was analyzed in an inductive way, with the aid of specialized software (ATLASti). The coding process was organized in two stages – first topical, and then analytical (see Richards 2005). With topical coding, the objective was simply to label the text according to its subject, and thus get an overview of the recurrent topics and patterns in the data (in particular, the most frequent arguments, and the consistent differences and similarities in officials' responses, as they reasoned through the vignettes). Based on this, in the second – analytical – phase, I developed new codes to reflect theoretical categories and reveal *types* of answers. The process of fitting the data to these theoretical categories inevitably meant sacrificing some of its richness. Thus, some of the more exotic responses had to be left aside, and some of the more sophisticated and rich responses were "analyzed down" to fit the existing types.

Officials' answers to vignettes were analyzed along two central lines. The first was whether the behaviour described in the scenario was judged to be acceptable or not. The vignettes were introduced with this question, which naturally drove the replies, as respondents engaged in reflection, ending with them making a stand on the acceptability of the story. The second line referred more broadly to officials' reasoning around the vignettes. Their fuzziness triggered many "it depends" answers, which, as Hughes (1998) observes, are useful for exploring the main influencing factors. In this case, the "it depends" answers revealed the main considerations evoked by officials when assessing an ethically-charged situation.

2.5. Conclusion

This chapter presented the research design and the methodology of the thesis. The first part offered a brief portrayal of the Commission as a public bureaucracy. It has been established that, within the EU political system, the European Commission fulfils three principal functions, namely the initiation, execution, and enforcement of European policy. In terms of internal

structure, the organization is composed of a political level, and an administrative one. Within the latter, one may further distinguish between operational and administrative DGs. Operational DGs display the full range of ethics issues which confront the European Commission, and, consequently, this is where the thesis will focus.

The second part of the chapter analyzed the characteristics of the staff of the European Commission. This is an (unusually) heterogeneous body, and some elements of this heterogeneity can impact on the way officials think about public ethics. Therefore, they are relevant for the thesis. Two factors – nationality and professional background – concern individuals' experiences *before* joining the Commission, while another two – organisational position and type of employment – relate to experiences *within* the organization. Nationality matters because EU Member States are quite diverse in their political cultures and administrative norms, which means that people coming from these different environments can have different understandings regarding appropriate behaviour in public office. Likewise, behavioural standards are different in the public and private sectors, so those who have joined the Commission from a private-sector job may have different ideas on what passes as acceptable in order to get things done. Officials' organizational position (i.e.: where they work in the Commission) matters because the Commission's institutional functions may entail some variation in terms of ethics profile, which means that individuals get exposed to distinct problems. Finally, the Commission uses several types of non-permanent employment contracts, which creates a population that, lacking tenure, has fewer incentives to be loyal to it.

The third section of the chapter presented the group of informants with whom in-depth interviews were conducted. This is a maximum variation sample, where respondents were selected on the basis of the characteristics identified above. The interviews were carried out in four DGs, with individuals who belonged to the same administrative unit, or to units which were working closely together. This focus is justified, because it allows accounting for the influence of work peers and supervisors on individuals' ethical stances. Finally, informants were recruited through

internal channels (more specifically, on the recommendation of ethics experts and through the snowballing technique), which meant better access, but also a (tolerable) risk of having a biased sample.

The final part of the chapter offered extensive methodological explanations on the use of vignettes in interviews. One of the most important advantages of the vignette technique is its non-intrusiveness, which makes it a good option for research on sensitive subjects, where validity can be an important challenge. Essentially, this is because respondents find it less threatening to comment on hypothetical scenarios, as opposed to their own experiences. In the thesis, some additional measures were taken to strengthen validity, the most important of which was to make the vignettes very ambiguous, so that different yet equally justifiable answers would be possible. Finally, the vignette technique is used here in a qualitative fashion, so as to capture ethics as perceived and experienced by Commission officials themselves. This meant that interviewees were left to more-or-less freely comment on the scenarios, a strategy with yielded rich, but not easily comparable data. The analytical solution was to code the interview material, which enabled me to identify in an inductive way types of answers.

CHAPTER 3
ETHICS MANAGEMENT IN THE EUROPEAN COMMISSION

This chapter provides an empirical account of the ethics management system which applies to the European Commission services. It starts with a brief note on methodology. Afterwards, it offers an overview of the gradual interventions which, over the last decade, have engendered a rather comprehensive system for managing ethics in the Commission services. The focus will be on the reform packages initiated by two Commissioners, who covered successively the administrative affairs portfolio: Neil Kinnock (1999-2004) and Siim Kallas (2004-2009). Quite unavoidably, this will be a heavily descriptive piece.

Moving on, the chapter presents the messages which pervaded the Commission's internal communication regarding ethics. This analysis is necessary, in light of the arguments made in Chapter 1 regarding the re-interpretation of ethics management from the theoretical standpoint of organizational socialization. As established, this framing requires that the Commission's ethics infrastructure be regarded as a source which feeds individuals' learning about their organizational roles (ethics included). Therefore, drawing out the messages which were sent internally sheds light on what employees were "taught" about ethics.

The final part of this chapter examines the agenda of change proposed by Commissioner Siim Kallas, namely to move away from a focus on control (inherited from the Kinnock reforms) to a "modern" ethics management style, based on guidance and shared values. This investigation follows up on an argument made in the Introduction, namely that this type of transition (i.e.: from compliance-based to softer, value-based approaches) is common in the Western world, yet rarely documented in the academic literature. The Commission offers the possibility to analyze these aspects in detail, and to draw lessons for a wider population. On the other hand, this investigation is also relevant for the main research question of the thesis. The type of ethics management practiced by the Commission matters for officials' socialization because, as argued in Chapter 1,

the "high road" and "low road" ethics represent – and may signal to organizational members – very different notions about what ethics is.

3.1. Methodological note

Methodologically, this chapter relies on document analysis and semi-structured interviews with Commission ethics experts (for the interview guide, see Annex 1). Broadly speaking, two classes of documents were analyzed: (1) Commission legislative initiatives and their preparatory papers, retrieved through the Commission's on-line database of internal documents (http://ec.europa.eu/dorie/home.do), and (2) internal texts (such as notes, codes of conduct, administrative guides, training materials, various brochures and flyers), which were obtained in hardcopy during fieldwork in Brussels. I used the first category of documents to trace the content of ethics reforms in the European Commission, as well as their framing within the official discourse. The second category of documents offered an insight into the administrative practice these reforms had engendered, and the message which eventually reached the work-floor.

Additionally, twenty five interviews were carried out at the European Commission, with officials who deal with public ethics as part of their regular job attributions – they are, so to speak, the "ethics brigade" of the Commission. The interviews were carried out in two rounds, in March and June 2010 respectively. Most interviewees belonged to the administrative services; however the sample also included a representative from the Commission's political tier. Some of the interviewees were responsible for the coordination of ethics policy throughout the Commission – this group was located in the Directorate General for Human Resources and Security (DG HR), the Investigation and Disciplinary Office (IDOC), the Secretariat General (SG), and the Kallas cabinet. The majority, however, had their attributions confined to a specific Directorate General –

this is the group of the so-called "ethics correspondents", an institutional role established by the *Ethics Communication*. For this category, a total of 17 DGs were surveyed [64].

Internal experts were chosen for interviews as they are the only informants with first-hand information on the development, implementation, and context of ethics reforms in the Commission. Some of the veterans in coordinating positions had been involved with both the Kinnock and the Kallas packages, and thus could offer a comparative perspective. The ethics correspondents, on the other hand, explained the DG-level approaches, allowing the researcher an unprecedented opportunity to delve deep into the internal dynamics of the Commission, and grasp a fine-grained understanding of "ethics-in-practice". Internal experts, however, may well be "ethics enthusiasts", prone to over-estimate the importance and impact of their work. Responding to this possible bias, the analysis relies predominantly on the factual information obtained during interviews, rather than the respondents' perceptions and opinions regarding changes in ethics management at the Commission.

Due to the sensitivity of the subject, all interviews were confidential, and, therefore, throughout this thesis names are replaced with randomly assigned numbers. The term "ethics official" is used to denote the fact that the interviewees are experts in the area of ethics. The analysis is based on extensive reports prepared during fieldwork, soon after the interviews had been carried out. Subsequently, these were carefully read, and the material was re-assembled and queried to get an overview of recurrent topics and patterns in the data.

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[64] The 17 DGs were: the Directorate-General for the Internal Market and Services, the Directorate-General for Justice, Freedom and Security, the Directorate-General for Regional Policy, the Directorate-General for Enterprise and Industry, the Directorate-General for the Environment, the Directorate-General for Competition, the Directorate-General for the Information Society and Media, the Directorate-General for Health and Consumers, the Directorate-General for Taxation and Customs Union, the Directorate-General for Economic and Financial Affairs, the Directorate-General for Humanitarian Aid, the Directorate-General for Trade, the Directorate-General for External Relations, the Directorate-General for Enlargement, the Secretariat General, the Directorate-General for the Budget, and the Directorate-General for Interpretation. Out of these, 14 were "operational" (i.e.: active in policy making and implementation, in the areas of both internal market, and external relations), and 3 "administrative" (i.e.: with predominantly managerial tasks). Thus, the collected information can be considered representative for a wide range of activities and functions performed in the Commission.

In addition to document analysis and expert interviews, this chapter also draws on a small number of media sources. These were employed for tracing the Commission's history of ethics-related scandals, which is presented in brief in section 3.3.2.

3.2. The development of ethics management in the European Commission services

This section examines the structure and evolution of ethics management in the European Commission. The purpose here is not to offer a complete analysis of the system (such an endeavour would well exceed the limits of the research), but rather to trace the gradual interventions which, over time, have engendered a rather comprehensive ethics infrastructure in the organization. I take as a starting point the resignation of the Santer Commission in 1999, generally considered as the watershed which put ethics on the reform agenda, and focus on the reform packages initiated by two Commissioners, who covered successively the administrative affairs portfolio: Neil Kinnock (1999-2004) and Siim Kallas (2004-2009). For reasons of space, the inquiry is limited to the organizational level (i.e.: how ethics is defined and managed *inside* the European Commission), leaving aside the broader system of checks and balances outside of the organization. Also, the emphasis is on the core instruments of the Commission's ethics infrastructure, although changes in complimentary systems (specifically human resource management, audit and financial control) are also covered. Given that the coverage of the existing literature is largely limited to the Kinnock era (see particularly Dercks 2001, Hine and McMahon 2004, and Cini 2007a), in what follows I will dedicate substantially more space to the recent years (2008-2010).

3.2.1. The Kinnock reforms: a rule-based ethics system

The fall of the Santer Commission was probably the most damaging public scandal the Commission has ever known. Following the events of March 1999, it found itself hard pressed to

demonstrate credible commitment to securing high behavioural standards. As a result, the concern with enhancing ethics is clearly visible in the *White Paper on Reforming the Commission* - the key principles of "good governance" laid out in the beginning of the document (independence, responsibility, accountability, efficiency and transparency) evidently point this out. Overall, however, the ethics dimension of reforms was subsumed to a larger administrative modernization of the Commission, guided primarily towards efficiency and effectiveness (Cini 2007a). This meant that only a small number of measures addressed ethical behaviour explicitly, but many of the reforms in the human resources and financial control systems had an implicit ethics perspective (Hine and McMahon 2004).

The measures which were most visibly linked to public ethics prove that reformers were largely favouring the compliance-based policy repertoire. For example, the revisions to Title 2 of the *Staff Regulations* (SR), dealing with officials' rights and obligations, reflect a focus on defining the standards of expected behaviour, and particularly on tightening controls. Officials were forbidden to "deal with a matter in which, directly or indirectly, they have any personal interest such as to impair their independence and, in particular, family and financial interests" (Commission 2004b: 9). Declaring interests became mandatory, for officials and their spouses in gainful employment. Closely related were the post-employment restrictions, by which officials were required to inform the Appointing Authority (AA) [65] of any occupational activity undertook within two years of leaving the service of the Communities. The AA could forbid such activity if it "could lead to a conflict with the legitimate interests of the institution" (Art. 16). The AA approval was also required in case of engaging in work assignments outside the Communities, whether paid or not (Art 12b), accepting payments, gifts, or honours of any kind (Art. 11), running for public office (Art 15), or publishing any materials which refer to the work of the Communities (Art. 17a).

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[65] Basically, the Appointing Authority (AA) designates the employer. It exercises a wide range of attributions related to the officials' career, rights and obligations, disciplinary action etc. It is up to each institution of the European Communities to decide which unit(s) within it will serve as AA. In the European Commission, DG HR serves as AA in some cases, but for most officials the AA is their Director General.

In the same spirit, the Kinnock package produced a boost of organizational capacities for monitoring and punishing transgressions. In 2002 the Commission's disciplinary office, IDOC, was established. Provisions on disciplinary action were significantly revised, and a policy framework for whistleblowers was introduced (SR, Art. 22a and 22b). Particularly significant was a modification of Art. 22 of SR, which made staff financially liable for any damage suffered by the Communities as a result of their "serious misconduct". Later on, measures were taken to "review and consolidate information circuits between services and the political level of the one had, and between central and operational services on the other hand" (Commission 2004a: 14). Among others, the *Code of Conduct for Commissioners* was revised to clarify communication between the political and administrative sides. Also, a 'Public service ethics' unit was created in the SG in 2005, to serve as a liaison point between the Commission, the European Anti-Fraud Office (OLAF), and IDOC (Ethics official #21).

On the softer side of the ethics policy spectrum, the *White Paper* focused on standard-setting, as part of a larger objective of creating a "culture based on service" (Chapter II of the Action Plan annexed to the *White Paper*). In what regards the services, this was done via the *Code of Good Administrative Behaviour*, adopted in September 2000, following an earlier recommendation of the European Ombudsman (Commission 2000b). The document, however, does not cover ethical standards in a broad sense, but focuses specifically on dealings with the public, and emphasizes the following principles of "good administration": lawfulness, non-discrimination and equal treatment, proportionality and consistency. Furthermore, it deals in large part with procedural aspects, such that "even with a rather broad understanding of ethical issues [...] the Code does not directly concern ethics" (Cini 2007a: 130).

On the other hand, as noted before, the most important contribution of the Kinnock package (in terms of ethics management) was in areas which were not flagged as dealing with ethics – particularly in human resources and financial control systems. It is difficult to do justice

to the complexity of these reforms in the confines of this chapter, therefore in what follows I will discuss only the most important (i.e.: ethics-relevant) characteristics.

In what regards human resources management, the *White Paper* re-worked the entire spectrum of staff policy, from recruitment to retirement. Some of the most significant revisions were: making recruitment more efficient, transparent, and geographically-balanced, by creating a recruitment office common to all institutions (i.e. the EPSO); the introduction of a new staff appraisal system, the Career Development Review, which tied career advancement to performance, rather than length of service alone; and the encouragement of mobility, especially for senior managers and "sensitive" jobs (e.g.: in the areas of contract and subsidies awards) [66]. As for the financial management, the *White Paper* increased internal managerial responsibility by moving to a decentralized system, where expenditure authorization and control is done at DG level. Additionally, it separated the functions of internal control and internal audit, which meant an additional pair of eyes checking on money management [67]. It is interesting to note that the coverage of these systems was later expanded beyond financial aspects, to broader governance issues, ethics included. Thus, following revisions in 2007, a new internal control standard (i.e.: Internal Control Standard 2) was introduced, dealing specifically with "ethical and organizational values". The changes brought about by the Kinnock reforms are considered to have created a strict and sophisticated control environment – perhaps excessively so, given the amount of time and people now committed to it (Ethics official # 23).

In conclusion, the *White Paper* installed the building blocks of the Commission's ethics management system, and in doing so it has engendered a compliance-based ethics regime, at least in what regards the administrative levels. Earlier assessments in the literature converge on this

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[66] Officials in the top senior positions should move to another post after five, or, in exceptional cases, seven years. For staff in sensitive positions mobility is compulsory. For more, see: http://ec.europa.eu/reform/2002/index_en.htm.

[67] All of these changes necessitated, among others, the amendment of the *Financial Regulation of the European Communities*, in 2002, the establishment of the Internal Audit Service (IAS) of the Commission, and of the Audit Progress Committee (its role is to ensure effective follow-up of internal and external audit recommendations), the set-up of an independent financial irregularities panel, and of a Central Financial Service in DG Budget.

point. Thus, Hine and McMahon (2004: 2) concluded that the style of ethics management was "congruent with the rule-based organizational culture of the Commission", while Cini (2007b: 129) notes that, despite the introduction of some integrity instruments, "control is much more the norm when it comes to managing Commission ethics in this area". Sources in the Commission also acknowledge that, until 2004/5, the ethics framework was heavily rules-based (Ethics officials #23, #24). This preference toward a hard-line approach is not surprising. The *White Paper* did come in response to a major legitimacy crisis, which it sought to address in a concrete and visible way, by limiting officials' discretionary power (Ellinas and Suleiman 2008: 722). With important loopholes in the accountability and control architecture (as documented abundantly in the CIE reports), the Commission needed immediate structural fixes. Hence reformers could not afford the "luxury" of treating ethics lightly, as a question of values.

3.2.2. The Kallas package: moving to a trust-based ethics system

The European Transparency Initiative, introduced by Kinnock's successor, Commissioner Siim Kallas, had three pillars: (a) anti-fraud and financial management (i.e.: publishing information on the end beneficiaries of EU funds), (b) interest group activity (i.e.: the creation of a lobby registration system inside the Commission, and adoption of a code of conduct for interest representatives) and, finally, (c) rules and ethical standards for EU officials. Part of this latter pillar, the *Ethics Communication* was adopted in 2008. Since its launch, it has been the anchor point for all ethics policy in the European Commission.

The *Ethics Communication* was presented as a reform package which broke away with the tradition of control characteristic of the Kinnock ethics regime. This is clear from its introductory remarks: "the main goal of the initiative [...] is to consolidate and promote an ethical culture within the Commission, [...] to support responsibility, and not to create tools which may be understood as new ways to control staff members" (Commission 2008a: 3). The document suggests that ethics policy is more than just preventing and punishing transgressions – it extends

to the realization of values and behavioural standards in everyday practice. As some of the interviewees explained, the objective was to have people behave ethically not because they were afraid, but because they genuinely wanted to (Ethics officials #14, #16). The *Communication* sought to achieve a common understanding of ethical values, and more trust within the Commission, while avoiding the production of new rules. As Kallas explained in a speech delivered at the Staff Forum in 2007:

> "I believe that a lively discussion on professional ethics is crucial.… Common sense and values are often a more efficient guide than long rulebooks. So I hope that in our discussions on ethics we can reach agreement on key common ethical principles, which should help avoid scandals sending us into 'regulatory overdrive' ". (Kallas 2007: 10)

However, this "more values, no more rules" objective had to be achieved within the confines of an elaborate compliance regime. Consequently, the *Ethics Communication* binds together several truly innovative measures, with some others which are clearly a follow-up of the Kinnock mandate. Conceptually, the *Communication* is an even-handed mix of continuity and innovation in ethics policy.

The genuinely novel part is represented by initiatives meant to boost organizational communication and guidance to staff in the area of ethics. Thus, the adoption of a *Statement of Principles of Professional Ethics* was proposed, which 'without prejudice to the Staff Regulations should reflect the standards and expectations that underpin the obligations incumbent on all officials' (Commission 2008: 3). Other measures were the creation of a single "Ethics website" where all ethics-relevant information would be centralized, and the extension of ethics training programs beyond the induction stage (i.e.: compulsory trainings for sensitive posts, and systemic training for managers). Finally, the *Communication* instructed that each DG would appoint a so-called "ethics correspondent", i.e.: a person who would serve as a point of contact for all ethics-related issues, with strictly advisory attributions.

The measures which related to the Kinnock package were meant to correct some of the negative consequences which appeared during its implementation. Thus, a one-stop shop electronic approval system was recommended, for all staff requests needing authorization from

the Appointing Authority. This was considered to not only make the entire procedure more efficient and transparent, but also to bring harmonization of authorizing practices across DGs, rectifying the discrepancies which had been noticed (Ethics official #24). Along similar lines, the *Communication* mentioned the creation of a check-list that would help officials better identify conflicts of interest, and the revision (simplification) of existing regulations on favours, gifts and hospitality, on the one hand, and outside activities and assignments, on the other.

It is evident that, despite a discourse of radical change, content-wise the *Ethics Communication* represents a more toned-down effort to smooth the edges of the Kinnock legacy, and enrich it with elements of guidance and awareness-raising. Indeed, in terms of concrete changes to the Commission's ethics infrastructure, building up ethics guidance for staff was the most important achievement. Whereas the Kinnock reforms left this front largely uncovered (Cini 2007a), nowadays the Commission has much more to offer. Following the points outlined in the Kallas package, DG HR has made available a reader-friendly internal "Ethics Website", which consolidates, explains and illustrates by hypothetical cases the relevant legislation. Moreover, specialized ethics trainings are offered regularly (i.e.: the two-day course "Ethics and Integrity", mandatory for newcomers, plus a program on "ethical leadership" – still in pilot phase – which targets staff in management positions).

Finally, and most importantly, a structure for managing ethics inside the DGs was created with the appointment of local ethics correspondents. Organized in a network coordinated by DG HR, the correspondents represent the "transmission belt" between the central ethics structures of the Commission, and the staff on the work-floor. Thus, for the vast majority of officials, they were the "face" of Kallas' new policy – in this respect it is significant that, although sparse in outlining their job description, the *Ethics Communication* did emphasize the element of trust:

> "Every DG should therefore appoint an "ethics correspondent" to serve as the focal and first contact point for all ethics-related issues, both for the services and their staff. When dealing with queries from staff the ethics correspondents *act in confidence*." (Commission 2008a: 4, emphasis added)

Reflecting this concept, there was much local discretion in the appointment process, as DG HR did not transmit any specific criteria, but merely recommended that the person should already be knowledgeable of, or have some experience with, ethics issues (Ethics officials #1, #20, #24), and also have a positive reputation among staff in the DG (Ethics official # 6). The ethics correspondents are located in either human resources or internal control units, and many of them are in managerial positions. The new attributions came as an addition to the regular (full) work schedule.

With the new post, concrete responsibility for ethics management was assigned, and, thus, in the past three years there has been an explosion of ethics initiatives within the DGs – basically filling up a vacuum, as there is little to suggest the presence of anything similar before. The repertoire of instruments is characteristic of the integrity management toolkit, with some commonly encountered examples being: an ethics-dedicated section on DG intranet; DG-specific ethics codes and guidelines; short ethics trainings, and one-off awareness-raising events (e.g.: "Ethics Days", ethics workshops, lunchtime debates, visits by the ethics correspondent to weekly unit meetings). Moreover, activities are quite similar across DGs, which is not surprising, since the network of ethics correspondents is an environment which stimulates sharing of best practices (Ethics officials #1, #9, #15).

<p style="text-align:center">***</p>

In conclusion, looking retrospectively at the packages introduced by Neil Kinnock (1999-2004) and Siim Kallas (2004-2009), it is evident that the European Commission has acquired a comprehensive system of ethics management. This system was built up incrementally: it started out as a less emphasized component of a large effort of administrative modernization, and only later, with the *Ethics Communication*, entered the policy agenda as an item with more visibility. The Kinnock reforms laid the foundations of ethics management in the Commission, and on this basis the *Communication* developed ethics guidance for staff.

3.3. Ethics in internal communication

This section presents the messages which pervaded the Commission's internal communication regarding ethics. Much of the analysis draws on the *Ethics Communication*, which is essential here because it lead the Commission to engage in an unprecedented effort to communicate internally about ethics. The multitude of trainings, presentations, codes of ethics and so on, which have sprung up after 2008, at both central and DG-level, have been designed to signal the importance of ethics in organizational life, and transmit to staff the standards of conduct which are expected of them. Additionally, the analysis covers the historical and political circumstances in which ethics reforms were introduced, and evolved in the Commission. This contextualization is important, because the messages which were sent internally are closely linked to (determined by) the external pressures faced by the Commission. In fact, an adequate understanding of what ethics means nowadays, in the European administration, cannot be complete without bringing in this element of context.

