



Global Counsel

# The geopolitical Commission?

Politics and policy in the 2019-2024 EU policy cycle



# Understanding the geopolitical Commission

The political guidelines for the 2019-2024 European Commission, and its priorities for the first 100 days, are wide-ranging and open to different interpretations. This is in contrast with its predecessor which (at the outset) could set as its over-riding priority the restoration of economic growth in Europe.

A new and highly politicised landscape is reflected in the tone adopted by President-elect, von der Leyen, and in Commissioners' job descriptions. Making the economy work 'for people', protecting a 'European' way of life, a 'stronger' Europe in the world, and a 'push for democracy' all contain value judgements. They can also be used to justify divisive steps. Meanwhile, the first priority, a Green Deal, may enjoy broad political support but it explicitly draws attention to the need for trade-offs and bargaining between different interest groups.

At the start of a term of office, there are obvious risks in reading too much into political soundbites. But debates so far about how they will mobilise and direct a traditionally technocratic executive show that incoming Commissioners will have to build coalitions and risk alienating some traditionally pro-European stakeholders. In this publication, Global Counsel's specialist consultants unpack these choices and the complex network of interest groups that will have to be reconciled.

First, Ermenegilda examines whether an ambitious to-do list on climate change can really be turned into a 'bargain' that wins support from Eastern European countries that have been alienated by recent emphasis on the rule of law. Adam assesses the most explicit attempt to adopt populist language: an economy reform agenda that works 'for people', while Franck looks at the main element of continuity from the Juncker Commission making Europe fit for the digital age. Daniel examines a change of tone in the trade policy agenda - being 'stronger in the world' - and Alexander considers the consequences for business of a renewed focus on values and transparency. Finally, Ana considers the new Commission's chances of passing legislation in a Parliament that is fragmented to an unprecedented degree and a Council that is divided over what constitutes 'balance'.

Tom White  
Director

# European Green Deal

The Commission's ambitions to lead the world in action on climate change will continue to rub against member states' imperatives to manage the economic costs. Under Frans Timmermans, a team of Commissioners therefore have a huge task of putting together a European Green Deal. The Commission is already clear this will prioritise strong environmental protection, support for clean energy and a Climate Act binding the EU to net-zero emissions by 2050 in its first 100 days, as well as reviewing the energy taxation directive to bring it in line with stricter targets.

The European Green Deal will also have to offer some signs of the incentives for those less willing to go beyond the 2030 emissions reduction targets committed to in the Paris Agreement. Part of this will be through Kadri Simson's energy portfolio, built around implementing the Clean Energy Package legislation and a controversial Carbon Border Tax, ensuring the latter is in line with WTO standards and does not provoke any major US or Chinese response. Simson will also champion financial incentives for research and development in green tech and further work by Valdis Dombrovskis on incentives for private sector investment, including a 'taxonomy' of sustainable financial instruments. Perhaps most importantly, she will design a Just Transition Fund, supporting investment in coal-reliant and emissions-intensive regions.

Like the circular economy package, which Virginijus Sinkevičius will take forward, an ambitious program on CO<sub>2</sub> emissions reduction will be strongly backed by a larger green contingent in the European Parliament and will be given a push by the Finnish Presidency ahead of a decision at the December Council. But any 'deal' for the longer term will need to manage or overcome opposition from incumbent interests in member states including Poland, Hungary and Czechia.

The signs of where a deal can be reached are already evident in some of the different approaches taken by the large emitters, Germany, Poland and the UK. London has already legislated net-zero targets, while Warsaw is hoping to get paid for decarbonisation and faces a federal election in October. Berlin faces the biggest conundrum: agreeing to net-zero while contributing huge emissions from coal fired power in the west and rejecting nuclear power. If it succeeds, it will provide a model for other high emitting countries in Europe and around the world.