Before beginning, it is important to point out that the analysis does not cover the Commission's ethics infrastructure in its entirety. Namely, it is largely based on two of its functions, i.e. the definition of standards of behaviour, and guidance. While these are the ones with immediate relevance for internal communication on ethics, actions taken to monitor and enforce integrity (i.e.: the remaining two functions in the ethics infrastructure) are also important. The type of behaviour which is being checked and punished represents an important signal as to what passes as "(un)ethical" within an organization. These aspects are missing from the analysis simply due to lack of data. Some of the documents were not accessible, like the IDOC annual reports, which contain statistics regarding complaints, administrative inquiries, and disciplinary sanctions. In other cases, the data was not compiled. For instance, at the time of the fieldwork, there were yet no fully centralized statistics on AA authorizations (numbers, type of activities for which authorization was asked, what was approved, and what rejected etc.). Similarly, there is

virtually no data available on whistleblowing in the Commission[68], which leaves one guessing as to the amount, the topics and, particularly, the outcomes of such acts.

This being said, it should be noted that, from the learning perspective adopted here, monitoring and enforcement matter only insofar as these activities are actually known to staff. And this is not always the case in the Commission. Enforcement attributions are centralized with DG HR (in particular, IDOC), and, wherever there is financial prejudice to the Communities' interests, OLAF is involved. However, both OLAF and IDOC conduct investigations in confidentiality. IDOC compiles an annual report, but it is only recently that it had decided to include qualitative data (i.e.: a section where anonimized cases are shortly presented) and circulate it internally (Ethics official #24). On the other hand, the responsibility to monitor for integrity violations is not vested with any particular body in the Commission. Importantly, the ethics correspondents stressed, during the interviews, that this is not part of their job, noting that, ultimately, it is the management's responsibility to know if a disciplinary violation has been committed (Ethics officials #3, #9, #10, #12, #18). Many of them also mentioned whistleblowing as means of uncovering violations (Ethics officials #1, #3, #4, #6, #10, #12, #17, #18) – however, this is a procedure which is characterized by confidentiality as well. In light of all this, it is likely that monitoring and enforcement play a secondary role in the overall economy of the messages sent by the Commission internally, on the subject of ethics.

3.3.1. The Ethics Communication in administrative practice: communication focused on rules and public image

With the *Ethics Communication*, the Commission made an effort to "talk" about ethics on all levels, which marks a major improvement, compared to the "old days", when newcomers received a copy of the *Staff Regulations* and started working the next day (Ethics official #21). In this context, communicating efficiently about ethics was a commonplace concern within the

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[68] Given the multitude of reporting channels (inside and outside the organization), there is no centralized data in the Commission regarding whistleblowing (PricewarerhouseCoopers Belgium and iForce 2011).

Commission's ethics bureaucracy. For example, ethics correspondents who have introduced codes of conduct in their DGs (or intend to do so) regularly invoke the need to have all essential information in one document, and contextualize it to the specific activity of the DG (Ethics officials #1, #17). Those who deliver ethics trainings say they regularly include discussions on concrete cases (hypothetical or based on real experience), to familiarize people with the kind of situations they could realistically face (Ethics officials #8, #9). Other interviewees declared that raising awareness on ethics is not a one-off endeavour, but rather a continuous effort (Ethics officials #14, #21). The importance of seeking advice and a second opinion when faced with an ethical problem was stressed across the board.

As revealed in interviews with Commission ethics officials, the general objective in the flurry of ethics activity engendered by the *Ethics Communication* was prevention – ensuring that staff members know the relevant rules (or know where to find them), so that lack of knowledge could not be a plausible defence against wrongdoing. The internal communication, therefore, was focused on compliance. What was essentially transmitted to staff was that the Commission had a number of regulations in the ethics area, which they should be aware of, and respect.

This point is well illustrated by a brief analysis of the codes of conduct, or ethics guidelines which have been adopted at the DG level. When fieldwork was conducted, seven of the surveyed DGs had such a document. As a general trend, these are quite prescriptive documents, although their length varies. I take as an example here the *Code on Ethics and Integrity of DG COMP Staff*, introduced in 2005 and revised twice since (in 2008 and 2010 respectively), which served as a model for the codes in the Directorate-General for Trade (DG TRADE), and the Directorate-General for Justice, Freedom and Security. The declared aim is "providing guidance to DG COMP staff via a single document on the application of the different Commission's ethical rules" (Commission 2010b: 3). Out of 36 pages (excluding annexes), about two are dedicated to outlining general principles of staff conduct, while the rest contain detailed explanations of internal ethics regulations, practical advice, and hypothetical examples. The tone is heavily

prescriptive, e.g.: "you are advised to be particularly careful when gifts/favours/donations are offered in relation to your work at the Commission […] it is recommended that you decline all such offers that have more than merely symbolic value" (Commission 2010b: 17).

But DG COMP is not a singular case. Actually, it is not difficult to find evidence that strictness and emphasis on procedures is a rather general characteristic of ethics guidance in the Commission – rather than adaptation to a peculiarly high-risk job. For example, the *Administrative guide on the conduct expected of Commission officials,* introduced in 2003, with Commission-wide applicability, reads much along the same lines.

The emphasis on rules does not mean, however, that in the Commission being "ethical" was narrowly equated to rule obedience. More precisely, it was about rule awareness – what was required of staff was not that they be fully conversant with the organization's ethics regulations, but that they have an attitude of prudence, and "ask when in doubt". One interviewee even implied that rule knowledge is not that important – the key is to act with circumspection, because in this way one "will not fall in too many traps" (Ethics official #19).

The other message which pervaded organizational communication on ethics concerned the Commission's public image. Significantly, the *Ethics Communication* stated, in its opening lines, that "meeting the highest standards of professional ethics is of paramount importance with respect to the accomplishment of the Institution's tasks and its credibility and reputation" (Commission 2008: 1).

In one form or another, this same point was conveyed in the various codes of conduct and internal ethics guidelines adopted at DG level. For instance, a brochure in the Secretariat General advises staff to "always bear in mind that you are the human face of the Commission, and make sure that your conduct is beyond reproach" (Commission 2010d: 5), while a note from the Director General to the staff of the Directorate-General for Health and Consumers states that "we must behave, internally and externally, in a way that our reputation and credibility are preserved" (Commission 2009: 1). Along very similar lines, the manual for newcomers' ethics training

highlights that "high ethical standards and behaviour help to improve the reputation of the Commission and its staff", and that "the diffusion of a good image stimulates higher ethical performance" (Commission 2006b: 5), and goes on to explain the internal and external controls to which the Commission is subject. The internal codes of conduct in DG COMP and DG MARKT add that the ethics rules are meant to protect Commission staff members from "malicious allegations or misrepresentations" (Commission 2010c: 1). Furthermore, ethics officials proved to be all too aware that the Commission is permanently watched, that the perception of wrongdoing is as damaging as wrongdoing itself (Ethics official #9), and that "in communication, coping with fantasy is the most difficult thing to do" (Ethics official #8).

Interpreting ethics as a means towards achieving and keeping a good institutional reputation explains, in part, why the implementation of the *Ethics Communication* has focused on "knowing the rules". Simply put, rule awareness serves to standardize staff's reactions and behaviour, so that, as one ethics official explained, although one cannot guarantee that nothing will ever go wrong, risks are minimized (Official #20).

To recapitulate, findings show two central, inter-related features in what the Commission communicated internally about ethics. Firstly, officials were expected to be aware of regulations in the area of ethics, and to have an attitude of prudence and circumspection towards such questions. Secondly, the Commission's reputation was emphasized – from this perspective, officials represented the "human face of the Commission", and their conduct had to be beyond reproach.

3.3.2. Ethics scandals and ethics policy interventions

In this section, I will argue that the twin messages of rule compliance and care for public image are closely related to the external context in which the Commission introduced and developed ethics management. Exploring these circumstances adds a new layer to understanding the meanings of ethics in the European Commission. More to the point, the emphasis on public

reputation (and on sticking to the rules in order to protect it) is understandable given that the Commission engaged in ethics reforms at a time when its reputation was jeopardized by the full-blown crisis of the Santer resignation. Not only that, but several less damaging scandals which occurred in later years reinforced the view that ethics was a cure for corruption (and for the public image problems which came with it).

As mentioned before, the Santer resignation in 1999 – which followed the very critical reports of the EP-appointed Committee of Independent Experts – is generally considered as the watershed which put ethics on the reform agenda. Some of the more severe problems mentioned by the CIE reports were: the inadequacy of audit and fraud investigation procedures; procedural problems with calls and awards of contracts; the weakness of financial management systems, which de-emphasized the personal responsibility of Commission managers; the Commissioners' loss of control over the administrative services in their subordination, opaque decision-making procedures, and disruptive internal "fiefdoms" [69]. Although the reports did not contain evidence to confirm widespread misconduct and corruption in the Commission, their strongly moralistic tone suggested otherwise (Cini 2004, 2007a). Notoriously, the CIE had concluded that "it is becoming difficult to find anyone [in the European Commission] who has even the slightest sense of responsibility." (CIE 1999a: 144).

With the events of 1999, the Commission received a great deal of bad press – as Cini (2004: 43) notes, "both Commissioners and Commission officials were tarred with the same brush, the assumption being that unethical conduct of various kinds was rife within the EU institutions". At the time, the media focused particularly on the case of the French Commissioner, Edith Cresson, who had appointed Mr. Berthelot, her personal dentist and family friend, to a position of "visiting scientist" in the Commission, for which he was obviously not qualified.

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[69] CIE's investigations concerned six controversial cases from the late 1980s and early 1990s, as follows: projects connected to the "Year of Tourism" in 1989; the MED Programmes, which provided aid to non-EU states in the Mediterranean region; aid contracts awarded by ECHO (the Commission's humanitarian aid department) to former Yugoslavia and Africa; the Leonardo da Vinci programme, providing support for vocational training in member states; the conduct of the Commission's security office; and, finally, favouritism and corruption relating to individual Commissioners (CIE 1999a).

Cresson refused to assume responsibility for any wrongdoing, and stated, in her defence, that she had only tried "to do something for Europe" (for extensive press coverage, see Shore 2005: 144). It was perhaps this public attitude of defiance that did the Commission most damage, since, as one official noted, Cresson "made us all look like crooks" (Ethics official #8).

The reforms which followed the Santer resignation represented, quite naturally, an endeavour meant to restore the public's trust in the Commission, and mend its crumbling legitimacy. Although much of the ethics dimension of the Kinnock reforms was fleshed out after the *White Paper* had been launched (Cini 2007a, 2008), its opening statements clearly reflect an optic in which public legitimacy is linked to the cultivation of standards of conduct:

> "We want the Commission to have a public administration that excels so that it can continue to fulfil its tasks under the Treaties with maximum effectiveness. The citizens of the Union deserve no less, the staff of the Commission want to provide no less. […] The Commission itself, therefore, needs to be independent, accountable, efficient and transparent, and guided by the highest standards of responsibility." (Commission 2000a: 1)

Owing to their origins, the Kinnock reforms have an obvious reactive quality, which was buttressed in later years by several public scandals that shaped the Commission's ethics system. Thus, as documented in the remainder of this section [70], the evolution of ethics reforms in the Commission has been periodically and significantly punctuated by external shocks. Although this does not amount to a consistent pattern of policy reacting to episodes of bad publicity, it has, nevertheless, solidified understandings that ethics is connected to (restoration of) legitimacy. Thus, the initial framing of ethics policy as cure for corruption is likely to have survived beyond the Kinnock reforms – despite the fact that, as discussed more at length in the next section, the transition to a value-based style, hailed by the *Ethics Communication*, implied changes in this regard as well.

The Eurostat affair, in 2003, remains, to this date, the most severe crisis the Commission has faced since the Santer resignation, although the scale is clearly not the same – as one interviewee put it, "the Commission stumbled, but did not fall" (Ethics official #24). It

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[70] The chronology of ethics scandals presented here by no means represents an exhaustive account, but simply a review of the most memorable stories which appeared in the media.

demonstrated that many of the issues signalled in the CIE reports still had not been solved, despite the fact that, by the time the story broke in the press, the Kinnock reforms had been well underway. The allegations related to the relationship between Eurostat (the Commission's statistical office) and several of its contractors. There were accusations of manipulating tender procedures to favour certain companies, and blatant conflicts of interests, as Yves Franchet, Eurostat's Director General at the time, was the founder of two firms which benefited repeatedly from Eurostat contracts. One case in particular stood out, concerning the establishment, by senior Eurostat officials, of a savings bank account into which around € 900,000 of EU funds were put [71]. The money apparently came from the sale of EU data products by Planistat, a French company under contact with Eurostat [72].

The Eurostat affair massively fed the ethics reform agenda – in fact, "much of what was initiated after 2004 regarding ethics-related issues was a reaction, whether direct or indirect, to that episode" (Cini 2007a: 196). Thus, the 2004 Progress report on the *White Paper* included a section on "measures to be taken in the wake of the Eurostat crisis", which proposed revisions to the *Code of Conduct for Commissioners* to clarify communication between the political and administrative sides (eventually included in the final version), improved communication in internal audit and internal control systems, and increased awareness on whistleblower rules.

After 2004 the turmoil eased down, however public controversy over standards of conduct in the Commission was still present. Two episodes in particular – the Weing case in 2008, and the ex-Commissioners going through "revolving doors" in 2010 – triggered policy interventions, albeit of varying magnitudes, and none on the scale of what had been done during Prodi's mandate.

In 2008, the case of Fritz-Harald Wenig, then Director of the Trade Defense Department in DG TRADE, made the headlines. Weing had leaked highly sensitive, confidential information

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[71] Allegedly these funds were never used for private-regarding purposes (but for covering Eurostat expenditure for salaries, public relations etc.), however since the bank account could not be scrutinized by EU's financial controllers, its existence was illegal.

[72] A detailed factual account of the Eurostat affair can be found in Cini 2007a, chapter 3.

to two undercover journalists, posing as lobbyists for a Chinese company. Moreover, he had done so over lavish dinners at Brussels' elite restaurants, and apparently with the promise of a financial reward of € 100.000 waiting in a frozen bank account, which Weing would have been able to access after retirement (*Sunday Times*, 07.09.2008). Naturally, this episode caused renewed doubts on the soundness of ethical standards in the Commission, but it did not affect the overall ethics agenda, being interpreted rather as an accident than a symptom of systemic weakness. Weing's case, however, did leave a mark on institutional memory (being mentioned consistently in interviews with ethics officials), and caused DG TRADE to significantly beef up its internal ethics arsenal, a fact which transformed it into somewhat of a fore-runner in ethics management, among Commission DGs.[73]

The most critical ethics problems came after the first Barosso Commission finished its term in office, and related to the organization's political tier. Specifically, a number of ex-Commissioners were hired by companies in the industry fields over which they had regulatory authority as Commissioners. These "revolving doors" cases were problematic, because the ex-Commissioners' network of contacts and related political leverage provided their new employers with unfair advantage over their competitors. One prominent example was Gunther Verheugen, former Commissioner for industry, who had secured executive positions with a number of banks and consultancy firms, and also established his own lobbying consultancy – the "European Experience Company" – shortly after leaving the Commission (*EUObserver*, 31.08.10). Another was Charlie McCreevy, ex-Commissioner for Internal Market, who joined the executive board of the British investment bank NBNK, and also took a position with low-cost airline Ryanair – but was forced to resign from NBNK following a ruling of the Commission's ad-hoc ethics

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[73] Apart from the usual range of policy instruments, DG TRADE is singular in introducing an internal gifts register for staff, and a far stronger institutional muscle behind ethics, in the form of a steering committee on ethics and the protection of sensitive information. The steering committee is composed of two directors, two heads of unit, the TRADE ethics correspondent, and several other members. It meets four times a year to develop an ethics action plan and review its implementation (Ethics official #14).

committee[74] (*EUObserver*, 08.10.10). These events have lead to the revision of the *Code of Conduct for Commissioners* (C (2011) 2904*)*, which – among others – provided for a longer "cool-off" period (from 12 to 18 month)[75], and tightened the rules on gifts accepted by Commissioners in office.

3.3.3. Public scrutiny and political costs

The chronological review presented above demonstrates that, even though the Commission managed to steer clear of anything as severe as the cases preceding the Santer resignation, or the Eurostat affair, it continued to receive bad press on the ethics front. This made it increasingly clear that it was operating in conditions of sharp scrutiny. Not only that, but the assertiveness of the European Parliament transformed episodes of bad publicity into political costs. The internal communication on ethics, with its emphasis on rule awareness and care for public image, reflects these contextual constraints. Namely, as it was facing an environment where it was watched and punished for its ethical failures, the Commission sent a clear message, internally, as to what was at stake, when it came to ethics.

The trend of growing scrutiny is explained by the development of investigative journalism, and the emergence of anticorruption watchdog groups in the Brussels sphere. As Shore (2007: 200) explains, one of the reasons why "the internal life of this most public of administrations remain[ed] so private" before the Santer resignation was that journalists were "all part of the system". Around that time, however, the situation began to change – the national media proved a growing interest in EU affairs, and unearthed the EU fraud stories in the late 1990s, which were then avidly relayed by the Brussels press corps (Cini 2007a). In time, the appetite for sleaze stories grew significantly. An illustrative albeit extreme example of this is the *Sunday*

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[74] The Commission's Ad Hoc Ethical Committee is made up of three members, and delivers consultative opinions on the Commissioners' post term-of-office activities, and on general questions concerning the interpretation of the Code of Conduct for Commissioners.

[75] In which time ex-Commissioners must obtain the Commission's approval before taking new jobs, and are forbidden to lobby on matters for which they had been responsible in their portfolios.

Times, whose journalists have been actively "hunting" for subjects by going undercover. The case of Weing, described above, is such a story. Another is the so-called "cash for amendments" affair, in 2011, where three Members of the European Parliament were proven to have accepted payment from journalists posing as lobbyists, in exchange for placing specific amendments in draft legislation[76].

In parallel to the rise of investigative journalism, the Brussels NGO scene changed considerably, with watchdog groups becoming very vocal. Civil society activism on anti-corruption issues was rather minimal during the Prodi Commission, but the launch of the European Transparency Initiative provided the spark for the coagulation of Brussels' strongest watchdog coalition in the field – the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU)[77]. ALTER-EU now consists of approximately 200 civil society groups, trade unions, academics and public affairs firms, which share a concern for "the increasing influence exerted by corporate lobbyists on the political agenda in Europe"[78]. Despite this rather narrow (but convincing) mission, ALTER-EU proved to be an influential actor, with a sustained presence in the media. Also, through one of its core groups, the Corporate Europe Observatory (CEO), it was instrumental in shaping the ETI (in particular the elements relating to lobby regulation), by building a close working relationship with Commissioner Kallas and his cabinet (Cini 2007a, 2008, Greenwood 2011).

As the Commission became monitored more and more for its standards of conduct, the European Parliament grew eager to pick up and capitalize on its (apparent) ethical shortcomings. As Cini (2007a) points out, the Santer resignation represented a resounding victory for the Parliament, which demonstrated it could hold the Commission accountable in ways which had not been possible before, and thus made significant progress towards asserting itself as a democratic

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[76] For more on this see: http://euobserver.com/18/114475.

[77] The organization itself identifies the ETI as its point of genesis – see: http://www.alter-eu.org/about/coalition

[78] As part of this agenda, the coalition advocates for improving the lobby registration system (specifically, the now joint Commission / Parliament "Transparency Register"), a more balanced membership of the Commission's expert groups, as well as tightening conflict of interest rules to prevent the "revolving doors" phenomenon.

force in the EU. The events of 1999 put the Commission on the defensive vis-à-vis the Parliament – a trend sustained by the Eurostat affair, which represented another important occasion for the Parliament to attack the Commission on the issue of standards of conduct. Numerous hearings were held, by the Budgetary Control Committee, in the course of 2003 and 2004, and rumours swirled regarding the resignation of the Commissioners involved, although eventually this did not happen. Later on, the Parliament repeatedly used its leverage on budgetary matters for pushing the Commission on ethics. For instance, in 2011 it voted to freeze part of the budget for the European Commission's expert groups until new rules were introduced to enhance transparency and avoid capture by special interests[79]. The previous year, before the new *Code of Conduct for Commissioners* was adopted, it threatened to withhold the transitional allowances paid out to Commissioners after their mandate ended (*European Voice*, 30.09.2010). This pattern of growing assertiveness meant that ethics was becoming a liability for the Commission, in its political confrontation with the Parliament.

3.4. Change, continuity and the politics behind ethics reforms

As shown previously, the *Ethics Communication* had proposed – at the level of official rhetoric – to bring the organization closer to a "modern" management style based on guidance and shared values. This was clearly explained in the preparatory notes: "only if we agree on a common set of principles can we move from a rules based system to a trust based system in conformity with a modern management structure" (Commission 2007: 1). In what follows I will evaluate whether the Commission managed to implement this proposed change. Findings suggest that administrative practice did not match up to what was suggested by the official discourse. The analysis will then turn to the factors that might explain this outcome.

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[79] Source: http://www.alter-eu.org/press-releases/2011/10/26/parliament-blocks-expert-groups-budget.

3.4.1. The Ethics Communication and the delivery of change

As already shown earlier in this chapter, content-wise the *Ethics Communication* represented a mix of innovation and continuity in ethics policy, and this despite an official rhetoric that suggested more fundamental changes. Namely, its agenda was one of "more values, no more rules", which translated into an effort to smooth the edges of the Kinnock legacy, while enriching the Commission's ethics infrastructure with elements of guidance and awareness-raising. In order to ascertain the change towards value-based ethics management, it seems reasonable to look primarily at the latter, which are the novel elements introduced by the *Communication*. And, indeed, even a brief examination of the administrative practice demonstrates that lately there has been a lot of "ethics talk" in the Commission, achieved with a policy repertoire specific of value-based systems (i.e.: ethics trainings, regular organizational communication on ethics issues, ethics counselling).

This being said, more communication does not necessarily mean more values and trust in the Commission's system of ethics management. What basically matters is the *content* of the communication. As shown earlier, this content is defined by an emphasis on rules and their correct application, but also on the value of institutional reputation. Given this focus on procedures, and understanding ethics as a way of staying safe (from public scandal), it may be concluded that the Commission's organizational message remains largely compliance-based. From this perspective, not much has changed since the Kinnock era.

But it is not only the content of internal communication that is telling of the Commission's ethics regime. Other aspects in the implementation of the *Ethics Communication* also demonstrate that the system tended to remain compliance-based. For instance, the *Communication* proposed the adoption of a *Statement of Principles of Professional Ethics*, a one-page document which enumerated succinctly the core values and principles of the EU administration, and thus resembled closely the brief, abstract, high-minded codes of ethics specific of integrity

management regimes[80]. However, the *Statement* was never adopted at a political level, despite the internal inter-service consultation being completed by the summer of 2009 (Ethics official #20). Justifying the delay, some ethics officials observed that the *Statement* actually served as a stimulus for an internal ethics discussion in the Commission (Ethics officials #17, #18, #20) – the implication being that it matters less whether it is actually adopted, as long as the objective of awareness-raising has been achieved. One official even expressed doubts on the utility of such a document, remarking that targeted guidance on concrete cases is much more useful (Ethics official #17).

On the other hand, the quality of the interaction between ethics correspondents and staff provides yet another confirmation of the predominance of the compliance-based logic. As provided in the *Ethics Communication*, and amply confirmed though interviews, ethics correspondents are responsible for advising, in confidentiality, on any ethics-related inquires coming from staff. The correspondents demonstrate ownership over this role, describing themselves as an internal point of contact on ethics issues (Ethics officials #3, #4, #9, #14, #19), somebody colleagues can turn to if they have a more delicate problem (Ethics official #3), or somebody who lends a friendly ear in confidentiality (Ethics official #6). When asked about the issues on which staff requests guidance most frequently, ethics correspondents rather unanimously pointed to: external activities (anything from teaching assignments to honorary membership in voluntary associations), publishing and public speeches, dealing with gifts and hospitality, and potential conflicts of interest. Essentially, all of these are subjects on which AA authorization, and/or the completion of specific forms is required. Indeed, since the objective was to ensure that "everybody knows the rules", it is only natural that staff inquiries flock in areas where compliance is formalized in some way. The danger in this, however, is that ethics correspondents will not be

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[80] The specialized literature makes a conceptual distinction between "codes of ethics" (which are relatively abstract, use aspirational language, and aim at encouraging exemplary behaviour), and "codes of conduct" (which spell out more concretely behavioural expectations, and aim at maintaining lawful, acceptable behaviour). For a detailed discussion see Van Wart 2003.

perceived by staff as persons of trust, to which they could turn in a tight spot, but rather as pen pushers complicating work with yet another layer of bureaucracy.

In conclusion, although awareness-raising and guidance activities have surged in the Commission, the organizational communication was largely focused on explaining the relevant rules and their correct interpretation. This falls somewhat short of what a "high road" style, presumes – i.e.: that ethics becomes a resource which helps public servants deal with discretion. It is about promoting, not stifling individuals' ethical agency. The Commission's focus on regulation suggests anything but encouraging ethical agency – in fact, ethics remains a constraint for its administrative services, but perhaps after the *Ethics Communication* these constraints are better known.

3.4.2. A halfway change and the politics behind ethics reforms

In the following pages I explore the reasons why the administrative practice fell short of delivering on the promises contained by the official rhetoric of the *Ethics Communication*.

This outcome should not be attributed to shortcomings in terms of political leadership, know-how, or organizational resources. Siim Kallas was a committed policy entrepreneur – as Cini (2008: 755) notes, in the absence of clear priorities on the administrative agenda of the Barroso I Commission, Kallas took the initiative and made the ETI into "his pet project". On the other hand, the Commission was fully able to mobilize the resources needed to implement the *Ethics Communication*. Without a doubt, the remarkable amount of ethics initiatives within the DGs in the past years proves this, all the more so because they represent a major innovation [81]. Finally, the ethics officials clearly understood what integrity-based ethics management entails. Thus, some of the interviewees remarked that ethics should not be a burden, but a normal reaction for everyone, a reflex for identifying dangerous situations and reacting appropriately (Ethics officials #3, #6). Others argued that being "ethical" boils down to using one's own good

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[81] With the exception of DG COMP, which adopted its own code of conduct in 2005, well before the trend was picked up by others.

judgment, and consulting when in doubt (Ethics officials #6, #7, #16, #19). There was a clear awareness that regulation becomes counter-productive after a certain point (Ethics officials #14, #19). Several interviewees even admitted that the internal capacities for monitoring employee conduct are limited, so it becomes necessary to rely on people's understanding of ethical principles, their "good will" to behave correctly (Ethics officials #1, #6, #16).

However, despite all this, the *Communication* still did not accomplish a fundamental transformation of the Commission's ethics management system. Rather, what was achieved was a diversification of ethics management instruments, while keeping the philosophy behind them. This state of affairs can be explained by looking at the politics behind the Commission's ethics reforms.

In exploring these aspects, it is important to start by noting that the ethics management changes proposed by Siim Kallas have political significance – namely, they represent the Commission's attempt to shift from a passive to a pro-active position. To be clear, the ethics component of the Kinnock reforms followed closely the agenda set by the CIE reports (implicitly by the European Parliament), as "the Commission contended itself with working through the Reports line-by-line, to ensure that what the Reform was about was operationalising in a practical manner the earlier document" (Cini 2007a: 212). Thus, in the initial phase, ethics interventions appeared to be externally imposed on the Commission. The *Ethics Communication* (and the ETI more generally) represented an attempt to break that pattern by putting policy agency back into the Commission's hands, and, in doing so, perhaps minimizing the Parliament's potential to pose as the anti-corruption champion.

In this regard, it is significant that policy change was motivated not by any particular problems within the Commission, but by the need to align with international best practice. As the preparatory *Note to the College* remarked:

> "[…] in public and private organizations alike there is a trend to discuss values and corporate identity and to create ethics offices. The Commission always thrives to be a model administration and cannot afford to lag behind best practice" (Commission 2007: 1).

Kallas' push for a change of optic in ethics management was also validated by internal organizational needs – the *Communication* drew on the *Ethics Day* in 2006 (a Commission large-scale internal event aimed at debating practical ethical cases), which had thrown into sharp relief the staff's need for simpler rules and better ethics guidance. Perhaps the most significant factor was the timing – as one interviewee remarked, the fact that the *Communication* did not follow any scandal threatening the Commission's reputation signalled that the organization could now "talk" about ethics in a pro-active way (Ethics official #23). In fact, the entire switch towards a "high road" management style meant that ethics was no longer an (imposed) constraint, but a resource. In all of this, the Commission appears as a mature organization, which has left behind the days when ethics policy was basically a response to *publicized* integrity failures.

But the *Ethics Communication* represented a bit more than the Commission's way of taking charge of ethics in its own back yard. It also reiterated ambitions of making ethics into a policy issue of inter-institutional scale – which, arguably, would have sent the signal that this was not exclusively its problem, but something which should concern all EU institutions. Thus, the *Communication* contained a proposal to establish an inter-institutional Advisory Committee for Standards in Public Life, which would provide consultative opinions on ethical standards in EU institutions. The idea dated back to the *White Paper on Reforming the Commission*, when it was rejected by the Parliament's Legal Affairs Committee, with the implication that "the Commission should not be interfering in the ethics of other EU institutions, but should look after its own organization." (Cini 2008: 754). The proposal did not meet with a better fate the second time around, but its political relevance stands.

It is also largely for political reasons that the Commission remained blocked in the middle of making the transition to the "modern" ethics system Kallas had proposed. What prevented the Commission from truly moving towards a trust-based ethics system is that there was no trimming down of regulation. The ethics officials communicated about the rules simply because, with a system that remained very rule-heavy, there hardly was any other alternative. However, the

Communication did include proposals to simplify the regulations on favours, gifts and hospitality, on the one hand, and outside activities and assignments, on the other. And although new draft legislation on these subjects was produced relatively shortly after the *Communication* was issued, it got stuck in the pipeline. The view was that, without a common framework of ethical standards across the European institutions, further reform in the Commission's services may be counter-productive (Ethics officials #23, #24).

On a deeper level, however, the move was politically unfeasible. As one interviewee explained, the European Parliament was very keen not to see controls rolled back, and, with the power to refuse granting the annual budget discharge, it had the institutional muscle to enforce its viewpoint (Ethics official #23). This means that, for all the justifications regarding modern practice, fully switching to a value-based system risked sending the wrong message, i.e. that the Commission was relaxing on the ethics front. Furthermore, the chances of moving ahead with these more contentious points of the *Ethics Communication* seem slim, at least in the near future. By 2010 the new Commissioner for Inter-Institutional Relations and Administration, Maroš Šefčovič, had not yet signalled a clear policy direction regarding ethics in the services (Ethics officials #20, #24, #25). Instead, attention has shifted to regulating ethics for the political tier, and expanding the register of interest representatives to inter-institutional scale. While entirely necessary, this move suggests a sequential (rather than simultaneous) approach to regulating ethics – i.e.: prioritizing action for the political realm and lobbyists, based on an understanding that enough was done for the services.

In conclusion, the agenda and the outcomes of the *Ethics Communication* are explained by a clashing set of demands on the Commission's public image. On the one hand, its ambitions of being a modern administration meant getting in line with international best practice, which pointed to the use of integrity-based ethics management. On the other hand, however, because during Kinnock's mandate ethics reforms were framed as cure for corruption (and this faming which endured through later years) a relaxation of controls – even after the storm had passed –

proved politically unfeasible. Navigating these conflicting demands, the *Ethics Communication* resulted in the blending of "high road"-style policy instruments, with an organizational message that remained compliance-based. In other words, the Commission did the best with what it had at its disposal.

On a different note, the evolutions chartered above show that considerations of public image are the main factor feeding the politics behind ethics reforms. Over and beyond their substance, the Commission's policy interventions in the ethics area have been linked to public perception, and, moreover, to how this perception played out in inter-institutional politics. All of this adds significance to the internal efforts of sensitising Commission staff as to the importance of the organization's public image.

3.5. Conclusion

This chapter has charted the system for managing ethics in the European Commission services. The first section offered an overview of the relevant administrative reforms implemented over the last decade. It has been established that ethics entered the Commission's agenda in the context of the *White Paper on Reforming the Commission*, which outlined the overhauling reform program initiated by the Prodi Commission – specifically Neil Kinnock, the Commissioner responsible, at the time, for administrative affairs. Even though the topic was not particularly highlighted, the *White Paper* did lay the foundations of the Commission's ethics management system, by amending significantly the *Staff Regulations*, establishing IDOC, introducing the *Code of Good Administrative Behaviour*, and bringing significant changes to the human resources, as well as financial control and audit systems. Kinnock's successor, Siim Kallas, continued the administrative reform agenda with the well-publicized *European Transparency Initiative*. In this framework, he introduced the *Communication for Enhancing the Environment for Professional Ethics in the Commission*, which became the main anchor point for ethics policy after its launch, in 2008. Compared to the *White Paper*, the *Communication* had a more focused approach, its

main achievement being a dramatic increase in awareness-raising and guidance activities throughout the Commission. In conclusion, the Commission nowadays possess a well-developed policy arsenal for managing ethics.

The following section of this chapter presented the messages which pervaded the Commission's internal communication regarding ethics. This analysis was informed by the points made in Chapter 1 on using the theoretical lenses of organizational socialization. It has been argued that, in an organizational setting, individuals engage in a process of social learning, whereby they gain an appreciation of the roles they occupy. Ethics is "learned" in this way, and the organizational ethics policy is one of the different sources which might feed the process. In this connection, the wave of awareness-raising activities prompted by the *Ethics Communication* is very significant, because it represents a channel (not present in previous years) by which the Commission explicitly defined its message and standing regarding ethics. Essentially, ethics was presented to employees as a means towards keeping the Commission's good institutional reputation. This meant that they had to display exemplary conduct, and the best way to do that was to exercise an attitude of prudence towards ethics questions and, importantly, to be aware of the Commission's regulations in this area, and to stick to them. All of this makes sense given the environment in which the Commission carries out its activity. With the rise of investigative journalism and watchdog groups in the Brussels sphere, the organization became the subject of increased monitoring, as evidenced by the sleaze stories which have periodically made the headlines. Such episodes were politically charged, as the Parliament had a growing interest in pushing the Commission on ethics.

The last part of the chapter analyzed whether and how the European Commission achieved the agenda proposed by the *Ethics Communication*, namely to change its approach to ethics management, from a focus on control (inherited from the Kinnock reforms) to a "modern" style based on guidance and shared values. It has been argued that, despite enriching the Commission's ethics infrastructure with elements specific of value-based regimes, the

Communication did not manage to change the philosophy behind the system, which remained compliance-based. This is demonstrated, first and foremost, by the content of organizational communication – which, as the points made above demonstrate, was close to a "low road" view, in which ethics is largely equated to "staying safe". These outcomes are largely explained by the politics behind ethics reforms. Specifically, the Parliament, which nurtured a growing interest in ethics at the Commission, did not want a relaxation of controls. It succeeded in enforcing its viewpoint on the Commission not only because it had the institutional muscle to do so, but also because the Commission itself understood that it risked sending the wrong message, i.e.: that is was falling short on the ethics front.

All of this demonstrates the importance of public image considerations, which represent the fuel behind the politics of ethics reforms. To put it simply, ethics is crucial for how an organization *looks*, and this concern lead the Commission into a path-dependent pattern. Namely, because ethics reforms were first introduced on the heels of public scandal and criticism, they featured a hard-line approach, seen at the time as guarantee that irregularities of the type leading to the Santer resignation would not happen again. Because of this framing, a relaxation of controls later on proved unfeasible, being interpreted as the Commission letting its guard down. Thus, the Commission remained trapped in its initial framing of ethics as cure for corruption. Interestingly enough, it is also public perception that motivated, in part, the switch to a trust-based style, hailed by the *Ethics Communication*. Namely, the Commission wanted to send a message that it was a "grown up" organization, which took charge of ethics in its own back yard.

Chapter 5, which explores the ways in which organizational ethics policy shapes officials' views towards ethics, will build on the findings presented here. Namely, it will analyze how officials experience directly the Commission's ethics management system (e.g.: by participating in professional events dedicated to ethics, such as trainings, workshops etc., or reading documents on this subject – code of conduct, brochures etc.). Moreover, it will trace whether and how the

twin messages of rule compliance and care for the Commission's public image are reflected in the positions taken by officials on ethics.

CHAPTER 4
VIEWS TOWARDS ETHICS ON THE WORK-FLOOR OF THE EUROPEAN COMMISSION

This chapter presents an in-depth and nuanced account of how Commission officials think about ethics in public office. It is an exploratory exercise, meant to bring to light the patterns which pervade processes of ethical reasoning, and map the lines of convergence and divergence. In short, this chapter offers a picture of ethics as it is represented on the work-floor at the European Commission. It is based on the views and experiences of employees who are not ethics experts, but work for the organization in various other capacities. These are the people who now have to operate in the confines of the ethics regime produced by the administrative reforms of the last decade.

The chapter uses the empirical data yielded by the 30 semi-structured interviews conducted with Commission officials. The respondents' characteristics, as well as the method of recruitment are covered at length in Chapter 2. With two exceptions, all interviews were taped and transcribed word-for-word. In the two cases were participants preferred not to be on tape, extensive reports were prepared on the same day the interview had been carried out. As a condition of confidentiality, participants' names were replaced with randomly assigned numbers, and, in some quotes, their nationality was obscured. Furthermore, the data is generally presented without indicating the DGs (their titles were replaced with letters), except for the few instances when this piece of information was considered relevant for the analysis.

The chapter is divided in two parts. The first one presents the officials' responses to the three vignettes. It begins by explaining the choice of subjects for the vignettes. Moving on, each vignette is introduced with background information regarding the applicable regulations, and the way in which the subjects are framed internally (in ethics guidance materials and by ethics experts), and externally (in public criticism received by the Commission). The officials'

comments and rhetorical positions are presented subsequently, with an eye to their judgements of acceptability regarding the behaviour described in the vignettes, and the most frequently evoked arguments.

The second part of the chapter takes an overall view of the findings in order to identify the common line in EU officials' thinking about public ethics, as well as the points of divergence. Given that the latter do exist, the analysis considers the possible determining factors for these elements of internal divergence in the Commission.

4.1. Individual positions on public ethics

In this section I analyze responses to the three vignettes incorporated in the interview guide. This is an exploratory analytical exercise, and as such represents a first step in understanding how ethics is framed on the work-floor of the Commission. It will give an indication of the types of arguments used to approach ethical questions, the points of convergence, and the issues around which differences of attitudes coagulate. In terms of structure, the section begins by considering the choice of subjects for the vignettes. Moving on, each vignette is analyzed in a separate sub-section. They will be introduced with an explanation of the applicable internal regulations, of the way the issues are framed in official discourse, and also the history and public criticism surrounding them. Afterwards, detailed results for each vignette are presented.

4.1.1. The choice of subjects for vignettes

Each of the three vignettes corresponds to one of the three types of ethics issues presented in Chapter 1 (section 1.1.4). Just to recapitulate some of the points previously made, the classification used here follows the type of relationships an ethical problem applies to, starting from the individual official, as a central reference point, and considering the links with the organization, other employees, and external actors (see Figure 1.1). Thus, type 1 ethics issues refer to the relationship between the official and the organization where he/she works, and

includes aspects such as: conflicts of interest, private-time behaviour which can reflect negatively on the image of the organization, officials' individual freedom of expression, improper use of office resources. Type 2 ethics issues refer to the relationship between the official, the organization and his/her colleagues, and covers, e.g. reporting misconduct witnessed at the workplace, tendering advice to superiors, inappropriate or illegal orders. Finally, type 3 ethics issues refers to the relationship between the official, the organization, and external actors (i.e.: dealing with gifts and hospitality, handling sensitive information in relation with stakeholders and the press, improper treatment of citizens, contractors etc.).

The choice of subjects for the vignettes followed a consideration of the areas with increased visibility and relevance – essentially, they capture the ethical hot spots of the European Commission. To make this determination, the thesis relied heavily on the interviews with internal ethics experts. In the absence of a more systematic diagnosis of the Commission's vulnerabilities, the views and experiences of its ethics bureaucracy remain the only source of first-hand information regarding these issues [82]. The ethics correspondents in particular were a valuable asset, because, as indicated before, an important part of their job is to advise on ethics-related inquiries coming from staff. As such, they were ideally placed to develop a well-informed view on the subjects which can engender dilemmas, or prove to be more "tricky" to handle in practice.

On the other hand, it was important that the vignettes be well attuned to the historical context in which ethics and ethics management evolved in the Commission. To this end, the selection of topics was also sensitive to the public criticism received by the Commission, over the years, regarding standards of conduct, and to the cases which sparked controversy and received a fair amount of publicity in their day. This information was largely drawn from reports and other documents produced by anti-corruption activists in Brussels, and complemented occasionally with press coverage.

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[82] In 2008 the Internal Audit Service did perform an audit on the Commission's ethics framework, covering two horizontal and four operational DGs – however the document was not publicly accessible. The situation was the same with IDOC's annual reports. Some DGs have used ethics quizzes as an evaluation tool (e.g.: DG REGIO), but the instrument is not applied by everyone. Other possibly relevant indicators (such as the number and topic of requests for authorization, the number of gifts declared etc.) don't seem to be collected in a systematic way.

4.1.2. Vignette 1: The organization and the individual

The first vignette pertains to the relation between the individual and the organization, which is an ethical issue of type 1, according to the classification presented in Chapter 1. Here, problems arise when there is a conflict between the personal (private) interests of the official, and the interests of the organization. Appraising conduct implies a consideration of the content and limits of an employee's responsibilities vis-à-vis their employer. Specifically, vignette 1 probes the quandary of individual freedom of expression vs. organizational loyalty, while also touching on the subject of the "revolving doors", both of which are presently very salient for the Commission.

Stage 1
John has been working in the DG __ for almost two years. He recently participated, in a private capacity, at a scientific conference, where he presented a research article discussing the public health dangers of genetically modified organisms (a topic he intensively deals with in his job at the Commission). John wrote the article in his spare time; he asked and obtained his superiors' permission to make it public over three months ago. However, just before the conference, the Commissioner released a press statement indicating a different position from what John advocated in his article. John figured it was too late to change anything and went ahead with his presentation as planned.
Stage 2
Suppose now that John is working in the Commission as a contractual agent. His contract is about to expire and he suspects it may not be renewed – so he is thinking about future career prospects. Not long before his presentation, he had been discussing a job offer with the organizers of the conference.

Figure 4.1. Vignette 1 "The Conference"

Interestingly, the tensions between freedom of expression and loyalty are clearly signalled by the wording of official regulations in the Commission – Art. 17(a) of the *Staff Regulations* (SR) states that "an official has the right to freedom of expression, *with due respect to the principles of loyalty and impartiality*" (added emphasis). Publishing on "any matter dealing with the work of the Communities" is subject to AA approval[83], and, when publicly expressing their

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[83] This is more of a notification procedure – the AA will only inform the official of its objections regarding the publication; not doing so within 30 days is considered as implicit approval.

views, officials are required to make a clear disclaimer that these are their personal opinions and do not reflect the views of the Commission.

A look at internal ethics literature makes it clear that the official line is to cultivate a very guarded attitude towards public appearances. Officials are advised to use circumspection and discretion on these occasions, even after they leave the organization (Commission 2006b). They are reminded that, in the public's eye, the association to the Commission is a permanent one. For example, the *Code of Ethics and Integrity of DG COMP Staff* warns that "even when you are expressing opinions as a private individual, it is worth considering in this regard that those views carry a certain weight with those hearing them, who will probably see you as a Commission official as well as a private individual" (Commission 2010b: 21). Cautiousness is also heavily emphasized in connection to media relations – here, officials are advised to avoid handling journalists on their own, and refer them to the spokesperson's office – or, if that is not an option, to agree on a line to take with the hierarchy (Commission 2010b).

In a nutshell, the message is simply that one can never be too careful. In the European Commission, expressing personal views (towards the outside world) is not encouraged, although, being a fundamental right, freedom of expression certainly cannot be denied. This raises dilemmas as to the limits and ways in which freedom of expression can be reconciled with organizational loyalty. Such dilemmas are likely to be commonplace, given that, overall, Commission officials are a highly-educated and rather independent-minded group, and they seek alternative avenues for discussing and expressing their opinions. It is significant, in this regard, that the most frequently mentioned external activities, for which staff members request AA approval, involve independent intellectual work. To be sure, many interviewees (Ethics officials #1, #2, #3, #4, #7, #9, #10, #11, #14, #15, #16, #17) have pointed to: participation in conferences and public speeches, publications, and teaching activities. One ethics official even identified the amount of these private-time intellectual activities as a peculiarity of the Commission (Ethics official #21).

The vignette also addresses, in the second stage, the subject of "revolving doors", which is currently one of the most controversial issues facing the Commission. The term refers to individuals who take up private-sector jobs after leaving public employment, or vice-versa. In principle, this flow of human resources leads to a mutually beneficial exchange of skills and experience, however, the phenomenon becomes problematic when the overlap between the public and private positions is large enough to create conflicts of interests. The ex-officials' inside knowledge, connections and influence can easily constitute an unfair advantage for their private employers (for instance, lobbying success chances are considerably higher when one deals with former colleagues).

"Revolving doors" situations are addressed in the SR, with Art. 16 imposing a two-year notification period, where ex-officials should report any new "occupational activity"; if the activity is related to the official's work within the last three years, and "could lead to a conflict with the legitimate interests of the institution", the AA is entitled to impose certain conditions on the assignment, or forbid it altogether. On a different note, there seems to be more caution regarding conflicts of interests for individuals currently on employment with the Commission. Thus, apart from the interdiction to deal with any matter where they have personal interests which could affect their independence (SR, Art. 11a), officials are obliged to request AA authorization in order "to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the Communities" (SR, Art. 12(b)) As shown in interviews with ethics officials, in practice these provisions are interpreted to cover just about anything, including low-risk situations such as volunteer work, symbolic membership in any organization, even refereeing academic papers (Ethics official #11), or participating in street demonstrations (Ethics official # 6).

This being said, conflicts of interests – particularly in "revolving doors" situations – continue to be an issue for the Commission. As shown in the previous chapter, controversy was sparked over several members of the Barroso I Commission who had gone through the "revolving doors" after finishing their mandate. These are not isolated cases – as demonstrated by a recent

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study (Vaubel *et al.* 2012) for the period 1982-2009, almost 40% of EU commissioners became private interest representatives after completing their mandates. The phenomenon is not confined to the political tier of the Commission, either. To give just one example, a report by ALTER-EU covers in-depth 15 problematic cases of senior EU civil servants who have gone through the revolving door, and where the Commission either failed to impose a cooling-off period, or did so with delay (ALTER-EU 2011).

What is interesting, in the vignette, is that the possible "revolving doors" situation applies to a contractual agent. Temporary contracts are widely used in the European Commission (about a quarter of total staff); this creates a sizeable population facing a different time horizon, and incentive structure, compared to the main body of *fonctionnaires*, who are tenured for life in their respective jobs. Although both groups are subject to the same ethics regulations, it seems fair to wonder they should be judged on exactly the same exigencies regarding organizational loyalty. On the other hand, the contacts and experience gained within the European Commission are likely to be key for securing a future job, but how and to what extent is the use of these competitive advantages legitimate?