Ermenegilda Boccabella  
Practice Lead, Energy

# Components of a bargain on climate action

## Regulatory measures in 2020

- Energy taxation
- Energy efficiency targets
- Clean energy package implementation
- European climate law
- Emission reduction targets
- Eco-design regulation
- Gas decarbonisation package
- Circular economy
- Biodiversity targets
- Zero pollution objective
- Air quality



## Financing innovation

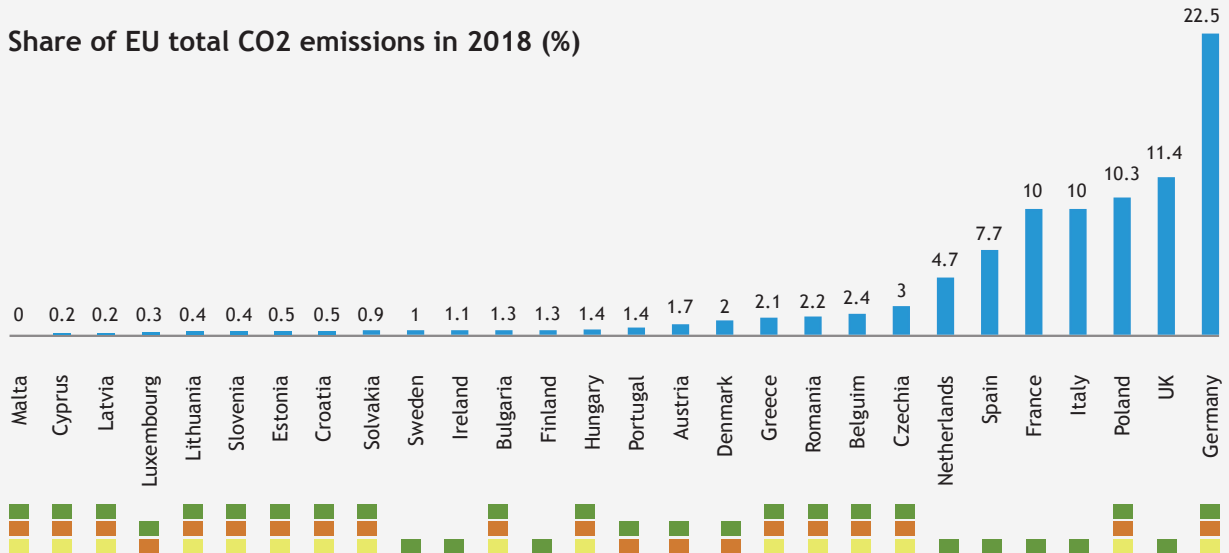
- Carbon border tax
- Energy markets integration
- Investment Plan



## Easing the transition

- Funding for coal regions?
- Widening of environmental state aid exemption?

Share of EU total CO2 emissions in 2018 (%)



# An economy that works for people

Three major trends will influence EU economic policy over the next mandate: the threat of climate change, the rapid pace of technological progress and the increased sophistication of economic crime. Success will depend on how well the European Commission is able to be the master of its own destiny in relation to these challenges, rather than being buffeted by events. It will also depend, as suggested by the Valdis Dombrovskis' title, on whether the EU responses to these grand themes can be turned into actions that resonate with a public concerned about globalisation - and which "people" are intended to benefit.

One immediate task facing Dombrovskis will be to finalise a "taxonomy" of sustainable finance terms, after member states and MEPs have now finalised their respective - but quite different - positions. He will then have to decide what to use these new terms for: to incentivise desirable investments and activities in the financial sector, or penalise the undesirable? Underpinning the answer to that question is whether the "people" at the front of the vice president's mind are those in traditional industries whose jobs are threatened by rapid decarbonisation, or younger citizens who are increasingly taking to the streets because of their frustration at climate inaction.

Technological innovation in finance will pose similar dilemmas: where is the balance

to be struck between enabling innovation that can bring down prices and drive up quality of service, and putting in place vital investor protection measures? Facebook's announcement of the digital currency Libra will accelerate these discussions, as well as posing a more fundamental question as to whether the EU needs to rethink its policy framework to enable the development of European fintech champions that can compete with the Americans and Chinese. Here, Dombrovskis will need to decide if the people he is serving are primarily consumers or producers of innovative financial services.

On the face of it, tackling economic crime - be it new threats posed by cyber attacks or more traditional money-laundering concerns - is an easier fit with Dombrovskis' overall mandate. When it comes to implementation, though - via a potential new financial cybersecurity regulation or the creation of a pan-European anti-money laundering supervisor - the challenge will be in creating a framework that is tight enough to minimise the risk of EU citizens falling victim to financial crime without being so prescriptive and burdensome that it has the unintended consequence of excluding more vulnerable consumers from financial services altogether.

Adam Terry  
Practice Lead, Financial Services

# Will the economy work for...

## Carried Over

- Capital Markets Union package
- Implementation of pan-European Personal Pensions Product Regulation
- Cross-Border Distribution of Funds
- Implementation of Investment Firms Regulation and Directive
- Implementation of Covered Bonds Regulation and Directive
- Sustainable Finance Taxonomy Regulation

## Review

- Payment Service Directive
- Packaged Retail and Insurance-based Investment Products Regulation
- Prospectus Regulation
- Markets in Financial Instruments Directive and Regulation (focus on post-Brexit)
- Money Market Funds Regulation
- Alternative Investment Fund Managers Directive

## New Priorities

- Green finance strategy
- FinTech Strategy
- (Anti-Money laundering)
- Common approach to Cryptocurrencies
- Introduction of “eco labels” for financial products
- Extension of Payment Services Directive approach to other sectors
- Work on opportunities of AI applications in financial services
- Work to introduce instant payments in the EU
- Further work on the international role of the euro
- Launch of international network for sustainable finance

...consumers?

...tax payers?

- Banking union package
- European Deposit Insurance Scheme Regulation
- Implementation of revised European Supervisory Authorities and European Systemic Risk Board Regulations
- European Sovereign-Bond Backed Securities Regulation
- Common backstop to the Single Resolution Fund
- Implementation of Non-Performing Loans Directive and Regulation

- Solvency II Directive
- Central Securities Depositories Regulation (focus on settlement efficiencies and competition; impact of failure on taxpayers)
- Deposit Guarantee Schemes Directive

- Creation of a European safe asset
- EU implementation of final Basel III reforms
- European Financial Sector Cybersecurity Initiative/Act

## Carried Over

## Review

## New Priorities

# Europe fit for the Digital Age

The geopolitical Commission will give practical expression to calls from Paris and Berlin for ‘strategic autonomy’ for technology. This means addressing longstanding anxiety in Paris and Berlin about falling behind the US and China in key technologies such as cloud computing and AI. This has even greater salience as evidence grows of European firms being locked in to dependency on hardware and software controlled elsewhere, with implications for European industries in sectors of traditional European strength.

What should we expect in concrete terms? First, incentives to this Commission will need concrete responses. These could include initiatives to maximise investment in strategic EU-wide digital infrastructure, including connectivity, cloud computing and artificial intelligence. There will be a push to jointly define standards for future technologies, including 5G. These proposals are high on ambition but constrained by financial firepower at EU and national levels. The Commission will therefore focus on using regulatory first-mover advantage. This will mean a delicate balance between decisive action to shape the landscape and preserving the competitiveness of its domestic tech industry.

The same concerns will also play out in approaches to inward investment, especially from China. Chinese technology acquisition and the market strength of China’s state-

backed tech companies have raised concerns in both Germany and France. They have encouraged the Commission to pivot towards a more assertive approach to Chinese investments and a more assertive EU industrial strategy. This could include investment incentives, new checks on inward investment, changes to competition rules, greater use of trade defence instruments and measures to ensure greater reciprocity in public procurement. These approaches will mean frictions between and within the EU institutions, where there is limited consensus on the merits of a more interventionist approach or the best strategic approach to China.

Despite these new agendas, we can expect continuity on the Juncker Commission’s digital single market programme. The Commission’s executive vice president for a ‘Europe fit for the Digital Age, Margrethe Vestager, will be keen to leverage her enhanced influence. This will include promoting a more interventionist approach to blunt the dominance of US tech and to ensure more competition in online markets. This will include a review of competition policy to address data monopolies and specific legislation targeting gaps in anti-trust frameworks. There will also be a return to platform content regulation or digital taxation, where the previous Commission fell short.

Franck Thomas  
Senior Associate



# Global regulator or a global competitor? The EU stake in technology value chains

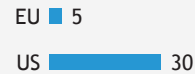
Software

Digital layers

Digital leadership

Worldwide market share of the top five firms (%)

Data processing



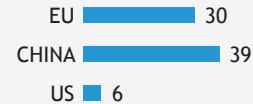
Source: Statista, 2017

Data storage



Source: Canalys, 2018

Network equipment



Source: Dell'Oro, 2018

Semi-conductors



Source: Gartner, 2018

Hardware

# A stronger Europe in the world

EU trade policy over the next five years will in many respects be defined by an evolution of outgoing Trade Commissioner Malmström's 'Trade for All' strategy. At the level of content, this will be reflected on a high level of continuity on long-standing EU trade policy tenets: the defence of the multilateral trading order, the new EU FTAs trade negotiation (eg with Australia, New Zealand, Indonesia and the US), and the ratification and implementation of concluded trade deals, such as with Mexico, Mercosur and Vietnam.