	Acceptability (stage 1)	Windows for individual freedom of expression	Position on professional situation
DG "A"	No		Strict
	Yes	√	Flexible
	Yes		Strict
	Yes		Strict
	No	√	Strict
	No	√	Flexible
	No		Strict
	No		Strict
	No	√	Strict
	No	√	Flexible
	No	√	Flexible
	No	√	Strict
DG "B"	No	√	Flexible
	No	√	Strict
	No		Flexible
DG "C"	Yes	√	Flexible
	No		Flexible
	No		Strict
	No	√	Strict
	Yes	√	Flexible
	Yes		Strict
	Yes	√	Flexible
DG "D"	No	√	Strict
	No		Strict
	No		Flexible
	No		Strict
	No	√	Strict
	No	√	Strict

Table 4.1. Positions on freedom of expression

Results for the first stage of the vignette show little divergence: the large majority of officials believe it is not acceptable to publicly present a stance which is radically different to the one of their institution. The key argument here is that, when in public, it is impossible to credibly distance oneself from one's organizational affiliation. A disclaimer can be useful from a legal perspective, but its practical effectiveness is sorely doubted. As one official explains:

" […] you can put as many disclaimers as you want, as soon as people know that you are a Commission official (and they will always find out - I mean, just put it into Google, and there you have it), it would always say 'said by a Commission official', so it would always hamper the Commission." (Official #7)

In this context, some respondents made it clear that public criticism – expressed in whatever capacity – is a breach of loyalty:

> "… no matter if you're in your private or official capacity, we are the European Commission. And wherever the European Commission goes, it should be one team." (Official #26)

> "… there comes some price with [this job], and you are always seen as an official of this institution, and if you go out in a private capacity, and you state things that are in contradiction to what is the official position of the Commission, then it is a problem." (Official #13)

This being said, a minority of respondents (in all DGs) believed that an official can legitimately exercise their freedom of expression, as long as it is clear they are acting in personal capacity. Some of them (Officials #8, #4, #14, #34) believe that an obvious disclaimer and the previous approval of the hierarchy are enough. What also seems to matter here is the scientific quality of the debate (Officials #4, #8, #12, #30, #3), implying that more legitimacy is attached to dissenting opinions if based on scientific "truths":

> "If he has his research to ground his opinion, he should go on and do it – especially as he's not representing, in this case, the Commission as an institution, he can say whatever he wants, and hopefully he will be allowed." (Official #3)

The general caution over public appearances does not mean that individual freedom of expression is completely barred – but, rather, that it should be exercised under certain conditions. Subjects on which the Commission has not taken a (clear) public stance are often indicated as windows which can allow the expression of more personal views (Officials #32, #5, #9, #30, #7, #27). For example:

> "I think it's boring if you just go to a conference [...] and you just trotter out the line that has been agreed. And also, there's not a line that's been agreed on everything, so you can interpret certain lines, or you can push certain lines in certain ways." (Official #9)

Additionally, it helps if the divergence with the official line is but a marginal one (Officials #20, #10, #9, #30, #23), and if the official demonstrates some sense of equilibrium by mentioning it along with their own stance (Officials #8, #12, #10, #30, #3, #2):

> "[…] fine, go ahead, but I suggest that you draw your attention to the fact that the Commissioner said such-and-such, and that this is your own personal view, and I think you should also explain why the difference, and where you think that comes from." (Official #2)

There was much more divergence over the second stage of the vignette, with positions roughly split in two camps – a flexible and a strict one.

Officials in the **flexible** camp perceive the behaviour depicted in the story as being acceptable, albeit to some degree ethically uncomfortable. Some (Officials #20, #18, #14, #30, #3, #15) appreciate that, given a limited contract, it is justifiable to look for the next job, and use the affiliation with the European Commission as an advantage in this process. One official described it as "normal" professional networking:

> "This is for me normal life. I wouldn't be so shocked about that, a contractual gent is not an official, I think it's normal networking […] it's the professional context, you have a professional relationship, and when you look for a job you use first your professional contacts." (Official #3)

Others (Officials #6, #13) find that the imminent departure clears some of the burden of being permanently perceived as a representative of the Commission. For example:

> "I can see that a lot of people would see it as justifiable, because he's finishing his job, he needs to make it clear that he is talking in his private capacity, and that very soon he will not be working for the Commission, and if he makes it very-very clear, then yes, it is acceptable." (Official #13)

On the other hand, those in the **strict** camp find the behaviour unacceptable – but there are, however, several nuances to this. Many of the radicals (Officials #1, #8, #28, #32, #22, #7, #23, #27) show a fair amount of appreciation for the precariousness of the professional situation, but feel that, in this equation, loyalty to the organization should prevail. For example:

> "It's even sadder for him, but as long as he's a contractual agent, he's bound by the obligations under the Staff Regulations [...] If he had already left, then that would not be a problem, but as long as he's there – no." (Official #7)

And elsewhere:

> "Being a civil servant is a career choice, being a contractual agent is anything but a career choice. Probably what he does can be justified more, but it's still a problem." (Official #23)

On the other hand, there were some who did not express such sympathetic views but, on the contrary, interpreted the situation as a conflict of interests: "this is not acceptable; there must be a way that these kind of interests can be announced inside" (Official #24). Others found that it casts doubts on the intellectual honesty of the person:

"It makes it more negative […] one can imagine that the intention of going ahead was not motivated by the objectivity of the information, or the principle, but because there is a vested interest in getting a job further down the line. (Official #16)

Part of this strict discourse is a conviction that disagreements are legitimately voiced only through internal channels (Officials #6, #28, #26, #9). In cases of extreme divergence, the honourable solution is to simply exit the organization:

"… definitely going against your employer, whoever it is, is not fine. I wouldn't do it. If there is a point of disagreement, I just quit the job; I go somewhere else where I can pursue it – but not here. You lose credibility." (Official #26)

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Responses to this vignette show that, in general, officials attach more importance to organizational loyalty than to individual interests – even when the latter can easily be considered legitimate. In what regards freedom of expression, the cautiousness advocated by official policy is certainly reflected in officials' attitudes, most of whom look unfavourably towards expressing private views in public. The EU officials espouse a strong sense of representation, and being highly conscious of their official role often translates into a blurring of the boundary between the public and the private life. Own voices are not completely muted by the occupation of public office, but the "safe" spaces left for their expression are rather narrow, and do not include (strong) criticism of the Commission. More divergence was revealed in the second stage of the vignette, with responses condensed around a strict discourse and a flexible one. Most respondents showed an appreciation for the challenges of a short-term contract, but it is only a minority (i.e.: those expressing flexible positions) who believe this merits a relaxation of the high bar at which organizational loyalty seems to be set.

4.1.3. Vignette 2: Officials within the organization

The second vignette pertains to the relation between the individuals within an organization, which is an ethical issue of type 2, according to the classification presented in Chapter 1. Here, problems arise when employees face conflicting incentives, or the "greater good"

slips between the employees' individual duties. Specifically, the vignette dwells on the issue of reporting misconduct witnessed at the workplace – "blowing the whistle", or "whistleblowing", as it is commonly referred to – which is one of the trickiest topics in organizational ethics management. All organizations face integrity risks, and it is the insiders who are best positioned to observe wrongdoing and signalize it. However, insiders are also the people who face the strongest incentives not to speak up (because of risks of retaliation), which makes the protection of whistleblowers a must for an effective ethics policy.

Explicit provisions on whistleblowing (i.e.: Art. 22a and 22b) were introduced in the *Staff Regulations* only in 2004. The reporting of possible illegal activities and irregularities is formulated as an obligation[84], with the disclosure procedure closely following the official hierarchy. Thus, reporting channels internal to the institution are prioritized over external ones – an official should inform first their immediate superiors, the Director General, and, "if he considers it useful", the Secretariat General or the OLAF. Only afterwards can officials go to the Court of Auditors, the Council, the European Parliament or the Ombudsman, and that only after a reasonable time to take appropriate action has passed. Any other possible recipients (e.g.: press, NGOs) are excluded, which – as Cini (2007a) observes – puts the Commission's interpretation of whistleblowing completely at odds with the popular understanding of such acts, which imply an individual stepping beyond formal hierarchies and "going public" to report wrongdoing. The *Staff Regulations* require that whistleblowers transmit any evidence supporting their claims, and protection is offered only for *bona fide* disclosures (i.e.: provided that the whistleblower "acted reasonably and honestly").

Whistleblowing was not indicated, by ethics officials, as a topic on which they receive many questions, or one which is particularly emphasized in organizational communication (but it was, nonetheless, among all type 2 ethics issues, the subject most frequently brought up in

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[84] Article 22(a) states that "any official who, in the course of, or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity [...] *shall without delay inform* [...]." (Commission 2004b: 11-12).

interviews). The trend is the same in internal ethics literature, where whistleblowing is not given much weight – the ethics guides of DG MARKT and DG COMP, for example, are limited to simply restating the relevant *SR* provisions. This seems odd, given that whistleblowing is perceived as central in the Commission's ethics system. To be sure, many ethics correspondents (Ethics officials #1, #3, #4, #6, #10, #12, #17, #18) have indicated it as the principal means of monitoring standards of conduct in the organization – although, importantly, several of them (Ethics officials #6, #10, #18) described disclosures as individual decisions, rather than an obligation (as prescribed in the *SR*).

This being said, the main reason which recommends whistleblowing as a subject of choice for vignette 2 is perhaps the European Commission's complicated and painful history with whistleblowers. Two cases are worth mentioning here – Paul van Buitenen, in 1998/9, and Marta Andreasen, in 2003/4)[85]. In both instances, the disclosures were public, which caused not only heated debates that put the Commission in a difficult position, but also lead (indirectly) to policy changes.

Paul van Buitenen is probably the most well-known case. In 1998, Mr. van Buitenen worked as auditor in the Financial Control Directorate, and, from this position, disclosed to the European Parliament evidence of irregularities and fraud regarding mainly the Leonardo da Vinci programs, which dealt with vocational training. His intervention was important in prompting the Parliament to open the inquiries which eventually lead to the resignation of the Santer Commission in March 1999[86]. Mr. van Buitenen was suspended from his job at the Commission, and later on embarked on a political career: he founded the party "Europa Transparant", ran with it for the 2004 elections (in the Netherlands), and won an MEP seat, serving as member of the Committee on Budgetary Control (COCOBU). The other prominent case was Marta Andreasen, who served as Chief Accountant in DG Budget. In the course of 2002, Andreasen raised concerns

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[85] More cases of whistleblowers in the Commission are documented in detail in a recent report commissioned by the European Parliament – PricewarerhouseCoopers Belgium and iForce 2011.

[86] Mr. van Buitenen used internal channels to voice his concerns before addressing the Parliament. More information can be found in his book - van Buitenen 2000.

that EU's accounting system was exposed to fraud, going first to her superior, then to the responsible Commissioner and the President of the Commission, and finally to the European Parliament, and later the press[87]. She was suspended from her job at the Commission – at the time, Kinnock publicly justified the decision pointing out that Andreasen was not suspended for whistleblowing, but for not following the Commission's whistleblowing provisions, as she had not waited for feedback on her internal complaints, and revealed publicly confidential information (Cini 2007a). Similarly to van Buitenen, Andreasen started a political career in the European Parliament and is currently serving as member of the same Committee on Budgetary Control.

Both van Buitnen and Andreasen have eventually taken their disclosures outside the European Commission, causing important distress and embarrassment for their employer Furthermore, both have later become involved in politics, and, as MEPs and COCOBU members, they were in a position to attack the Commission on ethics questions. For these reasons, they are likely to be controversial characters – at least for those working in the Commission – and whether they are portrayed as heroes or villains, iconic cases such as these may prove crucial for shaping internal attitudes to whistleblowing.

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[87] The events are described in detail in Andreasen. 2009.

Stage 1
John has been recently appointed to DG ___ as a program officer. He is responsible for overseeing the execution of projects funded from EU grants. While preparing a report, he comes across a project execution file from a few years back, which is missing some important financial documents, usually required from grant beneficiaries. John concludes there is some cause for concern (especially as there are large amounts of EUR involved), but, being new on the job, he's not sure how rigorous the reporting requirements were in the past. He takes up the matter with his colleague, who had dealt with the file before him, but the colleague replies that there are only some minor procedural problems, and advises John not to pursue it any further. John puts the file away.

Stage 2
Some time after, John accidentally finds out that, before joining the Commission, his colleague used to work for the beneficiary who did not submit the full financial documentation. However, by now John has developed a good working relationship with his colleague, and genuinely has a great professional esteem for him. He decides it is for the best not to pursue the issue of the missing files.

Figure 4.2. Vignette 2 "The Missing Files"

In this vignette, it is difficult to say – judging strictly on the regulatory framework – whether the character (John) is breaking the rules. Although reasons for concern do increase as the story progresses, ultimately it remains unclear whether an irregularity is actually discovered, or even whether John's suspicions are strong enough to warrant further action. This kind of uncertainty and conflicting incentives are typical of whistleblowing decisions, which involve a balancing act between one's own interests and moral values, and the duty of loyalty towards colleagues, and the organization as a whole. Moreover, peer reporting (i.e.: disclosing wrongdoing which involves an immediate colleague) is particularly sensitive because it entails sacrificing relationships with co-workers, who can be friends or mentors of the whistleblower.

	Acceptability	*Reasons*		*Report/ consult with…*		
		Orientation to others	**Orientation to self**	**Another colleague**	**Superior**	**Other bodies**
DG "A"	No			√		
	No					√
	No			√		
	No	√			√	
	No	√			√	
	No	√				
	No	√			√	
	No	√			√	
	No	√			√	
	No			√	√	
	No	√	√	√		
DG "B"	No		√		√	
	No	√		√	√	
	No	√		√		
DG "C"	No				√	√
	No		√			√
	No		√		√	
	No	√			√	
	No		√		√	
	No	√	√			
	No		√			
DG "D"	No	√			√	
	Yes					
	No				√	
	No		√		√	√
	No				√	

Table 4.2. Positions on whistleblowing

Results for the second vignette revealed virtually no divergence in appraising the acceptability of the behaviour displayed. With one exception, all respondents found the character's actions to be ethically questionable, for both stages of the story [88]. The oft-made point here is that, when confronted with possible wrongdoing, it does not suffice to consult just the colleague involved. Officials find necessary a due diligence of sorts, which goes beyond what is described in the scenario:

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[88] Which is why the data presentation does not make any distinction between the two stages of the vignette.

> "I could imagine going first off to the person who used to deal with the file and ask them about it, but I don't think he can leave it there - unless the colleague explained in more detail, and explained why… I think at the very least he should go and speak to someone else about it, and if necessary he puts a note in the file, copied to his immediate superiors, to say: this all seems to me OK, but I want to draw your attention to this problem, I spoke about it to so-and-so, and he said it was OK for the following reasons. That would be the safest thing to do." (Official #2)

The need for a second opinion is evident to everyone, but there are different options as to whom else should be involved. Some interviewees indicated a discussion with another (more experienced) colleague, others have indicated OLAF (or other competent audit) as a last resort, however most people believe their superior is the appropriate interlocutor (but sometimes after consulting lower in the hierarchy). As one official explains, possible problems should be quickly passed up to the superior:

> "[…] you have to tell your superior that you think there might be a problem, even if it is a stupid thing. If your superior says that's nonsense and you should not be worried, then it's fine - but otherwise this is the only way to proceed in this kind of case." (Official #27)

With this vignette, divergence was apparent at the level of argumentation. There were two (not mutually exclusive) discourses used to explain the ethical lapses in the story.

The first discourse is characterized by an **orientation to others**, as it stresses the larger interests that are at stake, be it those of the Commission as a whole, or the interests of the team. Essentially, the message is that, in a situation of this type, one needs to consider the broader picture, and not simply his/ her own position, or that of their colleague. For example:

> "If the guy's alright there will be explanations for the papers, on the other hand if you let it go, and there's something going on, then I think it's a disaster for all concerned. If anybody does find out in an audit or whatever, then John and his colleague, and everybody else are going to be in deep trouble." (Official #20)

Part of this discourse is a requirement to consider the pros and cons of taking the matter further. In other words, in itself reporting has no value, and one should engage in such action only if the stakes are high enough. As one official explained:

> "[…] if the file was somehow still going on, and due to this lack of documents there are still costs arising from this file, so that you could say 'OK, now we realized there is something missing in this file, that there is something wrong with it, we should stop making these payments', then I would say there's a reason to look into it, but if the thing is closed…" (Official #7)

The second discourse is characterized by an **orientation to self**, as it stresses personal interest, or personal professional responsibility, as the reason for reporting. Some officials have depicted the choice is rather stark, self-interested terms, as the easiest way of shifting, or sharing the burden, and staying "safe":

> "John has to cover his back, and whatever he finds that is suspicious, he has to at least discuss it with his superiors. Because he may be accused at the end himself, that he neglected, or he did not do this, or that." (Official #30)

And elsewhere:

> " […] to say 'no' to something which may afterwards be put out as a big scandal… you don't want this responsibility, so I would go to the Head of Unit and he would decide what to do" (Official #22)

For others, it is not so much about protecting one's own interests, but rather about taking ownership of the public role, and assuming the responsibility which comes with it:

> "For me, the ethical point, in terms of behaviour, is that, because it's your file, you're responsible for that. Even if it's after the fact, you can cross-check with the predecessor and various interlocutors, and at some point you need to have your opinions, even if 90% comes from others." (Official #34)

Moving on, it is important to note that, among Commission officials, the responsibility to report is understood as being strictly limited to one's area of competence, and to problems which are discovered *by chance*. In other words, nobody is under an obligation to monitor their colleagues, or be so zealous as to conduct private investigations (Officials #32, #7, #18):

> "[F]or me there is a limit between pro-actively seeking to dig out dirt in the system, including outside your competence area, and then to give it to a third party, […] and being confronted yourself with a problem of conscience that you're not willing to overlook. And it's not the same thing; I don't feel that civil service here has a mandate to nose around in all our files." (Official #18)

This interpretation is certainly in line with the SR provisions (Art. 22a), which indicate that an official should make a disclosure if "*in the course of, or in connection with the performance of his duties*, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity" (Commission 2004b: 11, emphasis added). Nonetheless, it

suggests that whistleblowing is legitimate only as an exceptional solution – that is, for those cases where breaches are severe, and evidence is easily available (which, in real life, is not likely to be the case).

<p align="center">***</p>

In conclusion, at a general level officials believe that, where suspicions of wrongdoing exist, one should take action – this mostly implies reporting the matter to a superior, sometimes after, or in parallel to consulting another colleague. There are two distinct sets of justifications for reporting (i.e.: discourses oriented to others, or to self), however these are not mutually exclusive. Not addressing a possible problem could be detrimental to both the organization, and the employee, and there were several officials mentioning both sets of reasons. The unifying theme in all of this is the logic of consequentiality. Reporting is rarely considered as the ethical response by default – rather, it seems to be a means to an end, and as such it has merit when based on a calculation of consequences for either oneself, or one's group, or, indeed, both.

4.1.4. Vignette 3: The official, the organization, and external actors

The third vignette pertains to the relation between the organization and the outside world, which is an ethical issue of type 3, according to the classification presented in Chapter 1. Here, problems arise when the interests/ expectations of external actors clash with each other, or with those of the organization. Appraising conduct implies a consideration of the content, and limits of an official's responsibilities – as representative of his/her organization – towards its stakeholders. Concretely, the vignette explores the relationship between Commission officials and lobbyists, and, in that context, how gifts and information flows are handled.

Broadly speaking, the relationship with external actors is one of the areas identified as "tricky" by Commission ethics experts, and the internal ethics literature generally stresses circumspection in these aspects. Contacts with stakeholders are not to be handled on individual

basis, but rather officials should inform their hierarchy about forthcoming meetings, ask for instructions, and debrief on the outcome. Sometimes officials are advised to have another colleague present at such meetings (e.g., in DG TRADE). They are also counselled to check if their interlocutors are registered the *Transparency Register*, and, if not, suggest them to do so.

One particularly interesting issue, in the Commission's relationship with external actors (and especially, as it is the case in this vignette, with interest representatives) is flow of information. Meeting with interest representatives, and exchanging policy-relevant information are encouraged under the principles of transparency and open consultation. On the other hand, however, officials are bound by a duty of confidentiality, as Art. 17 *SR* stipulates they should not disclose information received in the line of duty "unless that information has already been made public or is accessible to the public" (Commission 2004b: 10). In practice, this translates into an imbalance between the amount and extent of information received by the Commission from interest representatives, and what it can communicate back to them.

This being said, the *SR* provisions are not as restrictive as they may sound. No Commission document is excluded *a priori* from the right of public access, and this is true even for documents which have either not been finalized, or are not intended for publication (such as preliminary drafts, interim reports, draft legislative proposals or decisions) [89]. All of this is to say that Commission officials are afforded some leeway for balancing the aforementioned requirements of transparency and confidentiality. This shows in the type of ethics guidance they receive, because the only point which is insisted upon is confidential, or otherwise sensitive information. For instance, the DG MARKT ethics guidelines state: "remember that information that may seem of little relevance to you may be of value to others. It is therefore sensible to be discreet about your work at all times" (Commission 2010c: 11).

Another frequently emphasized issue regarding contact with third parties is the handling of gifts, invitations for meals, and other forms of hospitality (for instance, participation in events

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[89] See Commission 2005, and the *Regulation (EC) 1049/2001 of 30 May 2001 on public access to European Parliament, Council and Commission documents*.

where organizers cover travel and accommodation costs[90]). All of these are forms of social courtesy – however, if the value is too high, or the context in which these gifts and invitations occur is somehow improper, they can easily (be perceived to) jeopardize officials' impartiality. Therefore, in this area the lines of demarcation between being polite and – to put it bluntly – corrupt are quite sensitive. Consequently, regulations allow officials some leeway for deciding on a case-by-case basis. Thus, although Article 11 of the *Staff Regulations* discourages the receipt of gifts, favours or donations from outside the institution, the implementing provisions from DG HR permit officials to accept gifts of up to 50 EUR in any one year, from a single source, without declaring them. For gifts valued in excess of 50 EUR, officials are required to obtain permission from their hierarchy, while those over 250 EUR cannot be kept (they could be retained as Commission property, or donated to charity).

An analysis of internal ethics guidelines confirms the need for flexibility. The basic advice is to always consider "whether the gift could compromise your autonomy" (Commission 2010c: 5), and to ask oneself: "is my behaviour risking the Commission's position?" (Commission 2006b: 10). Also, the Commission's ethics experts point to out that refusals can be seen as impolite (especially when cultural differences are involved), or sometimes are simply impractical[91]. On the other hand, the value of some gifts is difficult to assess on the spot, so as to decide whether acceptance would allowed or not (Ethics officials #2, #3, #9, #12, #24, #23). This being said, the general line is to advocate precaution and the avoidance of unnecessary risks. Officials are told that, as a rule, they should decline any gifts other than those of a symbolic value (such as diaries, calendars, small desk items etc.), and the 50 EUR limit is stressed across the board (the limit also applies to business meals, or other professional events). Consultation and reporting are also often recommended. For instance, the codes of DG COMP and DG TRADE

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[90] These are referred to as "missions paid by the organizer", and they are approved on a case-by-case basis.

[91] Some examples provided by ethics experts are: a lunch provided at the cafeteria of the company where EU officials carry out an inspection, in the absence of any viable alternatives, or a complimentary airport pick-up car sent by the company, again when no alternatives are available.

advise officials to seek guidance from their hierarchy, or the local ethics correspondent, and if that is not possible to do their best to decline diplomatically (Commission 2008b, 2010).

The treatment of gifts, hospitality and missions as "hot spots" is understandable, given that the Commission has been publicly embarrassed over these issues several times in the past. One example is the 2008 scandal surrounding Fritz-Harald Weing (covered briefly in the previous chapter). The former DG TRADE official was exposed as negotiating back-door deals with lobbyists over dinners in Brussels' top restaurants. The following year, the European Ombudsman was notified regarding a smaller incident – two officials from DG TRADE who had accepted VIP tickets to the Rugby World Cup in Paris, offered by Nike (*European Voice*, 29.10.2009). Earlier, in 2005, Barroso himself came under fire over spending a holiday on the yacht of Spiros Latsis, a magnate in the shipping industry, who had received EU funds from the Commission in previous years (*EU Observer*, 21.04.2005).

On a more general note, the Commission's relationship with private interests was thrown into the public spotlight with the *European Transparency Initiative*, which aimed at regulating the EU lobby by setting up a registration system and a code of conduct for interest representatives [92]. Set up in 2008, the *Register of Interest Representatives* evolved quickly, and in 2011 it was merged with the European Parliament's register and re-named the *Transparency Register*. Currently numbering more than 4900 organizations, the system offers information on the type of organizations registered [93], their representatives, fields of interest and activities and, importantly, financial information, including an estimation of yearly costs directly related to representing their interests to EU institutions. Although the *Register* is still widely criticized for the voluntary nature

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[92] Both are accessible online at: http://europa.eu/transparency-register/index_en.htm. By registering, organizations implicitly adhere to the code of conduct.