Ursula von der Leyen's trade policy vision is, however, also one of projecting renewed EU assertiveness and strength in the defence of its interests, values and high standards in an increasingly hostile world. Escalating trade wars, constant tariff threats from close allies and a digitalising world under Asian and US leadership are all contributing to a sense of 'loss of control' in the EU, increasingly fuelling support for populist movements. The drifting of the WTO into irrelevance on the back of disagreements over its dispute settlement mechanism's Appellate Body has only reinforced perceptions that the EU must take matters in its own hands.

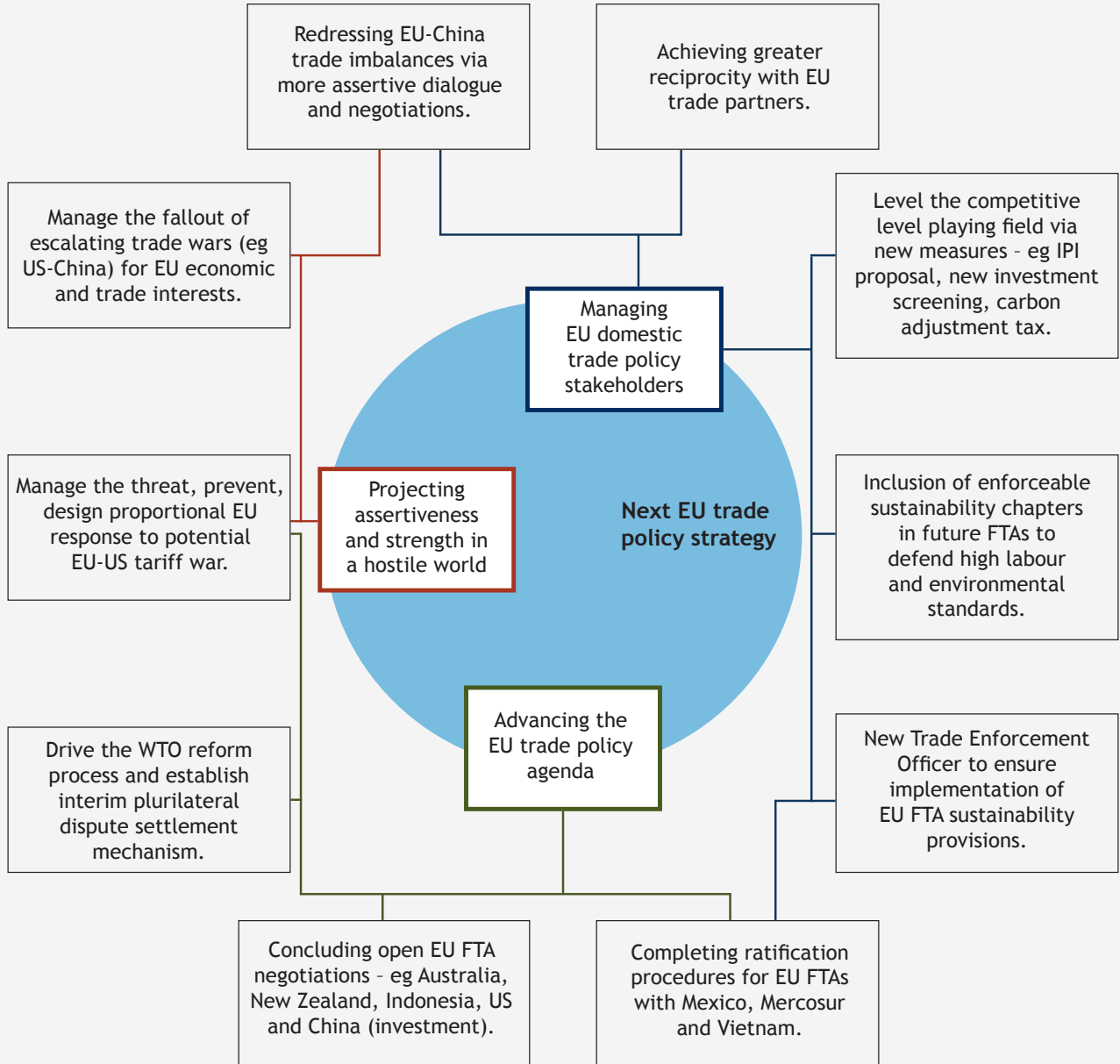
This will be reflected in a renewed, clear mandate for the incoming EU Trade Commissioner to rethink the EU's level playing field policy toolkit. In practice, this is likely to take the form of a more assertive

deployment of existing trade defence instruments and the EU's new investment screening framework, and a policy pipeline focused on driving greater reciprocity, notably via the completion of the 2012 International Procurement Instrument proposal, a new carbon adjustment tax and the inclusion of ambitious and enforceable sustainability chapters in all future EU FTAs.

Von der Leyen's choice of Phil Hogan to drive this agenda, alongside new DG trade director general Sabine Weyand, by and large reflect this desire for projecting strength. Both are well seasoned negotiators known for their ability to navigate politically complex and sensitive dossiers, such as Brexit (Weyand) and the Mercosur talks (Hogan). A key test, however, will be whether they are able to translate their proven negotiating skills into the management of the EU's increasingly fractious, fragmented and trade sceptic domestic stakeholder landscape in the European Parliament and European Council, where the instinct is increasingly to use trade policy as a means to deliver other political ends, such as environmental goals.

Daniel Capparelli  
Practice Lead, Manufacturing & Trade

# Squaring the circle of EU trade policy: 3 key tests for the next Commission



# Values and transparency

The new Commission faces a complex European political landscape. Eurosceptic parties from many member states will put pressure on their governments after performing strongly in May's European Parliament election, even if they are struggling to translate this into power in the parliament itself. Tensions have increased between eastern and western member states on migration and non-discrimination in areas such as LGBT rights and on the rule of law and corruption. Older members of the Union are deeply uncomfortable with allowing divergence from what they see as core EU liberal principles. However, some eastern members clearly want to rally around what they see as important socially conservative principles.

This will be a difficult tension to de-escalate. Brussels is likely to continue to appeal to the younger generation in newer member states with an emphasis on the single market and youth mobility while ratcheting up pressure for their governments to unwind steps taken to exert control over the media and the judiciary. Governments in Poland and Hungary in particular have become adept at using a mix of anti-Brussels and anti-Berlin rhetoric and large scale social welfare to shore up their electoral coalitions. There is also some truth in their complaint that they have sometimes been treated as second-class member states when Paris and Berlin

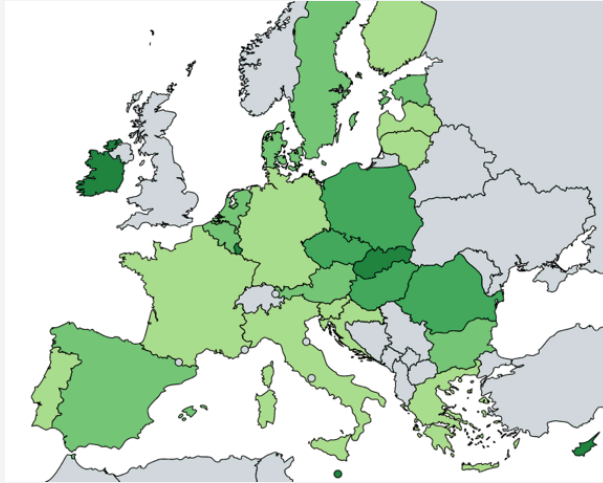
have hammered out their preferences for the Union, and this will be a perception that this Commission and incoming Council President, Charles Michel, will need to address.

These rifts may yet have consequences for investors. Investment has been pulled to the EU's new member states by competitive wages and stable and rapid spending growth. Despite being concerned - in private and in public - about anti-LGBT sentiment in Poland, a crackdown on the foreign-funded third sector in Hungary, or the seemingly perennial problem of corruption in Romania, international businesses remain attracted to the region. But a growing strain of national preference and suspicion of outside - even western European - influence could easily develop into something more openly discriminatory, even if EU law nominally forbids it.