[93] Registrants are broken down in six categories: (1) professional consultancies/law firms/self-employed consultants; (2) in-house lobbyists and trade/professional associations; (3) non-governmental organisations; (4) think tanks, research and academic institutions; (5) organisations representing churches and religious communities; and (6) organisations representing local, regional and municipal authorities, other public or mixed entities. See: http://ec.europa.eu/transparencyregister/public/consultation/search.do?reset=en&locale=en#en.

of the registration[94], the unreliable data, and the lack of mechanisms for review and enforcement[95], its existence represents obvious progress compared to the earlier days[96]. It is also an acknowledgement, on the part of the Commission, of the need to open up and control the rapidly growing Brussels lobby scene. In their own words:

> "Citizens have a right to expect this process to be transparent and to take place in compliance with the law, as well as in due respect of ethical principles, avoiding undue pressure, illegitimate or privileged access to information or to decision makers" (Transparency Register website - http://europa.eu/transparency-register/index_en.htm).

With lobbying being more and more debated, the long-existing claims of non-governmental organizations (NGOs) that the Commission was partial to corporate interests gained more visibility. In fact, corporate lobby capture is probably the single most important criticism levelled against the Commission in the ethics area, and it is no coincidence that ALTER-EU, the principal watchdog coalition in Brussels, has been formed precisely around this agenda. As argued in one of its publications (Dinan and Wesselius 2010), on the Brussels scene corporate lobbyists outnumber citizens' groups and public-interest lobbies by a factor of five to one. The situation is described as a "David versus Goliath" confrontation, since it is not just the bigger numbers which favour the former, but also the larger financial resources mobilized to influence EU decision-making. The Commission is depicted as granting preferential treatment to big business, and one of the most important points supporting this claim refers to the Commission's expert groups (i.e.: bodies set up to provide the Commission, or specific departments in it, with

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[94] Although voluntary, registration is encouraged, as registered organizations are sent automatic alerts each time the Commission publishes a new roadmap, or launches a new consultation in their fields of interest. The incentives got stronger since the merge with the EP register, because the Parliament's policy is to offer badges granting access to its premises only to registered organizations.

[95] See, for illustration, points made by the following organizations: Transparency International Brussels Office (http://archive.transparency.org/regional_pages/europe_central_asia/eu_liaison_office/eu_lobbying), ALTER-EU (http://www.alter-eu.org/taxonomy/term/23) , the BEUC – European Consumers' Organization and EU Civil Society contact group (http://www.beuc.eu/BEUCNoFrame/Docs/1/FPFAJPDBIIBBCFCHAMCGOKHJPDBW9DBW219DW3571K M/BEUC/docs/DLS/2008-00855-01-E.pdf).

[96] The predecessor of the *Transparency Register* was the Commission's database for European civil society organizations (CONECCS). The wide-definition of "civil society organizations" arguably made it possible to interpret CONECCS as a database of European interest (lobby) groups (Commission 2006a: 7).

policy advice and expertise, which meet more than once) [97]. The membership of many of these groups (particularly in areas such as financial services, internal market, enterprise, and climate change) is dominated by industry. This is a severe problem, given that expert groups are the Commission's most common consultation method, such that "their input frequently forms the backbone of Commission proposals and, through a process that often involves very little change, eventually becomes adopted in European legislation" (Vassalos 2010: 76)

Vignette 3 presents a fairly common occurrence: a Commission official meeting with a lobbyist over lunch, receiving a report, and keeping communication as the legislative proposal develops further. Here, two points are potentially problematic: firstly, the lunch which is paid for by the lobbyist and, secondly, the content of the subsequent communication between the two.

Stage 1
John works in DG ___. He is currently heading a team tasked with writing the Impact Assessment for a future important directive. He meets over lunch with a lobbyist who represents a large labour union association, and who offers him a report containing much needed information for the Impact Assessment, which is due soon. The lobbyist tells John that he hopes to be kept informed of the developments made with the new directive proposal. John takes the report, thanks him for the information, and says he'll "see what he can do". The lobbyist insists to pay for lunch, and John accepts.
Stage 2
A week before the proposal reaches the College of Commissioners, the lobbyist gives John a telephone call, asking for updates. John explains that, at this stage, the document is not public. In response, the lobbyist insists and reminds John of their excellent collaboration so far. Knowing that the labour union is indeed a key stakeholder for his DG, John gives the lobbyist a general description of what the text looks like over the phone, but says he cannot help him further.

Figure 4.3. Vignette 3 "The Lobbyist"

Results for the first stage of the vignette unsurprisingly show that meeting with stakeholders and receiving policy-relevant information is virtually not called into question. Respondents view such contacts as useful, even necessary, and entirely part of their job. As one official aptly put it:

> "[…] as an EU representative, you must interact with lobbyists, and you must interact with companies. I fell very strongly that people who are afraid of that have not understood their job. We're not here to be afraid of outsiders." (Official #18)

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[97] The Commission's register of expert groups is available online at: http://ec.europa.eu/transparency/regexpert/faq.cfm?aide=2 .

This being said, there is clear divergence in appreciating the way in which the meeting with the lobbyist proceeds, with positions split into two roughly equal camps: a "strict" one (14 officials), and a "flexible" one (16 officials). The central dividing issue here is the lobbyist picking up the bill for lunch – on this everybody commented, and it was oftentimes the first subject to be approached.

	Receipt of report	Position on lunch
DG "A"	Acceptable	Flexible
	-	Strict
	Acceptable	Flexible
	-	Strict
	Acceptable	Strict
	Acceptable	Strict
	Acceptable	Strict
	Acceptable	Flexible
	Acceptable	Flexible
	Acceptable	Strict
	Acceptable	Flexible
	Acceptable	Flexible
DG "B"	Acceptable	Strict
	Acceptable	Strict
	Acceptable	Strict
DG "C"	-	Strict
	Acceptable	Strict
	Acceptable	Flexible
	Acceptable	Strict
	Acceptable	Strict
	Acceptable	Flexible
	Acceptable	Strict
DG "D"	Acceptable	Strict
	Acceptable	Strict
	Unacceptable	Flexible
	Acceptable	Flexible
	Acceptable	Strict
	Acceptable	Flexible

Table 4.3. Positions on meeting a lobbyist

Strict officials point out that it is never justified to allow a lobbyist to cover the bill, as it entails serious risks for one's independence and reputation. This is basically a risk-adverse discourse, where accepting lunch is seen as compromising an official, or at least putting him/her

in an awkward situation. Although it is allowed, it is preferable to play it safe and avoid these circumstances altogether. One official explains his stance in the following terms:

> "Commission officials' salaries are big enough to be able to pay for lunch, or dinner, and a good bottle of wine or champagne. It's not worth it, this bloody 30 EUR are not worth to get in trouble later. I like to sleep well." (Official #14)

Along similar lines, another interviewee describes a prudent attitude in his interaction with lobbyists:

> "Unfortunately, I'm on the list for some of these lobby firms, and so they sometimes phone me up and ask me to go for lunch, or ask me to go for coffee. […] And I tend to go to just that coffee place around the corner from here – so I don't want there to be any doubt, oh, someone sees me and says: 'he was seen speaking to Jacques the other day in the coffee bar and there is a problem'. I'll always make sure it's covered here, I don't want there to be any sort of perception that they're paying for lunch, or even coffees and stuff – I don't like it." (Official #2)

Some officials taking a strict position also point to the fact that the payment could be interpreted as a transaction of sorts, by which John remains indebted to the lobbyist (Officials #20, #2, #14, #26, #7, #11, #23). Moreover, others question whether a lunch meeting is a proper format for interacting with stakeholders (Officials #12, #20, #24, #2, #6, #18, #26, #30, #7).

On the other hand, **flexible** respondents argue that, in itself, the lunch is not a problem. It is a form of professional interaction, which can be practiced so long as the official makes it clear that it does not imply any preferential treatment:

> "It always depends on what message you send, whether the lobbyist can really have hopes that, if he paid for lunch, he's going to get something or not. Otherwise it's not a big deal […] You could consider it kind of a business [meeting], and it's OK as long as you're clear on where you stand." (Official #10)

There are even some who find ludicrous the notion that the lunch could "buy" the lobbyist special attention: "here it would be ridiculous to refuse, some of my colleagues do, but personally I would not do it […] I know that it will not influence afterwards in any way what I'm saying." (Official #34). Overall, the payment for lunch may be acceptable if it is done on the basis of reciprocity (Officials #1, #28, #27), if the partner is well-known and trusted (Officials #1), and if

the lunch is not overly expensive (Officials #1, #38, #19). From a "flexible" perspective, the entire issue is considered as a form of courtesy, with a cultural undertone:

> "This is really a cultural issue, and people would be shocked by an invitation to a pizzeria, whereas I find it of a symbolic nature. Of course, you do not accept invitations to a 3 star Michelin restaurant, to meet somebody you do not know. But it happens. What I always say is that if somebody wants to invite me, sometimes if I know the guy sufficiently, I pay, so he can invite me the next time, and there is no … nobody feels embarrassed, if it's done on this basis." (Official #1)

The second stage of the story was specified in very general terms, and thus did not support respondents to directly judge the situation presented. In other words, the answer was often "it depends", reflecting the point frequently made in the interviews that disclosing information to external parties is done on a case-by case assessment. As one official explained: "this is not something you can learn in a book, when to give and when not […] because it depends on the information, and it also depends on the person. It's certainly one of the most difficult things." (Official #1)

The purpose, therefore, was not so much to capture how positively or negatively officials appreciate the disclosure of information to the outside, but rather to spark a discussion on the conditions under which they would (not) do it, and the aspects considered when making this call. At this point, a conflict between public values was visible: on the one hand, the duties of confidentiality, and loyalty to the Commission, and, on the other hand, the value of transparency, which dictates that the Commission be an open and accessible institution. Table 4 bellow provides an overview of the issues mentioned in the course of responses:

	Provide already public information	Protect Commission decision-making	Keep stakeholder relations
DG "A"	√	√	
		√	
	√	√	
	√	√	
		√	
		√	
			√
	√	√	
	√	√	√
	√		
	√		
DG "B"		√	
			√
			√
DG "C"	√		
			√
		√	√
			√
	√	√	
	√		√
DG "D"		√	
		√	√
		√	
	√	√	
	√	√	√
	√	√	

Table 4.4. Positions on the disclosure of information

The table above includes only the arguments which were most frequently used by officials as they discussed the vignette. Before presenting the results, it is important to mention that there were also other subjects which were brought up, but less often – first, the need to assess whether disclosing information to the lobbyist would grant him/her an unfair advantage over other stakeholders, and, secondly, the opportunity of consulting with a hierarchical superior, or referring the lobbyist to one.

Overall, officials proved to be open for communication, unless the information in question is "confidential", "sensitive", "political", or otherwise contentious. More often than not, what this

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meant was that giving a "general description of the text" is fine so long as it contains only information which is already public, or well-known from previous consultations. Of course, many realize that this would not carry too much value for the stakeholder:

> "You don't say what exactly was decided, but you say that a number of options were considered, and it's OK. Usually, these things don't come out of the blue – they have been discussed in various forums, so people really know. For me, it would be more of a window-dressing exercise, where you just take five minutes to speak to this stakeholder, to have a general talk with him, without revealing anything – that's perfectly fine." (Official #10)

This, among other things, shows that officials are well aware of the applicable regulations (see Art. 17 *SR* discussed above) – roughly half of interviewees brought up the argument of information already in the public domain. It also shows a preference for staying well within the safety zone installed by these regulations. It is true that there were officials in all four DGs who were willing to go beyond this minimum threshold, but overall, they are a minority. Just to illustrate this other trend, this is how one interviewee justifies his choice for a more forthcoming approach:

> "I would say if somebody gives information, it's not unnatural to give some of that information, back, it's important how that information is handled […] if it is not really confidential, but just sort of something that should not be brought to the attention of the public, I feel that he can adequately say a few things about where it is going. If he doesn't do that, he will create a situation where this lobby group will later on come after him, and probably criticize the Commission for not doing a diligent job in consultation." (Official #18)

If it could jeopardize the internal decision-making process of the Commission, officials are exceedingly cautions about transmitting (any) information to external actors. This was the argument most frequently mentioned in discussing the story, and it speaks of an overall preference for loyalty to the employer over transparency. Of course, the argument does take on different meanings in different parts of the Commission In DG MARKT it shows an appreciation for the hard negotiation work behind legislative proposals, and for the fragility of the compromise reached – which officials feel obliged to shield from last-minute pressures. This is how an official in DG MARKT describes her own portfolio:

> "In that particular field, I probably wouldn't say anything, because it's so sensitive and with everything you say you are likely to cause a last-minute thunderstorm, which risks messing up the decision taken in the College, because you have people running to the cabinets, so it's in your own interest to shut up. But if you have things that are less sensitive, less contentious,

then, yes, I say: 'these are the subjects, and this is kind of the direction we are going in'." (Official #7)

In DG COMP, the stress on prudence and confidentiality is directly related to the rigours of interacting within a litigation framework, with legal professionals:

> "There's a difference between a legislative proposal and a [case] decision. If you are in a competition framework, I don't think I, or my colleagues, would have a one-to-one meeting with a party, be it a complainant, or a party investigated, because it's far too tricky, in the sense that people can later on say: Mrs. X said so-and-so, or Mr. Y said so-and-so, and that can be very dangerous for the case, or even for the appeal against the case." (Official #32)

By comparison, the number of officials who discussed the need to keep good working relations with stakeholders is rather low. This is interesting, because everybody agreed that receiving information from the outside is a legitimate and necessary process – but one which, apparently, does not entail any obligation to (try to) reciprocate, or at least not to the same extent.

Finally, it is important to point out that consulting over draft papers, or sending out an internal document is labelled as a "leak" and condemned in stark terms by everyone. This being said, leaks are a fact of life in the Commission, and the vignette triggered recollections of such occurrences in all DGs.

<p style="text-align:center">***</p>

In conclusion, at a general level everyone agrees that meetings with stakeholders are legitimate and necessary, however the way these should be handled sparks disagreement. The analysis of interview data has highlighted two types of discourses – a strict and a flexible one. While the former holds that it is never justified to allow a lobbyist to cover the lunch bill, because this can discredit an official, in the latter the lunch is not a problem as long as the right message is being sent. Regarding the appropriateness of releasing information while decisions are still in internal cooking, the first and most important consideration is loyalty to the Commission. However, this is interpreted and related in different ways to the contact with external actors.

4.2. Ethics on the work-floor: commonalities, divergence, and determinants

This section presents an overall view of the findings, which reveals the common line in EU officials' thinking about public ethics, as well as the points of divergence. Given that the latter do exist, the analysis further considers the possible determining factors for these elements of internal heterogeneity in the Commission.

4.2.1. Commonalities and divergence

The analysis of the vignettes has revealed a mixture of commonalities and divergence in the way EU officials relate to public ethics. Broadly speaking, the common line is defined by a pronounced sense of loyalty to the Commission, which appears to be the core value in the moral system of the EU civil service. In the first vignette, loyalty translates into a general reticence towards expressing private views in public. The public office is interpreted as putting a reserve on one's private life, and although most officials do see spaces where individual freedom of expression can still be enacted, these are rather limited. In the second vignette, loyalty means an understanding that some measure of due diligence is necessary when confronted with possible wrongdoing, which goes beyond discussing the matter with those directly involved. Finally, in the third vignette, organizational loyalty translates into a guarded approach in communicating with stakeholders. The preference is to stay well within a safe zone, by limiting communication to information that is already public, or known from previous consultations. The most important consideration in deciding on the release of information is its potential impact on the decision-making process of the Commission.

Beyond this common line there is, however, some significant divergence. This occurs at a secondary level, indicating that certain details and nuances situated somewhat at the margins of an ethical quandary can elicit different reactions from staff.

The divergence is mostly expressed in the form of strict vs. flexible stances. Broadly speaking, with the first position, ethics is portrayed in absolute, categorical terms, while with the second one there is more emphasis on the value of finding the middle ground. Essentially, what drives the strict/ flexible split is a difference in the officials' orientation towards compromise, when faced with conflicting public values. Those in the strict group would prefer to choose unequivocally one value over others, while the "flexible" officials would rather find a way of accommodating them.

The different appreciation of compromise hides, on a deeper level, different preferences for handling risk. The "strict" discourse can be interpreted as a risk-adverse one, because in this optic avoiding compromises is a way of staying safe, and being safe is, in turn, the way to be "ethical". The converse is not necessarily true – i.e.: that the "flexible" discourse is risk-loving – however here being "ethical" is not threatened by accommodating different values and imperatives. Risk avoidance is most visible with the third vignette, where the strict solution holds that it is never justified to allow a lobbyist to cover the lunch bill because of the risk of compromising the official's position; consequently, it is best to avoid such circumstances altogether. On the other hand, those taking a flexible perspective dismiss this risk – for them, lunch in itself is not a problem as long as the right message is being sent. In the first vignette, risk pertains not so much to the individual official, but to the organization, which might be damaged by an employee who (is forced to) look for a new job. In the "strict" discourse, the absolute primacy of organizational loyalty represents a way of containing this risk, while for the "flexible" camp, some (minimal) risk can be tolerated, given the challenges of working on a short-term contract, and the value of freedom of expression.

In the second vignette, differences are visible in the way officials justify decisions to report (possible) wrongdoing. While one discourse lays more emphasis on the larger issues that are at stake (be they those of the Commission as a whole, or, more restrictedly, those of the team where the official works), the other stresses self-interest (here, reporting is presented as the wise

thing to do for the one who has come across a possible problem). Importantly, the two sets of motivations are not mutually exclusive. In the following chapter it will be shown that officials frame their discussion of (any) ethically sensitive issues in the same way – talking through a problem is the right approach because, on the one hand, dialogue leads to better solutions, but, on the other hand, it covers the one who is involved. Therefore, this mix of altruistic and self-centred motivations is the other axis – besides the strict/flexible divide – around which differences in ethics thinking are structured. It is important to note that the risk plays a role here, as well – basically, reporting a (potential) problem is understood, by Commission officials, as the safe (i.e.: risk-minimizing), and therefore desirable option.

4.2.2. Exploring the divergence

Given the existence of obvious divergence in the way EU officials think about ethics, it is important to consider the possible determining factors. Why is it that some people seem more bent on compromise, while others are not, and why some would more readily evoke self-regarding reasons, while others focus on altruistic ones? At this point, some of the observations made with regard to sampling in Chapter 2 should be re-stated. Namely, the thesis uses a maximum variation sample, which illustrates, in a balanced way and within some pre-defined limits, a wide range of the characteristics of the staff who populates the Commission services (i.e.: different nationalities, professional backgrounds, organizational posts and types of employment contracts). In this way, the findings presented above, regarding EU officials' thinking about ethical questions, can be extrapolated to other (significant) parts of the Commission, despite being drawn from a small sample of 30 interviewees. However, due to its size, this sample is not appropriate for determining which factors are behind the differences in patterns of thinking described above. In quantitative language, the problem is one of over-determination.

Having said this, the data can nevertheless be used as an exploratory probe, to suggest hypothesis which would be tested in future research. Therefore, the arguments made in this

section should be understood as promising pointers, which could be explored in the future using different types of samples and methods. In what follows I will discuss two variables – nationality and organizational position – which, as argued in Chapter 2, might determine differences in ethics thinking among Commission employees. The focus is on these two because they are the most widely discussed in the literature. Nationality is a central variable in EU socialization research, and the "usual suspect" on which diverging standards of conduct in the Commission have been pinned. On the other hand, individuals' organizational positions appear to be the most significant counterweight to national orientations.

4.2.2.1. Nationality

As argued elsewhere in the thesis, officials' nationalities matter insofar as ethics is concerned because EU countries vary significantly in their politico-administrative cultures, and levels of corruption. Thus, individuals socialized in these different national environments would not have common understandings of ethical behaviour. The Commission becomes the site of a "clash of cultures" between the "clean" North and the "corrupt" South, and an East which is possibly "corrupt" as well, given its communist past and weak institutions during the post-communist transition.

That these are over-generalizations is clear enough. It is also evident, from the research carried out in this thesis, that the Commission is not experiencing a "clash of cultures" with regard to ethics. On the contrary, officials are basically in agreement on where to draw the line between what is acceptable and what is not, and, considered in the bigger picture, the differences which do occur are marginal.

The vignette analysis suggests that the strict/ flexible divide, described at length in the previous section, is down to individual-level factors, as there is no clustering of answers following DG lines. The table below shows the divergence between strict and flexible stances in vignettes 1

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and 3, together with officials' nationality, which is represented in terms of geographical blocks (North/ South/East[98]).

		Position on professional situation	Position on lunch
DG "A"	S	Strict	Flexible
	E	Flexible	Strict
	N	Strict	Flexible
	E	Strict	Strict
	S	Strict	Strict
	N	Flexible	Strict
	E	Strict	Strict
	S	Strict	Flexible
	N	Strict	Flexible
	N	Flexible	Strict
	S	Flexible	Flexible
	E	Strict	Flexible
DG "B"	S	Flexible	Strict
	N	Strict	Strict
	E	Flexible	Strict
DG "C"	E	Flexible	Strict
	N	Flexible	Strict
	E	Strict	Flexible
	E	Strict	Strict
	S	Flexible	Strict
	S	Strict	Flexible
	S	Flexible	Strict
DG "D"	N	Strict	Strict
	N	Strict	Strict
	S	Flexible	Flexible
	E	Strict	Flexible
	E	Strict	Strict
	E	Strict	Flexible

Table 4.5. Strict/flexible positions and nationality

Overall, the distribution of answers is the following. For vignette 1, the "South" group contains 4 strict and 5 flexible positions; the "North" group has 5 strict and 3 flexible, while the

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[98] The split was done on geographical considerations, as follows: North (Austria, Belgium, Luxembourg, Denmark, Finland, Germany, Ireland, the Netherlands, Sweden, UK); South (Italy, Greece, Cyprus, France, Portugal, Spain); and East (Bulgarian, Romania, the Czech Republic, Hungary, Estonia, Lithuania, Latvia, Poland, Slovakia, Slovenia). Scores for 2011 in Transparency International's Corruption Perception Index (the most well-known corruption measurement instrument to date) indeed correlate with these geographical blocks, showing higher values for countries in the North, compared to those in the South, or East. For more on this see: http://www.transparency.org/research/cpi/cpi_2011.

"East" group has 8 strict and 3 flexible. With vignette 3, in the "South" group there are 4 strict and 5 flexible positions, in the "North" group there are 6 strict ones and 2 flexible, while in the "East" group we have 7 strict and 4 flexible. This distribution hardly suggests any patterns, with one possible exception – in the group of old Member states (i.e.: "North" and "South" considered together) there is a more even mix of strict and flexible stances, while with the new (post-2004) Member States (i.e.: the "East" cluster) there is a clear predominance of the strict discourse.

The national culture hypothesis, sketched above, would actually suggest the opposite, i.e.: a predominance of "flexible" stances in the "East" group (if, by a stretched interpretation, such a stance would denote a certain comfort with more ambiguous, questionable behaviours). The situation, then, may have less to do with nationality, and more with the circumstances in which staff from new Member States joined and experienced the European Commission. The majority of these interviewees were relatively young, at the beginning of their careers and, with one exception, occupied non-managerial positions. It is possible that the more strict outlooks would be due to the lower hierarchical positions and lower work experience, which would render these employees more prone to risk avoidance. On the other hand, however, officials from new Member States have joined the Commission at a point when the Kinnock reforms had been well underway, and the organization had largely left behind the days of very debilitating public scandals, such as the Santer resignation and the Eurostat affair. The predominance of strict positions may also be due to their entering the Commission at a time when ethics was already an issue. Considering all this, perhaps a more fruitful hypothesis, worth investigating in future research, would concern generational differences in the Commission – namely, whether the more seasoned staff members, who had been there before the major administrative reforms were implemented, have different views on ethics compared to newer staff, who had joined in the post-Kinnock era.

This being said, the possibility that the strict/flexible divide is down to individual psychological traits should not be dismissed. Although this group of factors is outside the research parameters of the thesis, it is worth mentioning here (as an illustration more than anything else)

the concept of tolerance of ambiguity, defined as "the tendency to perceive ambiguous situations as desirable" (Budner 1962: 29). Essentially, this concept, employed in organizational psychology among other fields, pertains to individual reactions (from attraction to rejection) towards situations which are unfamiliar, complex, or susceptible to multiple conflicting interpretations (see Furnham and Ribchester 1995 for a review). The different appreciation of compromise, which makes the difference between flexible and strict stances, may be explained by different levels of tolerance of ambiguity in individuals.