Alexander Smotrov, Maria Shloma  
CEE, Russia and Eurasia practice

# Different but equal? Democracy and demography in member states

Eastern member states remain relatively younger but retain more conservative views

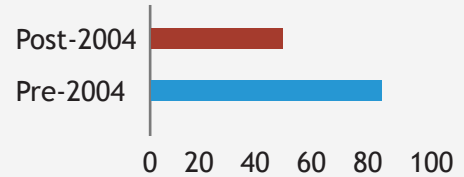


Share of population at the age of 15-49, % (2018)

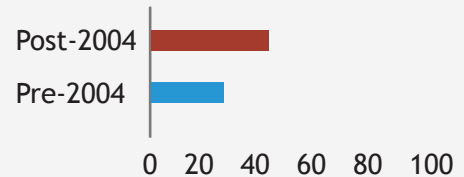


Sources: Eurostat, Eurobarometer (issues 457, 469, 493)

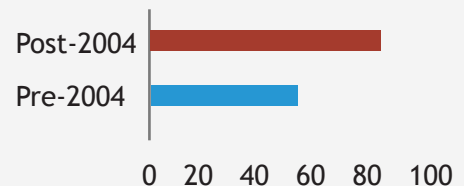
Do you think that LGBT people should have the same rights as heterosexual people? %



Do you think immigration from outside the EU is a problem for your country today? %



How widespread do you think corruption is in your country? %



# Will von der Leyen succeed in maintaining the balance of power in the institutions?

Ursula von der Leyen is a President already in some ways defined by compromise and balance. When member states were unable to agree on the principle of nominating one of the European Parliament's Spitzenkandidaten, she was chosen to fill the role. Margrethe Vestager and Frans Timmermans hold the highest positions in her team in order to broadly balance the interests of von der Leyen's European People's Party with those of the Renew Europe coalition and the S&D group. Von der Leyen has shored up her EPP backers by giving Valdis Dombrovskis - from her fellow EPP group - a third executive vice president post.

This juggling points to an important challenge for von der Leyen: managing the diverging dynamics in the EU institutions. The European elections resulted in a more fragmented European Parliament, with no EPP-S&D majority. Groups have been keen to keep their cohesion and the expanded roles and influence in the Parliament that come with it, but they have certainly become more heterogeneous. The liberal RE, for instance, encompasses France's integrationist party En Marche and Germany's Freie Demokratische Partei who have a strong streak of scepticism on integration, especially in areas such as debt mutualisation or social and labour policy such as the European unemployment

insurance. Both the S&D and EPP parties are also balancing nationally shared ideological platforms with perceived tensions between national caucuses.

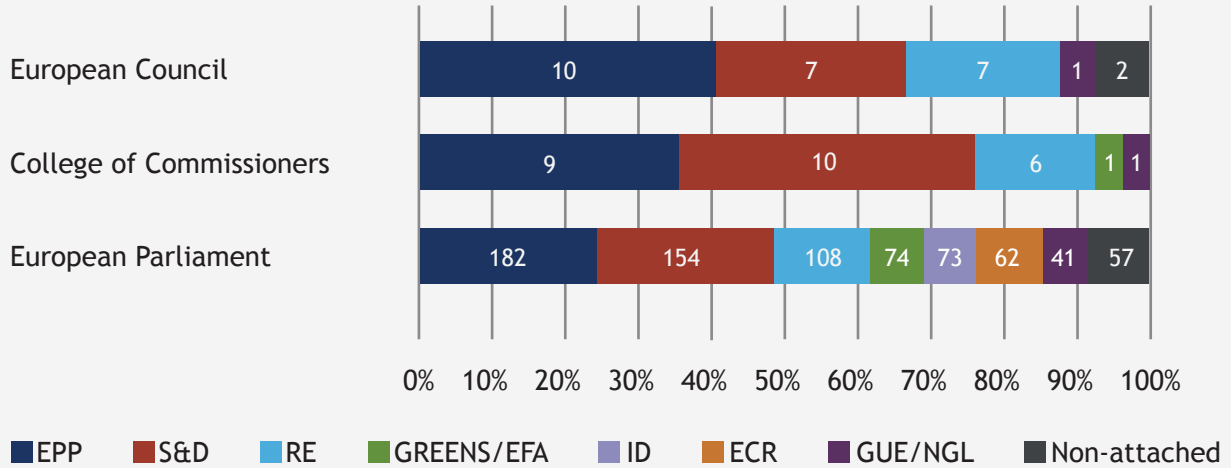
Party lines are therefore likely to become blurrier and majorities trickier, or at least requiring more leg work. Groups such as RE and the Greens will become increasingly relevant as the large groups become less cohesive. Meanwhile the groups von der Leyen will have to work hard to overcome all of these barriers. Her efforts so far with the Greens have not been fruitful. She has also been criticised for decisions such as categorising migration policy under 'protecting our way of life'.