Before moving on, one other aspect is worth mentioning here, namely that many interviewees expressed a strict view with regard to the possible "revolving doors" situation, but a flexible one on the lobby lunch, and vice versa. To give just one example, this is how one official expressed flexibility in vignette 1, but a strict stance in vignette 3:

> "I probably wouldn't do it, but it is easy to say being a *fonctionnaire*, and having to look for a different job right after... […] I think that if he is really just about to finish his job in the Commission, and he makes it very clear that this is private capacity, and he will no longer be working for the Commission – it's acceptable." (Official #13)

> "I personally, as a rule, never accept anybody to pay for my lunch, even though it goes within the scope of what we are allowed to do […] But for the clear conscience, I always insist to pay for my own lunch, and my own coffee, and whatever." (Official #13)

This variation suggests that the topic in regards to which ethical judgement is made matters, since individual officials displayed different sensitivities for the two vignettes. One's own personal experience can also play a role here. The variation also suggests a certain degree of indecisiveness on behalf of officials (which is not surprising given the ambiguity of the scenarios). Being on the fence, it is possible they would opt for a strict answer in one instance, but a flexible one in another. As mentioned earlier in the thesis, these two types were inductively constructed to be relatively accommodating, and as such they cover answers which vary in their intensity. The fact that an official may switch between a strict and a flexible position in different scenarios does not invalidate that this is, indeed, the line of difference for ethics judgements. It does mean, however, that more research would be needed to understand whether there is an

ambiguity threshold above which individuals are likely to become more volatile in their ethical judgements, and where that may be situated.

4.2.2.2. Organizational position

To re-state a point made in Chapter 2, there is a good deal of empirical evidence in the EU literature which suggests that individuals' organizational positions within the Commission represent an important influence on their decision behaviour and, ultimately, on their identity. Egeberg (2012) suggests that this "portfolio logic" acts as a counterbalance to national orientations. Therefore, it matters where in the Commission one works. Insofar as ethics is concerned, this aspect is relevant because the Commission's functions entail different ethics problems and "hot spots", which, in turn, could influence differently officials' views towards ethics.

With interviewees recruited from four DGs, the data allows for an exploration of this possibility. And there are, indeed, two points where answers to vignettes are clustered along DG lines. However, given the small number of respondents, it is difficult to say whether these clusters are indeed patterns, or just coincidence.

Firstly, in the vignette dealing with whistleblowing, the other-oriented discourse appears slightly predominant overall, and certainly more frequent among case handlers, both in DG COMP, and in DG ENV (see Table 4.2., DGs "A" and "B" respectively). This could be a result of the function performed by these two DGs – namely, being involved in legal work, and thus constantly in the position of defending the interests of the Communities, perhaps referring to those interests (as opposed to self-preservation) is a more natural language for case handlers.

Secondly, in the discussion on disclosure of internal information in vignette 3, officials in DG COMP have mentioned far less frequently (compared to those in other DGs) arguments relating to the need for keeping good relations with stakeholders (see Table 4.4). Judging from the answers offered by COMP officials, it seems that that this decreased sensitivity towards a two-

way dialogue is linked to an awareness of the power imbalance between the Commission and its stakeholders, which puts the former in the driving seat:

> "The truth is that a good working relationship is always there, because the lobbyist lives off what trickles down from the Commission. He will never walk away. And if he walks away because I'm very strict with the rules, then so be it. If it's not this lobbyist providing me with the information, there would be another one, because there is always somebody having an interest that their info gets passed onto us." (Official #8)

Knowing they can afford to stop communicating at any point it might raise problems creates a certain feeling of relaxation:

> "We are the ones in charge and in control, and you are always in a position to say that now I stop talking about this, I cannot tell you anything more, that's it, and if you don't want to answer, you don't have to – always." (Official #10)

By comparison, in other DGs officials are more inclined to support a two-way dialogue with stakeholders, and to find ways of achieving it within the confines and the limits of the institutional framework. This quote from a REGIO official illustrates well the difference of perspective:

> "When you're dealing with stakeholders, be they NGOs, or business groups, or whatever, if you want to have a functional relationship, you cannot act like it's fixed when they turn up and say: 'here, we give you all the information, Commission, what do you think?' – 'We think nothing'. Many of my colleagues would say: 'no, no, don't say anything!'... For me, that is dysfunctional. You can very often say something without violating any specific secrets, without giving anybody any tool to take you to court or anything else. That's an ad-hoc judgement." (Official #18)

In what follows, I will propose that this difference of perspective is due to the functional specialization of DG COMP, which is linked to a number of internal cultural specificities, but also to a tighter regulatory framework.

COMP is the only DG entirely dedicated to enforcement [99]. This presumes that, as a rule, the relationship with external actors is from the start an adversarial one. Generally speaking, national governments or companies do not engage with this part of the Commission unless (there is a suspicion of) being in breach of competition rules. Consequently, COMP case handlers see

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[99] Seven out of its nine Directorates perform this function. Out of the remaining two, one is dedicated to competition policy and strategy, and the other has management support functions – human and financial resources, document management, ethics, security and IT (Commission 2010a).

themselves as "fighting" – although it is important to note that the three instruments of competition policy[100] differ in this regard. Namely, anti-trust is far more confrontational than the other two, which is a natural consequence of the purely punitive nature of the work carried out in this part of DG COMP. As one official explains:

> "Anti-trust is always conflictual, we are always fighting with the companies, there is nothing they can gain from us (in state aid, they can get the money, in mergers, they can go ahead with the mergers). With us, they face nothing but bad news – we're not popular, we always have to fight for everything." (Official #2)

What is more, COMP officials are aware that they have the upper hand in this fight – which is not surprising, given that DG COMP is, objectively speaking, endowed with far-reaching investigative prerogatives unparalleled elsewhere in the Commission [101]. Simply put, they are the DG with the power, and they know it. The following quotes are illustrative:

> "[T]hen it's our discretion, and if they don't provide us with the information, then we say: alright, our purely factual information leads us to the conclusion that this is the case … and it might be totally opposite to what they need, or want, or have hoped for. This normally helps to get factual information. We have also legal possibilities, but in such a situation I'm very relaxed." (Official #8)

> "[P]recisely because you are addressing something in the future, companies may be willing to make concessions in order to get clearance. And viewing that timing is also very short for them, they don't want to go on an in-depth investigation, maybe you can "extort" from them a number of concessions that you wouldn't [otherwise]." (Official #16)

It seems fair to assume that the powers of DG COMP, and its culture of adversity would lead officials who work here to place more emphasis on defending the Commission's position, rather than cooperating with external actors A contributing factor is that DG COMP is placed somewhat outside the regular inter-institutional interactions in the EU arena. The average case

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[100] DG COMP takes action against several types of anti-competitive behaviour, and for each there is a correspondent "instrument" in its arsenal. Firstly, there are anti-competitive agreements, such as cartels and market-sharing, as well as the abuse of dominant market position – this instrument is commonly referred to as "anti-trust". The second instrument – "mergers" – deals with mergers and acquisitions which may distort competition in the EU. Finally, the third instrument – "state aid" – deals with potentially distorting governmental aid. A notification system applies to mergers and state aid – the Commission must be notified of, and approve, future concentrations with a Community dimension, or planned state aid respectively. In anti-trust, however, cases are opened *ex officio* by the Commission, or following complaints, or (for cartels), following leniency requests.

[101] The Commission disposes of several investigative tools unavailable in other policy fields: written requests for information (backed by fines in case of no, or late answers), taking interviews and statements from relevant natural or legal persons, and, finally, the notorious ad-hoc inspections on the company premises (in cooperation with national competition authorities and local law enforcement).

handler has little to no contact with other European institutions, or even with other parts of the Commission. One interviewee, who had been transferred from DG COMP to DG MARKT, explains the relative seclusion very well:

> "[W]hen you are in DG MARKT, or specifically in policy, it's very EU-specific kind of job. I learned much more about the institutions and how they function, probably in 6 months here then I ever did in DG COMP, because DG COMP is very much… They are the DG with the power, they do what they do, they take the decisions, and that's it." (Official #27)

The situation is different for DG MARKT, DG REGIO, or DG ENV, whose activities put them much more in the broader EU institutional framework, in the web of interests around them, and therefore in a position where the need to exchange information, negotiate and compromise is more evident. From this perspective, it is interesting to note that DG MARKT appears almost as the opposite of DG COMP, because here lobbyists and other interest representatives are natural partners (in a way they are not for the others), and the regular contact creates long-standing relationships, and possibly more space for trust:

> "Our main stakeholders are industry associations. These are the people that are very often consulted, and very much listened to, we have numerous meetings, all the time, and if there is something new, with always consult with them, and we always see what their thinking is." (Official #27)

By comparison, sometimes, in DG COMP, a lobbyist becomes someone to be "resisted":

> "Resisting to lobbyists is sometimes the best way to protect ourselves, and if they are too intrusive, I can be rude, and I've already been rude in some instances, because, as I said, there are files where you can say things, and others where you can't." (Official #1)

But this is only part of the explanation. Some elements of the internal regulatory framework of DG COMP can also explain why officials who work here seem to be less sensitive about the necessity of a two-way dialogue with external actors. Within the Commission, DG COMP is peculiar in that it operates with a high volume of market-sensitive, confidential information. To prevent misuse of this information, the local ethics regulations are stricter here than in other parts of the Commission, with the key issue being the avoidance of (the perception of) conflicts of interests (CoI). For instance, the internal ethics code of DG COMP introduces three types of in-house CoI declarations, additionally to what is generally required for

Commission officials – a general annual declaration, a case-specific declaration (completed by staff when they are assigned to a case), and an inspection CoI declaration (for participants in anti-trust and mergers inspections). Along the same lines, the *Code* states that, before taking up their posts, recruits must undergo a specific CoI screening regarding their previous employment (staff members cannot deal with pending cases which involves their previous employers). Leakage of confidential information is another risk, against which enhanced security measures have been introduced. To give just one example, case mangers are required to keep a "who knew what and when" document, which would allow to trace back information flows in case of allegations of insider dealing (Commission 2010b). At the individual level, this amplified security environment translates into things such as a "clean desk" policy, locking one's office while away, or destroying hardcopies of secret documents.

Therefore, overall, DG COMP appears to be, by comparison to other parts of the Commission, a very procedure-heavy setting. This, too, affects interaction with external actors – as COMP officials work within a litigation framework, and interact mostly with legal professionals, they are more careful about their meetings, and more guarded about what they say. This is how one official who had previously worked in DG MARKT described the enhanced rigours of her new position in DG COMP:

> "[DG COMP] is very rules-based, very procedural, where for every single step you have a procedure, and if you don't follow it, you are sure that the lawyers will be on your back – for sure. So, of course, you have to be more reserved, and somehow more cautions. Not that you don't have to be cautious when you're making policy, but there the framework within which you're operating is much looser. You meet with people, and it's not like they will come back and say: 'my rights of defence were violated'. " (Official #10)

Therefore, this tighter regulatory framework may lead COMP staff to be more concerned about protecting sensitive information from leaking out, rather than promoting a two-way dialogue. Here information flows are highly controlled, as clearly shown in this comment by a COMP official on the casual receipt of a policy report, over lunch:

> "[…] we have a completely different system, and anything we take – if we want to use it – it must be registered, and the source must be known, and also the way it got here. I find it very strange just to take something like that." (Official #6)

By comparison, other DGs handle less confidential (explosive) information, and their procedural constraints do not appear to be as taxing. To give just one example, in DG REGIO there is room for a more pragmatic approach in case the Member States' annual implementation reports prove inadequate: "sometimes you just need some information that has not reached you. And you just immediately pick up the phone and say: 'hello, where's the file?' " (Official #26).

In conclusion, DG COMP appears to be an outlier within the Commission. It has the powers, and acts as an almost full-blown independent regulatory agency. This status shapes differently officials' judgements regarding the appropriateness of disclosing internal information to external parties. To be sure, like everyone else, COMP officials consider whether releasing information might damage the Commission's position and its internal decision-making. They are also fully opposed to leaks. However, unlike officials in other parts of the Commission, COMP case handlers seem to place more value on confidentiality, and are less inclined to balance it out against the requirements of openness and transparency. This situation could be investigated further in future research, perhaps through a comparison that would include one, or several European administrative agencies.

4.3. Conclusion

This chapter offered a detailed account of how Commission officials think about ethics in public office. It has been shown that they share much common ground in the way they relate to public ethics. The convergence is around a pronounced sense of loyalty to the Commission, which appears to be the core value in the moral system of the EU civil service. Beyond this, however, at a secondary level, there is space to express divergent opinions. There are two axes around which difference in ethics thinking is structured. The first refers to orientation towards compromise in the face of conflicting public values – while with the "strict" position the preference is to choose univocally one value over others, with the "flexible" one it is to find a way of accommodating them. The second axis refers to justifications for discussing (potential) ethical problems – while

one discourse stresses self-interest (i.e.: reporting is the safe thing to do for the one who has come across a potential problem), the other stresses the larger issues at stake (i.e.: be it the interests of the official's team, or those of the Commission, or the fact that consultation achieves better solutions). The unifying theme in all this is the handling of risk. With the strict/ flexible divide, the different orientation towards compromise is based on an appraisal of the risk entailed. With the second divide, reporting itself is seen as a way of avoiding risk – the difference being whether this risk is seen as affecting primarily oneself, or others.

Given the existence of obvious divergence in the way EU officials think about ethics, the possible determining factors were considered in the second part of the chapter. Considering the limitations of the sample, the analysis went no further than suggesting hypothesis which might be tested in future research. It was shown that nationality, the traditional "usual suspect" for different understandings of ethics within the Commission, is not particularly helpful in explaining the second-order differences revealed by the data. An alternative, and more useful hypothesis relates to generational differences in the Commission – namely, more seasoned staff members, who had joined the Commission before the Kinnock reforms, may have different views on ethics compared to newer staff, who came in the post-Kinnock era.

On the other hand, there are elements to suggest that officials' organizational positions matter for their views on ethics, but perhaps not in a systematic way. What the data has revealed is the special case of DG COMP, which, unlike other DGs, handles vast amounts of confidential data and is subject to a stricter procedural framework. Also unlike other places in the Commission, DG COMP has a culture of adversity vis-à-vis its counterparts (case handlers see themselves as "fighting"), which is unsurprising since it is dedicated entirely to enforcement, and enjoys very substantial powers. All these factors shape COMP officials' perception over external actors, and the boundaries of appropriate communication with them. Specifically, they proved to be (by comparison with officials in other DGs) more sensitive to the need to control and protect

internal information, and less inclined to consider the need to keep good relations with stakeholders.

The existence of commonalities in officials' thinking about ethics – which this chapter has revealed – can be interpreted as a sign that the Commission's ethics management system is having an impact on the work-floor. Of course, this statement invites caution. To the extent that the commonalities have emerged within the Commission, they are surely due to more complex processes of influence. Furthermore, Chapter 2 has warned against over-stating heterogeneity in the Commission's recruitment pool. Regarding specifically the sample used in this thesis, it is fair to assume that the interviewees entered with some pre-existing notion of what ethics in the civil service presumed, given that many of them had previously worked in public administration, or in a (private sector) position which put them in contact with public bodies, and/or the EU institutions. This being said, the convergence is significant, because one of the purposes of having an ethics management system is precisely to bring everyone in the organization on the same page about what is acceptable, and what not. Moreover, as Chapter 3 has demonstrated, the Commission has had this aim, when it engaged in vigorous awareness-raising and guidance actions after 2008. Therefore, the following chapter will take this as a starting point, as it seeks to determine the mechanisms by which the ethics policy of the European Commission influences its employees' views towards ethics.

CHAPTER 5
DISCUSSING "COMMON SENSE": HOW ETHICS MANAGEMENT SHAPES INDIVIDUAL VIEWS TO ETHICS

This chapter seeks to determine the mechanisms by which the organizational ethics policy of the European Commission influences its employees' views towards ethics. In order to do this, it is first necessary to determine whether the influence actually exists – in other words, whether Commission's ethics management framework feeds employees' learning about the ethics of their organizational roles. This so-called "socialization outcome" was defined, in Chapter 1, by two aspects – first, that officials think about ethics in similar ways, and, secondly, that there is an overlap between official messages regarding ethics, and the comments and positions expressed by employees on the subject.

The previous chapter, where the vignettes were analyzed at length, has covered the first of these points, and demonstrated that officials indeed share substantial common ground in their appreciation of ethics. This chapter takes the analysis further, by tackling the second point above. Namely, it starts by inquiring whether there are any matches between the Commission's official communication on ethics, and the arguments expressed by interviewees, as they reasoned through the vignettes. The second section covers officials' direct experience with, and perception of ethics policy instruments in the Commission. These additional elements make it possible to determine with more confidence whether the Commission's ethics management system is being "felt" on the work-floor. Based on this data, the third and final section of the chapter pieces together the causal mechanism by which it influences officials' views towards public ethics.

5.1. Official communication and views from the work-floor

In Chapter 3, it was established that the Commission's internal communication on ethics revolved around two messages: one of compliance (or, more specifically, rule awareness), and

another of care towards the organization's public image. This section explores whether these messages are reflected in the way officials think about ethics.

The most visible point of convergence, between the official policy line, and the ethics reasoning of employees, is the preoccupation with the Commission's public image. In official communication, ethics was justified as a way of keeping a good institutional standing: the people who worked for the Commission represented its "human face", and, as such, they had to display exemplary conduct; mistakes in this area came with high reputational costs, as the organization was monitored with increasing aggressiveness by the press, watchdog groups, and the Parliament. There is a clear connection between this background and the general reticence, in vignette 1, towards expressing publicly divergent personal opinions. Doing this is seen, by some officials, as a breach of loyalty simply because it makes the Commission look bad. Being careful about public appearances, then, has much to do with being mindful of public image, and is fuelled by an understanding of the high level of public exposure and scrutiny to which the Commission is subject:

> "The Commission is watched from all sides in Europe, and […] if anything comes out of the Commission, in a way it is carved in stone. That is why decision-making needs to be carefully prepared, and that is also why the people working at the Commission need to be extremely aware that what they say is not just taken for granted as their private opinion." (Official #32)

In vignette 2 we also see public image arguments playing a role in the way Commission officials think about whistleblowing. It is significant that none of the interviewees mentioned external receptors (e.g.: the press) as a feasible option for making disclosures. In fact, most officials expressed a preference for a "local" solution to the problem presented in the vignette (i.e.: consulting the superior, or another colleague). These answers may be expected, since the scenario does not depict an explosive issue, and, as explained before, the *SR* encourage following the hierarchical line in reporting wrongdoing, and exclude the possibility of external whistleblowing. However, if we look closer at the way reporting is justified, it is clear that officials would not go outside the Commission (or the sphere of the EU institutions) even if the wrongdoing was very grave. This kind of move would be counter-intuitive for those who see

reporting as the right thing to do *for* their organization and team (see the "other"- oriented discourse described above), while for officials who stressed self-interest, going against the organization at their own expense would not make sense. All of this suggests that disclosures, even well-founded, are problematic if they publicly damage the Commission. As one official explained: "you owe allegiance and solidarity to your system. You're not supposed to – in the first place – try to damage your system" (Official #18). This is important, because in the extreme – where problems are systemic and resistance to change is high – whistleblowers have little choice but to step outside official channels. Also, oftentimes, it is this kind of disclosures that are the most effective – as proven even by the Commission's own experience with whistleblowers.

As argued in Chapter 3, the other central feature in the Commission's internal communication about ethics was the focus on explaining the relevant regulations, and their correct interpretation. From this perspective, it is significant that many regular officials brought up this subject. Thus, with vignette 3, a little over half of the interviewees mentioned rules on accepting gifts and such from external parties – in most cases, this was the 50 EUR threshold. Also in vignette 3, many interviewees explicitly mentioned that they would consider whether the information they release to external actors is already in the public domain – which is exactly what Art. 17 *SR* stipulates. The important point here is that the reference to regulation was not prompted by the interviewer – in these conditions, its appearance means that rules genuinely enter the officials' reasoning around ethically ambiguous situation.

Finally, and perhaps surprisingly, the officials' divergent positions on the vignettes are also indicative of the influence of organizational ethics policy. This is the case because the element of risk is so centrally featured in these divisions. To recapitulate some of the points previously made, the strict and flexible positions differ in the appreciation of risk – while the former portrays compromise (i.e.: accommodating different values) as risky, the latter does not. With the second divide (between self-/ other-oriented positions), reporting itself is seen as a way of avoiding risk – the difference being whether this risk is seen as affecting primarily oneself, or

others. Therefore, the important point is not so much that Commission officials have different views on ethics, but that it is on (certain aspects of) risks that they disagree about. This means that, overall, being ethical has a lot to do with saying safe – even though individual preferences vary on where and how to draw the line. The centrality of risk proves that, on the Commission work-floor, ethics is framed in line with the compliance-based logic, where ethical behaviour is largely equated with staying out of trouble. And this, in turn, is a reflection of organizational communication, which focused on avoiding mistakes (by paying attention to rules, and for the sake of the Commission's institutional reputation).

5.2. Ethics as "common sense"

Most interviewees reported that they had participated, at some point in their career, at a work event dedicated to ethics – in most cases, this turned out to be either a specialized training, or a session in a more general-purpose training, or simply a presentation held by ethics experts. Other respondents remember having used internal literature on the subject – be it an ethics guide/ brochure, or the Intranet pages dedicated to ethics. All of this is a clear indication that ethics has gained a more consistent organizational profile in the Commission, and that the large-scale awareness-raising efforts started with the *Ethics Communication* have indeed reached the work-floor level.

This being said, many officials believe that ethics policy instruments have limited usefulness for their work. More often than not, the content of these trainings, presentations and guidelines is labelled as "common sense" – with the implication that content-wise they are at least partially redundant. As some officials have aptly explained:

> "These things are good, because they make you aware of the environment that you're in, but from what I recall it didn't alert me on anything I wouldn't naturally know, or naturally do." (Official #32)

> "In the beginning, I received a short booklet on that, and then I remember I read it, and there were no surprises, everything was for me logical." (Official #14)

On the other hand, those who have not participated in ethics events do not feel they have missed much. Again, ethics is about common sense – and if that somehow is not enough, one can easily get an idea of what goes and what not just by observing colleagues:

> "But I feel clean in the way that I approach my job and the way I do things, even if I've never read this code, but I should. […] I've never read the codes because I think there are things that are simple, just a good sense of behaviour." (Official #3)

> "Somehow, being in this environment, with time you develop a sensitivity to this, and I simply follow that. I don't think I ever went to a course, maybe I did, but I don't remember." (Official #22)

Moreover, in some cases there is frustration with the bureaucracy created by new ethics regulations, which seems superfluous, if not insulting. As one official explained:

> "We are now asked to make a declaration of possible conflict of interest for very small amounts of money or shares we may have. So, they think I'm going to be not loyal and to risk my career because I have 500 EUR of shares in this company, which I never look at… OK, I have to declare them; it's good to declare them. But the problem is that all this generates red tape." (Official #1)

Ethics is described as "common sense" even by internal experts (Ethics officials #7, #10, #8, #17), and the point is made also in official ethics literature. For example, an ethics brochure in DG COMP opens with a forward by the Director General, stating that "in most cases, dealing correctly with ethics is above all a question of common sense and open communication" (Commission 2011: 3).