The European Council will be another test for von der Leyen. The Council already reflects and often fails to manage significant divides in the EU and euro zone. Elections in Spain, Poland and Portugal, and perhaps also in Germany, will also hinder compromise on issues where national competences mean it has to take the lead among the institutions, for example on sanctions, the euro zone budget, migration, or enlargement to the Western Balkans. Von der Leyen's preference will no doubt always be compromise. The question may be if this is possible.

Ana Martínez  
Senior Associate

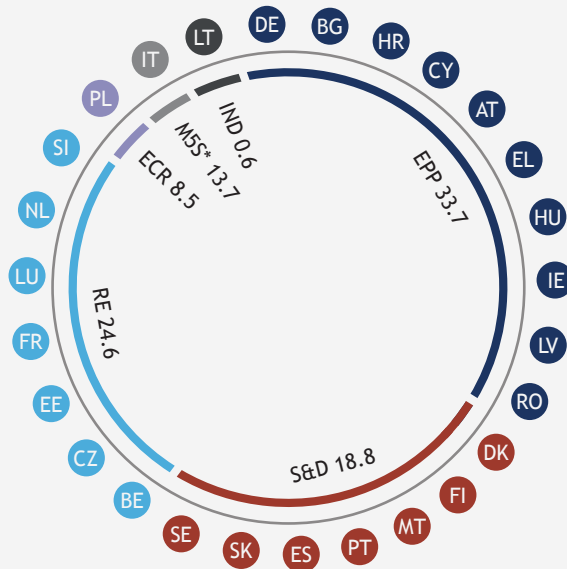
# The new institutional power balance

## Party balance in the institutions by percentage and seats



Source: EU institutions and GC calculations

## The European Council by political group



Source: European Council  
\*5 Star Movement (M5S)

# About the authors



## **Tom White, Director**

Tom runs Global Counsel's Europe team from its office in Brussels. Tom has particular expertise in the policy frameworks for financial services, manufacturing, technology, media and telecoms sectors. He supports clients in navigating regulatory processes and in delivering public policy advocacy campaigns in Brussels and across the EU.



## **Ermenegilda Boccabella, Practice Lead, Energy**

Ermenegilda is a lawyer who turned her hand to international energy and emissions reductions policy. In an EU context, she has worked on the energy transition, fluorinated gases and waste. She has attended several UNFCCC and UNEP meetings, most significantly working on the Paris Agreement and the Kigali Amendment to the Montreal Protocol.



## **Adam Terry, Practice Lead, Financial Services**

Adam joined Global Counsel from the European Parliament, where he was political adviser to Anneliese Dodds MEP and John Howarth MEP, specialising in financial services and tax policy. Prior to this, Adam was Head of Public Affairs at the housing and homelessness charity Shelter.



## **Franck Thomas, Senior Associate**

A telecoms engineer by training, Franck is an experienced Brussels political consultant who has advised clients in the telecoms, cybersecurity and space sectors. At Global Counsel, Franck advises clients engaging with and responding to the EU's Digital Single Market agenda and wider trends and changes in ICT, telecoms and technology policy and regulation.





**Daniel Capparelli, Practice Lead, Manufacturing & Trade**

Daniel leads teams advising financial services, manufacturing and agribusiness clients on trade policy issues, with a particular focus on market access and compliance frameworks such as rules of origin. Daniel also works with a number of clients on anticipating and adapting to policy and regulatory changes in Europe, Asia and Africa.



**Alexander Smotrov, Practice Lead, CEE, Russia & Eurasia**

Alexander advises international clients on Russian market entry, the impact of Russian sanctions and navigating Russian policymaking. He also supports the Global Counsel Europe team with his expertise in CEE politics and policymaking.



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Maria is focused on supporting Global Counsel's clients on risk analysis, politics and policy across sectors and disciplines. Maria has a Master's Degree in EU Politics from the London School of Economics and has a background in international relations, communications and research.



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Prior to joining GC, Ana reported on policy developments in the EU and its member states, and published policy recommendations on a wide range of issues including Brexit, security and defence, citizen participation and the European Pillar of Social Rights. Ana advises clients on EU public policy and political developments, including key events such as the European Parliament elections.

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