Given the frequent appeal to ethics as a "common sense", it is useful to further unpack the concept. As a wrap-up to the interview, all regular officials were asked to succinctly define what being an "ethical" official meant for them. Broadly speaking, answers may be grouped around two positions. One group described ethics as a personal, almost organic attribute. For these officials, ethics represents a "personal feeling" (Official #10), an intuition (Official #4), a sensitivity (Official #14), something which comes naturally (Official #30), something one gets from home (Official #13), or simply good character (Official #27). Here are a couple of illustrative statements:

> "I think in the end it depends on a person's character. For me – I have a very simple and intuitive method: if I manage to sleep OK at night, it means my conscience is clear." (Official #4)

> "To me it's really a personal thing, it's something that… if a person has the ethics, or the morality in him, then he would have it whether he is a Commission official, or somebody else." (Official #27)

> "For me, ethics is something that you cannot gain by working here or there. Ethics is something that you get from home, and if you don't have that background, from home, then it's very difficult to absorb a different culture." (Official #13)

In this optic, ethics is conflated with, or at least draws heavily on one's own personal (private) morality. The other group of officials offered definitions of ethics which had at their core the avoidance of conflicts of interests. Here, ethics is construed in terms of public role responsibilities, as it has much to do with putting the public interest above your own (Officials #2, #24, #12), and being loyal to your organization (Officials #22, #26, #19), being mindful of a higher mission (Official #9), and guarding one's independence (Official #31). For instance:

> "It comes down to looking at the higher mission and aim that you have. […] if you're going to work here for the EU, you should have a view that it is not just about you, not just about your country, or a particular directive, or interest, that you're here for a particular reason." (Official #9)

> "[M]aking sure that you are independent in your work. That's the condition to be respected by the public. If you want to deliver a good service, you need to be independent and above any suspicion." (Official #31)

These differences are interesting, because they demonstrate – as the vignettes have also done – that there are nuances and diversity in the way Commission officials think about ethics. But whether it is seen as a matter of intuition and personal conscience, or as the golden rule of forswearing personal interests, ethics seems to be something rather basic. And this is, indeed, the main idea behind the "common sense" label – that ethics is easy, accessible, and that people somehow already know which behaviour is acceptable, and which not.

Is ethics really something so obvious as to reduce it to common sense? Objectively, there is some truth to this description, if one looks at ethics as designating the core values of civil service – independence, objectivity, loyalty, transparency, and the like. These notions are fundamental to modern day democratic order, and it would be hard to imagine that anybody who

has come to be employed in the European Commission would not know, or accept them. From this perspective ethics is indeed common sense. This thesis, however, has examined ethics in ambiguous contexts, where it is more difficult to judge what constitutes ethical behaviour. As the vignette analysis has shown, in these contexts Commission officials do sometimes take divergent positions on where to draw the line between what is acceptable, and what not. Here ethics seizes to be obvious and commonsensical, otherwise there wouldn't be any variation.

Therefore, the point to take away from this discussion is that ethics is *perceived* as common sense, which means that there is an assumption, within the Commission, that staff shares the same basic values. From this perspective, the Commission's ethics policy appears to be at least partially redundant, and is not *perceived* as affecting officials' thinking about ethics – although, as demonstrated before, there are clear indications that this is, in fact, happening. Whatever influence exists, it is rather surreptitious. An investigation of causal mechanisms can reveal why this is the case.

5.3. Discussing about ethics

It is useful to start the discussion on causal mechanisms by observing that Commission officials have a certain disposition to talk about ethics. Almost all respondents remarked that, if confronted with a dilemma, their first reaction would be to turn to their superiors, and/ or colleagues. In these circumstances, consulting the regulations, or the ethics specialists is seen as the less convenient option: "[…] if I have any doubts, I will ask the colleagues, because I don't have time to read 100 pages, I'll just ask somebody who knows, it's faster" (Official #4). On closer inspection, it appears that these discussions about ethics are framed in two very different ways, revealing a mixed bag of motivations.

On the one hand, there are officials who make the point that discussing ethically ambiguous issues is conducive to better solutions:

> "I believe that by shaking things, by moving them, by asking people around what do they think, that I will find a solution. So I would go and ask, or discuss the issue with someone that I think has confidentiality, trust, and also knowledge." (Official #30)

In this context, it is important to have a good relationship with the interlocutor. Indeed, many officials (Officials #16, #20, #32, #2, #6, #26, #30, #23, #27, #9, #13) believe that within their units there are people who could be approached, because they "understand", and can be trusted. For example, this is how a DG ENV official describes one of her superiors:

> "I am in a very privileged position, that we have a very experienced, and with a very top moral stance deputy – at least that is how I see him […] He's someone I have a lot of trust in, and also he's somebody you can rely on that it would not go any further, it would stay with him." (Official #13)

The remarks of a Head of Unit in DG COMP go along similar lines:

> "I think we, in this Directorate, have excellent relationships with the hierarchy, and perhaps if there's a small-scale dilemma, I would talk to my deputy Head of Unit, and ask for his opinion, and see whether we can solve it among our unit, or among the person involved, him and me. If it is of a more general interest, I would always talk to my immediate superior, who's the Director, with whom I have a very good personal relationship, so that means that I can really openly discuss these things, reveal when I have doubts and look at her for guidance, so I would not need to fear that I am overruled in a way that I would not agree with, or I could not understand." (Official #32)

On the other hand, there are also those who find that bringing up an ethically charged issue is the prudent and safe thing to do. In this logic, the issue is not so much negotiating a good solution, but passing along (or at least sharing) the responsibility of taking a decision. This kind of approach appears often in discussions around the vignettes. Thus, on vignette 1, many (Officials # 8, # 16, # 24, # 28, # 32, # 2, # 10, # 30, # 5) believe that the character (John) should double check with the hierarchy before attending a conference in private capacity. This is framed as prudence:

> " […] since he knows that the Commissioner made a press statement, then he has to be pro-active and ask: 'what do I do?' Because it's also in his best interests. He has to go and ask: 'do I still go on with this, do I change the message, do I cut to the part on which we can agree?' " (Official #5)

The same is true of vignette 3, where officials have often indicated that they would consult a superior before releasing internal information, or simply refer stakeholders to a superior (Officials #1, #8, #12, #2, #26, #34, #11, #15, #19, #23). The reason is also prudence:

> "There can be situations where you can give some level of info, but not all. It really depends, sometimes you do it, and when you give info, it's always best to have the backing of your hierarchy, so you are sure." (Official #1)

In other words, talking about ethics takes the edge off the individual, and makes it everybody's problem. As one official has aptly explained: "sometimes, it's very comfortable being in an organization, you just go to your boss, and then it's their problem" (Official #2). Along similar lines, another official looks back on a difficult case he handled in the beginning of his career, and concludes that the best advice he ever got was to "shout" when things got tough:

> "[I]t was at that point that I got the best advice from [boss], she said to me: 'when you're in trouble here, shout! Because then it's not only you who's struggling with this problem, it's everybody else'" (Official #20).

These observations clearly show that Commission officials have a certain predilection for discussing ethically sensitive issues, particularly within their units. In the absence of a more consistent recourse to the instruments in the ethics policy arsenal, it would seem that shared understandings of ethical behaviour are forged in this kind of interactions. Officials "learn" their ethics by discussing problems with their peers and superiors. Talking about ethics, however, is supported by a double set of motivations – on the one hand, finding an optimal solution (this type will be labelled "common solution-seeking"), and, on the other, diffusing responsibility (this type will be labelled "passing the hot potato"). These motivations are mutually re-enforcing (i.e.: an official might be interested to talk about an ethically-charged situation to both solve it in an acceptable way, and get him/ herself covered), however the quality of the interaction may vary depending on which type is prevalent.

This being said, for the research question pursued in this thesis, it would be important to establish whether these discussions about ethics are linked in any way to organizational factors and, in particular, to the Commission's ethics policy framework. This seems to be, indeed, the case. On the one hand, interviews have shown that the dialogue between unit members, and with superiors, is a standard approach for problem-solving in the European Commission. This is evident in the way officials recollect the beginning of their careers in the European Commission, and the process of becoming accommodated within the organization. Looking back, the majority

feel that their colleagues were the most useful resource in understanding how things are done in the Commission. Newcomers seem to enjoy an open doors policy, deemed as key to becoming an operational member of the team:

> "[…] the colleagues here are very open, very nice, a productive and informal friendly working environment. Would I change? I would really think twice about that. It's no problem at all to walk into anybody's office and say: 'I have this-and-this problem'. For newcomers, especially for newcomers – when I arrived, they said: 'come and ask me, no problem about that', if they're busy, they tell you anyway, saying 'don't come now, come in two hours, or come tomorrow, or let's have lunch together' – something like that." (Official #8)

From this perspective, the discussions about ethics seem to fit a broader norm of how things are done in the Commission. If officials turn to their immediate work circle for solving problems and "learning the ropes", it makes sense that they would proceed in the same way when confronted with a potential ethical problem.

But it is not just this cultural feature of Commission life which supports discussions on ethics. The influence of policy interventions is also visible. Namely, the Commission's increased preoccupation with ethics, and in particular the large-scale awareness-raising actions implemented over the last years under the banner of the *Ethics Communication*, have rendered ethics into a more visible and salient topic in every-day work-life – which was not the case before. The novelty of this increased attention towards ethics is confirmed by the Commission's experts. They list awareness among staff members as one of the most important achievements of ethics reforms (Ethics officials #8, #9, #10, #14, #20, #21, #22, #24, #25), and ethics correspondents consider it the most significant change in their respective DGs (Ethics officials #6, # 7, #9, #18, #19). Some took the increased number of questions they receive from staff (even on immaterial aspects) as an indication of this transformation (Ethics officials #7, #18, #16). Certainly, these testimonies coming from ethics experts are of limited value, given that they are largely based on subjective perception and limited experience. Moreover, as pointed out already in Chapter 3, internal experts are prone to bias and over-appreciate the impact of their work. Having acknowledged that, their assessments regarding amplified awareness are in line with the experiences of regular Commission officials, who, as shown above, have participated in ethics events, and used internal

ethics guidelines – which means that they have indeed experienced more ethics "talk" in recent years.

But more awareness is only part of the story. Going more into specifics, there are certain features of the Commission's ethics regime which encourage discussions about ethics. As shown in Chapter 4, the *Staff Regulations* impose numerous restrictions, and an obligation to ask for authorization on a good deal of issues. For officials on the work-floor, this means that it is better to check before doing something which may turn out to be problematic. This, in fact, is exactly the message coming from the Commission's ethics bureaucracy, and internal guidelines: to apply prudence and circumspection, and to always consult when in doubt. In these new circumstances, ethics is red-flagged. For employees it simply becomes unwise to sit on ethically sensitive issues, and they will share them with superiors and/ or colleagues, whether driven by self-interested or more altruistic motives.

To state the argument more concisely, the Commission's ethics policy arsenal does impact on officials' thinking about ethics, but largely in an indirect way. Content-wise, it does not bring much new to the table, as demonstrated by the frequent reference to ethics as common sense. From the perspective of regular Commission officials, ethics appears to be obvious enough, whether they think of it as a matter of intuition and personal conscience, or as the golden rule of forswearing personal interests (by putting first the public interest, a "higher mission", or loyalty to the Commission). Judged from this angle, ethics is not something which should (or could) be taught as such. The Commission's ethics bureaucracy seems to acquiesce on this point, since they themselves often describe ethics in terms of common sense.

However, ethics policy interventions and, in particular, the wave of awareness-raising and guidance activities prompted by the *Ethics Communication* did succeed in problematizing ethics, i.e.: making an issue out of it. As such, it gets picked up in internal discussions. Interviews have shown that Commission officials have a certain disposition to talk through ethically sensitive, or unclear issues, and that they would do so most likely with their colleagues and/or superiors. This

is an important point, namely that when in need, Commission officials seek ethics guidance not from official sources, but from other people, preferably the ones next to them. Trust plays a role here, as do self-protection and, simply put, convenience. These dynamics demonstrate that, whatever influence organizational ethics policy may have, it will be mediated by the human environment in which officials are placed. This also largely explains why ethics policy instruments are not seen, by Commission officials, to be particularly relevant, or useful for their work.

The most immediate evidence that ethics policy gets filtered through the "human factor" is the fact that officials frame differently their discussions about ethics – on the one hand, an altruist type (i.e.: common solution-seeking), and on the other, a self-interested one (i.e.: passing the hot potato). One may speculate that the outcomes of these discussions will differ depending on the relative prevalence of these two motivations, as it is likely that only the first type can really sustain genuine debates (and common sense-making) about what being ethical means, and where the boundaries are drawn. However, the exact mix of motivations will be determined by the personalities of those involved, the quality of the relationship between them, and, more generally, the work atmosphere in their units. It is largely not influenced by the Commission's ethics policy.

5.4. Conclusion

This chapter was dedicated to exploring the impact of ethics policy on the work-floor of the Commission. It has been shown that it shapes officials' views about ethics in an indirect way. That some influence occurs is evident given that employees have largely the same notions about ethics and, more than that, because there is an overlap between messages coming from the official framework, and the positions that they express. The fact that risk appears so often in the interpretation of the vignettes is also significant. Even though the officials disagree over it, it is clear that the terms of the discussion are set in accordance with the Commission's compliance-based ethics system, where being ethical has much to do with staying safe.

However, ethics is frequently described as a matter of common sense. This suggests an interesting situation, where ethics management instruments – without being ineffective – are not perceived as particularly relevant in everyday work-life. This lack of perception is explained by the rather subtle influence of policy. Namely, the Commission's ethics management efforts have an impact because they put ethics on the map, and so the topic gets picked up in internal discussions. Commission officials prefer to seek ethics guidance from their colleagues and/or superiors, and not from official sources. This means that ethics management works somehow through the back door, and its influence is mediated by the human environment in which officials are placed.

This finding is consistent with the point made in organizational socialization literature (elaborated at length in Chapter 1) that individuals prefer to seek information from peers and superiors, rather than official channels. What we see in the Commission's case is actually the interplay between formal and informal learning sources – more specifically, the formal sources trigger appeal to the informal ones. Commission officials experience official communication on ethics, and they do gleam something off it. However, when actually confronted with an ethically sensitive situation, the preference is to turn to their immediate circle. And it is probably those situations, when information is sought out proactively by employees, which are the most fruitful as an exercise in learning ethics.

Before concluding, a disclaimer made in Chapter 2 should be re-stated. Namely, owing to the fact that all those who participated in interviews had volunteered to do so, there is a possibility of bias in the sample. It may contain only officials who have a certain interest in ethics, or are convinced of its importance, and only units with good work relations and a clean history. This means that the ethics discussions reported so widely here may not necessarily be the rule everywhere in the Commission, and would certainly be less likely in units with a more tensed atmosphere. Therefore, it would be more correct to conclude that the causal mechanism described in this chapter applies only in the presence of supporting conditions.

CONCLUSION

This thesis has analyzed the European Commission as a case study in ethics management, and sought to determine how the ethics policy of this organization influences its employees' views on public ethics. The focus of the investigation was on the process aspect, i.e.: uncovering the mechanisms by which influence occurs, rather than ascertaining the net impact of the policy interventions. Two secondary research questions were pursued, which served as stepping stones for answering the main one. The first of these referred to how the Commission developed and implemented its ethics policy system, while the second aimed at mapping the views that its employees hold about public ethics. In what follows the main findings of the thesis will be reviewed, spelling out the contributions made to the literatures on ethics management, and EU integration respectively.

Summary of findings

Chapter 1 presented the analytical framework of the thesis. It was established that "ethics" has a situational character, referring to appropriate behaviour in public office. As such, it may be equated with public role morality. The parameters of "ethics" are defined by reference to the core values and standards of behaviour which ground the operation of the civil service (i.e.: objectivity, impartiality, loyalty etc.). From the perspective of the individual civil servant, ethics becomes significant in those situations of choice where the values and standards mentioned above are likely to be jeopardized. The ethical dilemma is one such choice situation, which is particularly interesting because it features two (or more) values which are in conflict, thus making it difficult to judge what the ethical course of action is. In this thesis, Commission officials' views were elicited in the context of ethical dilemmas – namely, three dilemmas were included in the interview guide, in the form of written vignettes.

Chapter 1 also dealt extensively with ethics management, understood as "a systematic and conscious effort to promote organizational integrity" (Menzel 2005: 29). Within an organization, ethics management is expressed through an "ethics infrastructure", an umbrella term which covers a range of institutional structures and procedures that, taken together, fulfil four complimentary functions: defining, guiding, monitoring and enforcing integrity. The principal analytical device present in the literature is the compliance-integrity continuum, which suggests, in a nutshell, that (organizational) ethics management works by creating the right combination of incentives and norms, thus simultaneously discouraging misconduct and encouraging good behaviour.

Although the compliance-integrity continuum was kept as a reference point throughout, the analysis on ethics management was done mostly through a different theoretical perspective, namely organizational socialization. OS is understood as a process of social learning through which an individual comes to appreciate the knowledge, values and expected behaviours associated to an organizational role. In this perspective, ethics becomes something that – like other parts of the (public) role/job – can be learnt. An organization's ethics policy is one of several sources which can be used in this endeavour. Framing policy as a "learning source" meant, for the purposes of this research, that the Commission's ethics infrastructure was examined so as to uncover the messages which it sent to organizational members.

Chapter 2 introduced the reader to the European Commission, and explained choices of research design, which tailored the project to the specificities of this organization. Semi-structured interviews were conducted with 30 officials. All of them were selected from the "policy" DGs of the Commission, which are more interesting from an ethics perspective, because they display the full range of issues confronting the organization. Further selection criteria were determined, largely by reviewing existing research on the Commission. Four central variables were picked out, deemed to make a difference in the process of socialization, specifically with regard to the subject of ethics. These are: nationality, organizational position, type of employment, and professional background. The respondents' group displays variation along all these coordinates – thus, it can

be considered a maximum variation sample, which reflects, in a balanced way and within some pre-defined limits, the heterogeneous nature of the European Commission staff.

Chapter 3 provided an empirical account of the ethics management system which applies to the European Commission services. Methodologically, it was based on document analysis, as well as 25 in-depth interviews with internal ethics experts. In line with the theoretical perspective established in Chapter 1, the main purpose of the analysis was to uncover what the organization communicated internally, to its employees, on the subject of ethics. The analysis covered official documents, but also the internal administrative practice connected to ethics management, as well as the context (historical and political) of the Commission's ethics reforms. Findings show that internal communication featured two central, inter-related messages – rule awareness and care for the Commission's public image. Namely, ethics was justified to officials as a means of keeping a good institutional reputation – which meant that they, as representatives of the Commission, were expected to conduct themselves beyond reproach. The best way to do that was to exercise an attitude of prudence towards ethics questions and, importantly, to be aware of the Commission's regulations in this area, and to stick to them.

These messages are explained by contextual elements. The emphasis on public image is essentially due to framing ethics reforms as a cure for corruption (and, implicitly, for the negative publicity associated to it). This perspective made sense in the aftermath of the Santer resignation, when ethics entered the Commission's agenda, and was reinforced in later years by several less damaging scandals, and also by the more intensive public scrutiny to which the organization was subject. The emphasis on rules is due to the fact that the Commission's ethics management approach for the services remained compliance-focused, despite efforts made, during Siim Kallas' mandate, to more to a softer, value-based style.

Chapter 4 offered an account of how Commission officials think about ethics in public office. Findings show that they share much common ground in the ethics area. The consensus is around a pronounced sense of loyalty to the Commission, which appears to be the core value in

the moral system of the EU civil service. Beyond this, however, at a secondary level, there is space to express divergent opinions. There are two axes around which differences are structured. The first of these is represented by the orientation towards compromise in the face of conflicting public values – here, there are two positions: a "strict" one, where the preference is to choose univocally one value over others, and a "flexible" one, where the preference is to find a way of accommodating the values. The second axis refers to justifications for discussing (potential) ethical problems – here, again, there are two positions, one where self-interest in stressed (i.e.: reporting as a safe thing to do for the one who has come across a potential problem), and another which emphasizes the larger issues at stake (be it the interests of the official's team, or those of the Commission, or the fact that consultation achieves better solutions).

The type of sample used here makes it difficult to determine which factors are behind these (second-order) differences. However, it is plausible that they have a lot to do with personal preferences and sensitivities regarding the handling of risk, which is the central element in the divisions discussed above. A tentative exploration on the role of nationality showed that it does not seem a useful explanation for the observed differences – what might matter instead is the time when officials have joined the Commission (specifically, before or after the Kinnock reforms). On the other hand, officials' organizational positions seem to be important, but hardly in a systematic way. Rather, what the data suggests is that DG COMP is an outlier within the Commission. Its sharp functional specialization on enforcement, the outstanding powers it enjoys, and its procedural framework, which is exceptionally strict, are all factors which shape officials' perception regarding external actors, and the appropriate relationship with them. Unlike officials from other DGs, those who work in DG COMP seemed to be more concerned about protecting the Commission's position, and controlling information flows, and mentioned less frequently the need to have a two-way dialogue with external stakeholders.

This being said, what should be emphasized about Chapter 4 is that it has revealed a great deal of convergence in the way Commission officials think about public ethics. One of the reasons

the European Commission was considered a significant case study was precisely the fact that the heterogeneous nature of its staff would have predicted such a convergence to be less likely. The Commission, it was argued, was a *hard case* in ethics management. The existence of common ground, therefore, is significant. Certainly, the commonalities – to the extent that they have emerged within the organization (and Chapter 2 has warned against over-stating heterogeneity in the Commission's recruitment pool) – are the product of a more complex process of organizational influence. But it is reasonable to conclude that, as part of this process, the Commission's ethics policy has, to some degree, shaped its employees' views on the subject.

In fact, if a closer look is cast on the divergent stances mapped above, they are telling of the influence of the system of ethics management. This is so because the disagreement relates to certain aspects of risk – which demonstrates that, overall, in the Commission being ethical has a lot to do with saying safe (even though individual preferences vary on where and how to draw the line). The centrality of risk proves that, on the Commission work-floor, ethics is framed in line with the compliance-based logic, where ethical behaviour is largely equated with staying out of trouble. This, in turn, is a reflection of organizational communication, which focused on avoiding mistakes (by paying attention to rules, and for the sake of the Commission's institutional reputation). In fact, the twin messages of rule awareness and care for public image were explicitly reflected in the officials' comments around the vignettes.

Building on these findings, Chapter 5 has explored the mechanisms by which ethics policy comes to influence Commission officials' views. These are not straightforward. Most interviewees have directly experienced ethics trainings, codes and the like, and they do gleam something off them, in the sense of adopting the "spirit" of what is being communicated. Nonetheless, the frequent characterization of ethics as a matter of "common sense" shows that these policy instruments are not perceived as particularly relevant in everyday work. They transmit something which is, somehow, already known. Furthermore, when ambiguous situations

occur, officials report a preference to seek ethics guidance from their colleagues and/or superiors, and not from official sources.

All of this shows that, ultimately, the Commission's efforts in this area have an impact because they put ethics on the map in the internal organizational life. What is actually being achieved is the problematization of ethics – by setting up organizational structures and instruments which are expressly dedicated to it, by enhancing communication about it, by preaching an attitude of cautiousness towards it. This red-flagging – staking out ethics as an "issue" – causes ethics questions to get picked up in discussions within administrative units, which represent the standard approach for problem-solving in the European Commission (at least for the hierarchical levels covered in this research). Thus, one may speak of an indirect influence of organizational ethics policy, which is heavily mediated by the human environment in which officials are placed.

Contributions to the ethics management literature

This thesis began by noting that nowadays ethics management represents a best practice standard (for public and private organizations alike) – and yet, despite its popularity, little is known about how this type of policy impacts on organizations, and on the individuals working therein. A lot of empirical research is dedicated to mapping the policy instruments and approaches associated to it, but this tells us more about what ethics management is – rather than how it works. The thesis, therefore, made a contribution to this less researched aspect, by analyzing the case of the European Commission.

The findings, briefly summarized above, demonstrate the limits of what can be achieved through ethics management. In the complex ethical landscape of the European Commission, ethics policy is just one of several factors which shape officials' thinking on ethics. On the one hand, individual-level attributes matter. Even though, as March and Simon (1993: 22) note, organizational roles are, by their nature, highly constrained (and ethics certainly is heavily

regulated in the European Commission), a space of autonomy still exists, which allows officials to appraise certain details and nuances of a quandary based on their personal sensitivities. On the other hand, earlier observations regarding officials' propensity to discuss through ethically sensitive issues draw attention to the importance of leadership and role models. This preference for turning to one's immediate work circle means that individuals "learn" their ethics (at least partially) from the people around them – not only by talking to them, but also (presumably) by observing their example.

This being said, there are developments in the Commission which are very likely effects of ethics management. Namely, nowadays the topic has salience and visibility in organizational life. Commission officials do demonstrate ethics awareness, in the sense of being careful about it, and they do have a predilection for sorting out ethically-sensitive issues through internal discussions/ reporting. But it would be incorrect to interpret the above solely as effects of policy interventions. For instance, the officials' attention towards ethics would not have been so marked had it not been for a pre-existing ethos of loyalty to the Commission. To be clear, the idea that strong ethics was crucial for institutional reputation, and that mistakes in this area hurt the Commission, resonated well with a civil service who had traditionally exhibited strong attachment to their "House"[102]. Along similar lines, there would probably not be (so much) internal "talk" about ethics, if it weren't for the pre-existing cultural norm which held that problems (of various sorts) should be reported/discussed, preferably with one's superior. The external pressures faced by the Commission were also important, but this is a point which will be covered later on.

The lesson, then – in very simple terms – is that policy impact is contingent on the cultural features of the organization. Although unsurprising, this is a crucial point to be taken on board in ethics policy design. The findings of this thesis reinforce it, but they also draw attention to the need for more sophisticated theoretical tools, which could better inform us on what an ethics management system responsive to local cultural conditions might imply. The Commission's

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[102] For instance, Shore (2000) has documented that EU civil servants demonstrate a marked sense of loyalty towards the Commission.

example highlights as particularly relevant the norms and practices connected to problem-solving, but it is likely that other aspects will matter as well. The arguments made here, on the subject of improving analytical tools, go along similar lines to Maesschalck's (2005) (unfortunately, rather lonely) contribution. Demonstrating the poverty of the compliance-integrity continuum as a conceptual device, the author proposes to enrich it by including insights from anthropology – grind-group theory[103], more specifically. Thus, compared to the conventional approach, which tends to focus solely on the intensity of regulation (i.e.: the "grid" dimension, in the language of grid-group theory), this new perspective is sensitive to the patterns of interaction between organizational members, and, thus opens up spaces for more nuanced managerial strategies.

Another point which merits further debate is the key role of leaders and work peers. The theoretical perspective used in the thesis has served to better highlight the interaction between ethics policy and other organizational-level factors. What the findings show is that formal learning sources are not effective – or, more precisely, they are not *perceived* as effective – in directly informing individuals' views about ethics. They do, however, trigger recourse to informal learning sources (i.e.: peers and leaders). Significantly, Commission officials' preference to seek counsel from their immediate work circle (in parallel to, but mostly instead of using formal sources), is actually supported by rather strong incentives. To them, this solution is simply more convenient, but also safer (because reporting a potential problem provides "cover", but also because they are more likely to find trustworthy people among close colleagues). Since it is hard to imagine that these incentives are a peculiarity of the Commission, the preference towards informal learning sources is likely to be found in other organizations as well. In fact, this is one of

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[103] *Grind* refers to "the degree to which an individual's life is circumscribed by internally imposed prescriptions" - the higher the grid, the less space for personal discretion in decisions; *group* refers to "the extent to which an individual is incorporated into bounded units" - the tighter the incorporation, the more individual choice is subject to group determination (Thompson *et al.* 1990:5, cited in Maesschalck 2005). The grid-group theory was originally developed by Mary Douglas (1978). Maesschalck (2005) builds on Dunleavy and Hood's (1994) operationalization of this theory in the context of public management. The author describes four strategies of doing ethics management, corresponding to Dunleavy and Hood's styles of public administration (fatalist/ management by contrived randomness; individualist/ management by competition; hierarchist/ management by oversight and review and, finally, egalitarian/ management by mutuality). As with compliance-integrity approaches, the prescription for practitioners is to ensure a mix between the four management styles, calibrated to local circumstances.

the central predictions of the OS literature (see, for instance, Copper-Thomas and Anderson 2006).

On the other hand, these findings show that, within the Commission, middle managers are the main go-to points for the resolution of all sorts of problems, including those with an ethical content. Interviewees have hardly mentioned consulting with an ethics correspondent on an ethical dilemma (at least not as a first option), although, reading the *Ethics Communication*, one gets the impression that this is precisely the purpose for which the post was set up. Instead, the preference to talk to immediate superiors proves that, in fact, the highest demand for ethics guidance, as well as authority to speak on ethics, is located at the level of middle management. Moreover, this is a role that incumbents accept – for instance, one Head of Unit I interviewed remarked that "the boss should make clear that whenever there is a problem, he is there to protect his staff. I think that, fundamentally, the nature of the boss is to allow his staff to work in a bubble of serenity" (Official #16).

All the above points should be balanced against a limitation of the thesis, which comes from the sample used. Namely, this sample covers only a certain hierarchical level in the Commission – mid-management (Head of Unit) and below. The thesis found that the standard for problem-solving is reporting/discussing within the unit – a fact which meant that, once reforms had put ethics on the map, it would get picked up in this type of dialogue. But things may be different at the higher levels of the Commission. Arguably, for those in senior positions, it may not be acceptable, or possible to consult/ report in the same way as those in the lower ranks do. After all, they are the ones expected to take decisions (authoritatively), rather than pass them up the hierarchical chain of command. Moreover, the senior officials can afford to rely more on their own experience when drawing the line between ethical and not ethical. Another aspect, mentioned already in Chapter 2, is that due to the selection method, the sample may contain only units with supportive leadership and individuals with a more keen interest in ethics. This, again, cautions against over-generalizing findings. For instance, it is less likely that people would be willing to

ask for advice, or even report a "hot" situation to cover themselves, if their Heads of Unit are not supportive, accessible, or interested in ethics.

Moving on, another important finding of this thesis, which deserves further consideration, is that historical and political circumstances are key for shaping the character of organizational ethics management. In the Introduction, I pointed out that, although there is a widespread trend (in the Western world) to move from compliance-based to softer, value-based approaches, this type of transition is rarely documented in the literature. The European Commission has experienced it during Siim Kallas' mandate, who attempted to bring the ethics management system in the Commission services closer to a "modern" style based on guidance and shared values.

Chapter 3 has demonstrated that what this change agenda eventually achieved was a diversification of ethics management instruments, without, however, changing the core philosophy of the system, which remained compliance-focused. This half-baked switch is explained by path dependence: because during Kinnock's mandate ethics reforms came on the heels of public scandal and criticism, a relaxation of controls – even after the storm had passed – proved politically unfeasible. The risk was that the Commission would be perceived as letting its guard down on the ethics front. Since – as argued in the Introduction – the Commission is far from unique in adopting a hard-line approach to ethics management in the aftermath of corruption scandals, its example is relevant for a wider population. Namely, it raises serious doubts regarding the prospects of truly changing an ethics regime borne out of such circumstances. The initial framing of ethics as a cure for corruption rather than a resource for staff seems to firmly set the tone for the future, by diminishing the political profitability of moving to a high-road style later on.

On a deeper level, the European Commission's evolution has highlighted the profoundly political character of ethics reforms, an aspect which is acknowledged but rarely developed in the literature (but see Dobel 1993 for an exception). As the Commission found itself under increasing scrutiny for its standards of conduct, ethics became a liability in its political confrontation with the

European Parliament. The Parliament was quick to capitalize on the Commission's ethical failures, all of which represented opportunities to assert itself as *the* democratic force in the EU institutional order. It is, in fact, remarkable how much in the Commission's ethics management system is explained by inter-institutional politics. Thus, the Kinnock reforms (with their focus on control) followed closely the agenda set by the CIE reports – implicitly, by the European Parliament. Later on, Commissioner Kallas' *Ethics Communication* (with its proposed change to a "high road" style) was infused with political significance, representing the Commission's way of taking charge of ethics in its own back yard, and thus minimizing the Parliament's space to pose as the anti-corruption champion. Finally, the Parliament is part of the reason why the Commission did not go through with all proposed changes – according to internal sources, the Parliament was keen on keeping a control-heavy system in place, and it had the institutional muscle to enforce its viewpoint.

The politics behind ethics reforms were fed by public image considerations. In fact, over and beyond the substance of the policy intervention, ethics in the Commission was (and still is) about public image and perception. The centrality of these concerns has several important implications. Firstly, it demonstrates the importance of external controls and public scrutiny for making ethics policy work. It is doubtful whether the Commission would have reformed (in the way that it did) had it not been for an incisive press, civil society watchdogs, and institutional actors which exposed its ethical failures and transformed them into political costs. Moreover, it is doubtful whether the reforms would have gained credibility and impact internally, had this reality not been communicated to staff members in very stark terms. On the other hand, over-emphasizing the utility of ethics for public image carries significant risks. For the Commission, this meant arriving at a situation where a higher premium was placed on how the organization *looked*, rather than what it *needed*. As argued before, the failure of the *Ethics Communication* to trim down – or, at the very least, streamline – regulations can certainly be interpreted along these

lines (i.e.: that cutting back on controls may have been necessary, but it risked sending the wrong message).

On a more general level, it is interesting to note how the main selling point of ethics management represents, at the same time, probably its most important weakness. As argued in the Introduction, these types of measures carry a promise (still in need of empirical evidence [104]) to increase public trust, or – perhaps more accurately – to prevent the kind of disasters which cause popular trust levels to plummet. This is why ethics management is alluring for organizations, especially in the aftermath of bruising corruption scandals. However, the link between ethics and public trust makes it likely that reforms will be no more than "window-dressing" in response to environmental pressures for legitimization. Again, this applies especially to organizations which resort to it as a form of damage control (which probably represent the majority of cases).

There is another interesting aspect connected to the centrality of public image considerations. Namely, the Commission's experience with ethics management proves that the compliance-integrity continuum is not a value-free analytical device. It actually has a symbolic load, which the Commission has employed strategically. Thus, Kallas' *Ethics Communication* was motivated by the need to align with international best practice, so doing value-based management was presented as the mark of a modern organization. As argued in Chapter 3, it was also about demonstrating maturity, namely the capacity to be pro-active about ethics instead of just reacting to external shocks. Finally, the proposed transition said something about the quality of the people in the organization as well. Take, for instance, this excerpt from Kallas' speech at an internal staff event:

> "I believe that a lively discussion on professional ethics is crucial. […] Common sense and values are often a more efficient guide than long rulebooks. So I hope that in our discussions on ethics we can reach agreement on key common ethical principles, which should help avoid scandals sending us into 'regulatory overdrive' ". (Kallas 2007: 10)

In subtext, this says that employees who guide themselves by "common sense and values" are superior to those who need "long rulebooks", in the same way as an organization who has

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[104] See Van de Walle 2008 for a useful analysis.

"agreement on key common ethical principles" is superior to one which resorts to "regulatory overdrive". In conclusion, compliance-based management is cast as the mark of a retrograde organization, which controls its employees by rules and punishment, while integrity-based management is the mark of a modern one, with decent people who are "ethical" by respecting values. This may be stating the point in very (too) harsh terms, but it is only to highlight the symbolic meaning in the Commission's move towards a "high road" style, which was meant to communicate – internally as well as externally – its value as an organization.

Re-casting the compliance-integrity continuum as a value-laden binary may well represent an abuse of this conceptual device for propaganda purposes. But it is worth noting in this context the tendency in practitioner-oriented literature to praise the merits of "high-road" ethics. Take, for instance, Jeremy Pope's arguments:

> "A compliance-based approach – 'The Low Road', looking for a precedent or a rule to govern every possible circumstance – is never going to get us there. Individuals need to be able to judge competently for themselves what is right, or the best of the available options, and likewise what is wrong, or unjustifiable – and to have the courage to act accordingly." (Pope 2008: 80-81)

This may be justified by the fact that in practice the compliance model has often proved to be the more convenient solution to which reformers turn (Roberts 2009). And there are significant dangers in over-focusing on controls, i.e. ending up with an overly complicated regulatory system, which is difficult to understand for employees and ultimately ineffective, because it will lack the flexibility necessary to respond to ethical dilemmas in practice. Given these circumstances, extolling integrity-based management may be justified, but the downside is that it creates the unfortunate suggestion that this type of system is normatively superior to compliance-based management. This is definitely not the case, since there are dangers in over-doing integrity-based management as well. As Gilman (2001: 4) notes, "integrity-based systems at their worst become systems of wishful thinking […] general, very abstract guides of performance, with no enforcement and no method for receiving advice or education".

Contributions to the European integration literature

This thesis has taken forward the body of research dealing with ethics at the European Commission. Among others, it has brought a chronological update to the existing contributions, most of which are limited to the Kinnock reforms. The thesis has demonstrated that during Siim Kallas' mandate (2004-2009) the ethics system in the Commission services has undergone important changes, meant to bring it closer to an integrity-based style. In concrete terms, the most important achievement of Kallas' *Ethics Communication* was building up ethics guidance for staff – among others, by providing specialized information on the Commission's Intranet, setting up ethics training programs and, most importantly, by creating the network of ethics correspondents. The scale and type of ethics activity performed nowadays in the Commission marks a radical change compared to the Kinnock years, which had left the guidance front largely uncovered (Cini 2007a). From this perspective, the conclusions of the existing literature deserve revision. On the other hand, however, while the policy repertoire has changed, the philosophy of the system remained the same, with the emphasis still being on compliance.

The thesis has explicitly steered clear of making any judgements on the ethical health of the Commission today, or determining any change in this respect, compared to the time before ethics reforms were implemented. It is, however, possible, without resorting to a diagnosis logic, or a before/ after comparison, but simply based on the available data, to determine that these reforms have had an impact. As demonstrated above, nowadays the Commission has an ethics infrastructure which is significantly more sophisticated that ten, or even five years ago. Ethics has an enhanced profile, within the Commission, and it is very significant that it is being discussed among "regular" staff members – or, at the very least, that Commission employees demonstrate a predilection towards doing so. As argued before, these discussions are not entirely due to policy interventions, but they would certainly not be there in their absence. On the other hand, it is noteworthy that in recent years the Commission did not experience corruption scandals on the scale of those that rocked it in the late 1990s and early 2000s. Perhaps, with ethics being on the

map, the organization is less likely to encounter this type of problems nowadays. All this is not to say that the Commission is a success story in ethics management, but merely to point out that its ethics revolution did make a difference.

Finally, in has been argued, at the beginning of this thesis, that the European Commission is a particularly interesting place for studying ethics management because of its supranational (*sui generis*) character. It seems appropriate now to re-visit this observation.

The Commission's ethics infrastructure is not unusual, from a comparative perspective – either in what regards the policy instruments being used, or the values and ethical standards being proclaimed. Therefore, there is hardly anything special about managing ethics at the Commission – with one exception: the political circumstances in which it is done. As argued in the Introduction, the Commission's ethics reforms have higher than average stakes, because the loss of legitimacy which comes from integrity scandals is amplified, in its case, by the pre-existing weak democratic credentials of the EU political system.

This being said, the point where the supranational character of the Commission makes most visibly a difference is its internal ethics environment. The case of DG COMP shows that functional specialization has an impact on how officials view certain ethics matters, which lends support to arguments in the Commission socialization literature that emphasize the importance of organizational structure for shaping decision-making and institutional identities. Indeed, this "portfolio logic" is visible in the area of ethics as well, although certainly not in a systemic way – in fact, DG COMP is most probably an outlier. As shown elsewhere, there are a number of factors which explain why in DG COMP there is less emphasis on a two-way communication with external actors, but all of these are related to its exceptional portfolio. Dealing with "the first supranational policy" (McGowan and Wilks 1995), DG COMP is simply unlike anything else in the Commission. Perhaps the distinctiveness of the place is best captured by the words of one interviewee, who noted that "in most parts of the Commission, their power is to propose

legislation, whereas we actually go around and enforce it. […] We've got the power to impose billions of EUR in fines – we're just different" (Official #2).

Final remarks

It seems fitting to close this thesis by further reflecting on the portrayal of ethics as "common sense". It was surprising to find this reference so widely used in the Commission – an organization whose staff is culturally diverse, and where, consequently, shared understandings cannot be taken for granted (particularly for a stretchy concept such as "common sense"). Therefore, analyzing its prevalence here may bring to light lessons with more general applicability.

In the thesis, I have argued that the widespread qualification of ethics as "common sense" denotes an assumption within the Commission that staff members already know which behaviour is acceptable and which is not. This, in turn, means that the organization's ethics policy is perceived to be (partially) redundant. Therefore, the problem is not that ethics management is superfluous (it is not), but that it is perceived as such.

While this interpretation holds, there are some additional details which make for a more nuanced and interesting picture. It is important to note that the Commission's communication about public ethics was not all just common sense. In fact, as shown in Chapter 3, a lot of effort went into popularizing and explaining regulations – which represent a type of knowledge that not everyone can be assumed to have, particularly when it comes to details. In fact, the Commission's ethics bureaucracy used the "common sense" label not to downplay the importance of the subject, but to make these regulations more palatable for staff. It was a way of normalizing and justifying them. For instance, a 50 EUR cap on gifts may come as a novelty, but it is justified because everyone understands that receiving gifts is not OK (that is just common sense). In this optic, the reference to "common sense" does not challenge the codification of ethics but validates it. It is a

way of presenting ethics in a more friendly way, as something familiar. And, from this perspective, the fact that ethics management *seems* superfluous is not actually a problem.

But whether interpreted in a positive or negative light, the fact that ethics gets the "common sense" label proves that managing it is not – to paraphrase Menzel (2001) – the same as managing budgets, policies or people. Common sense represents a set of basics norms – an intuition almost – which individuals acquire outside organizational life. They are then expected to use it within the organization to distinguish between right and wrong. Ultimately, this means that public ethics flows from personal ethics – the two are so closely linked that the possibility of a separate sphere of public role morality is practically excluded. Of course, the *theoretical* possibility of such a construct is a philosophical question. What matters here is that, in practice, in the Commission's case, it does not hold. The unspoken assumption seems to be that a good (moral) person will make a good official, and, in fact, *the organization counts on it*. And this proves that, despite its popularity, managing ethics is still an odd notion, simply because ethics feels very – too – personal.

A cynical reading of this conclusion casts doubts on the very utility of ethics management. If it really represents the regulation of "common sense" (and we accept that everyone understands the same by "common sense"), then there hardly seems any point to it. Why commit significant organizational resources only to tell people something they already know? This thesis has documented a process by which organizational ethics policy influences individuals' views on ethics. It has demonstrated that it is not a useless exercise, but the fact that doubts can reasonably be raised in this regard is important. These doubts show that ethics management is a tool with a double purpose: it targets the organization's integrity, as well as its pubic image, and would be misguided to think that these two are (always) complementary objectives.

ANNEX 1
INTERVIEW GUIDES FOR ETHICS EXPERTS IN THE EUROPEAN COMMISSION

Two partially different interview guides were used for ethics experts in the central coordinating structures (DG HR, IDOC, SG, and the Kallas *cabinet*), and for the ethics correspondents respectively.

Interview guide for ethics experts in coordinating structures

Warm-up

Please tell me about yourself - how long have you been working in the Commission, and for how long in the position you occupy now, what are the most important functions of your unit?

The ethics infrastructure of the European Commission

During the last decade the European Commission has undergone a process of sustained administrative reform, where the concern for ethical conduct was high.

- What are, in your view, the most important achievements of this series of reforms?

- Are there any specific measures/ actions which you believe have failed, or need substantially more work in the future?

- How were these reforms received by Commission staff?

- In a *Communication from Vice-President Kallas to the Commission*, issued in 2008, a series of operational steps were proposed to "enhance the environment for professional ethics in the Commission". What is the current stage of implementation of these measures?

Ethical issues, hot spots and dilemmas

- Judging from your own experience, which are the issues/ problem areas most likely to generate the need for guidance and specialized advice among EC officials?

- Why do these issues generate are more ambiguity than others?

- Could you give me concrete examples of dilemmas, or "hard choices" experienced by members of EC staff?

Individual attitudes to ethics

- From your experience, does nationality influence the manner in which Commission officials perceive, or interpret, the principles of professional ethics?

- Do you find that previous work experiences influence the manner in which officials perceive, or interpret, standards of professional ethics?

- Some people claim that DGs in the European Commission have a tendency to become compartmentalized, separated from each other. Would you agree with this view? What do you think is the impact of these divisions on ethics?

- Finally, the Commission uses a personnel system with different categories (officials, temporary agents, contract agents, SNEs). From your experience, does staff category influence the manner in which Commission employees perceive, or interpret, the principles of professional ethics?

Wrap-up

- Concluding remarks, any additional information, clarifications etc.

Interview guide for ethics correspondents

Introduction

- What are your most important responsibilities as ethics correspondent for DG _____?
- How long have you been in your current position?
- With which units, in DG _____, are you most frequently in contact? Please describe briefly your relationship with them.
- With which DGs (or units), in the European Commission are you most frequently in contact? Please describe briefly your relationship with them.

Ethics infrastructure

- What measures are in place to raise awareness on the standards of conduct expected of staff in DG _____? For example, when a person comes to work here, how would he/she find out about these aspects?

- Does DG _____ have an internal document referring to professional ethics (such as a code of conduct, a statement of principles, an internal administrative guide, etc.)?
  - If yes – describe briefly its content and the reasons/ context of its adoption.

- Does DG _____ organize staff trainings on the subject of professional ethics?
  - If yes – describe briefly the content and methods used in these trainings.

- What occasions are there for the staff in DG _____ to discuss about the ethics-related problems and dilemmas they encounter in their work?

- Suppose a staff member of DG _____ is suspected of having committed some form of misconduct.
  - How would you find out about this?
  - What procedure(s) would be followed?

- In your opinion, what are the areas of activity, or positions, in DG _____, where the risk for unethical behaviour is higher? What measures are in place to manage the risk?

- By comparison to other DGs, would you say there are any specific challenges for professional ethics in DG _____?

- If you were to do the same job in your home country, say somewhere in the central government, what would be different?

Dilemmas, hard choices and individual differences

- Judging from your own experience, which are the issues/ problem areas most likely to generate the need for guidance and specialized advice among officials in DG _____?

- Can you give me examples of "hard choices" and "dilemmas" faced by people in your DG? No need for names, or dates.

- The Commission is a multi-national administration. Some people indicate differences between those officials coming from the "Northern" countries and those coming form the "Southern" ones. Still others talk about differences between those coming from "old" and "new" member states.
  - From your experience, does nationality seem to matter in the way officials interpret the standards of professional ethics?

- People come to the European Commission from all walks of life. Some might have worked in the private sector, other in national public administration, still others involved in politics.
  - Do you find that these previous experiences influence the manner in which officials interpret standards of professional ethics?

- Finally, the Commission uses a personnel system with different categories (officials, temporary agents, contract agents, SNEs).
  - From your experience, does staff category influence the manner in which Commission employees interpret the standards of professional ethics?

Wrap-up

Concluding remarks, any additional information, clarifications etc.

ANNEX 2
INTERVIEW GUIDE FOR OFFICIALS IN THE EUROPEAN COMMISSION

Introduction
- What are your most important job responsibilities?
- How long have you been working in your current position?
- With which actors, inside the Commission, are you most frequently in contact? Please describe briefly your relationship with them.
- From your position, do you engage with external stakeholders (such as NGOs, citizens, lobbies, press etc.)? Please describe briefly the relationship with them.

Working in the European Commission
- When did you join the European Commission?
- Thinking back, what were your first impressions about working in the European Commission?
- How long did it take you before you felt you were settled in your job at the Commission?
    - What would you say was the biggest challenge in this process of accommodation?
    - What helped you the most in this process of accommodation?
- *(If changing DGs)* When you moved here, did you find there were any differences of work style – as opposed to your previous DG?

Public ethics
- Discussion on the vignettes[105].
- In your personal view, what does it mean for an official to be "ethical"?
- In practice, ethical issues are not always clear-cut. If you were to find yourself in an ambiguous situation, where the "right" course of action is unclear, how would you approach it?
- Have you participated in any activity, in your DG, or in the Commission generally, which was dedicated to professional ethics (such as a training, a workshop, a survey etc.)?
    - Could you describe in a few words this experience?
    - Did participating in this activity influence your day-to-day work? How?
- In recent years, the European Commission has implemented a number of administrative reforms relevant for the subject of professional ethics. Do you feel these changes have had an impact on your work? How?

Wrap up
Concluding remarks, any additional information, clarifications etc.

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[105] The vignettes were included in full in Chapter 4, therefore this interview guide does not feature them.

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