

# The Barroso Drama

## France: The Jacques Barrot Way

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Fluctuating French media attention for Barroso's drama. Chirac's support for Manuel Barroso. Appointment of European Commission and French Constitution. French debate on candidacy Barrot and the assigned transport portfolio. Offer extreme right party to save Barroso's team. The unmentioned embezzlement.

France and its representatives have not been among the most prominent participants in the 155 days of Barroso's drama. This is especially true for the 78 French MEPs of whom none, other than their German colleagues Pöttering, Schulz and Cohn-Bendit, has a real position of 'king-maker' in the European Parliament. Francis Wurtz is the one French group president (Confederal Group European United Left/Nordic Green Left, EUL/NGL, 41 members). Only Jean-Louis Bourlanges, chairman of the Justice Liberties Committee, has been at the forefront as the penman of the famous letter giving the unfavourable opinion on Rocco Buttiglione and starting the drama's high game.

Nevertheless the procedure has attracted massive attention in the French media. More than 300 articles, papers, briefs and reports are on record between 17 June and 22 November 2004. Official sources are naturally very scarce, but a reliable picture can be given based on these materials.

### THE COMMISSION PRESIDENCY

Jacques Chirac entered the scene of events together with chancellor Schröder by putting up Verhofstadt for the Commission presidency. When this was blocked in the European Council meeting of 17-18 June 2004, he tried to prevent the office from obtaining a political profile by excluding that 'in the designation a political

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or partisan parameter would be involved',<sup>1</sup> a phrase obviously addressed to Hans-Gert Pöttering who had just rejected Verhofstadt and put up Chris Patten instead. It is remarkable that, after a long line of other candidates had been discussed, Chirac made no objection to Barroso. The latter by all means had been one of the subscribers to the divisive pro-US letter calling for a united front of Europe and the US in the Iraq crisis and had himself hosted the Azores conference in March 2003, at which it was decided to start the war. It was speculated that there might be a bill outstanding for France's consent to his candidacy, but this was all but denied explicitly by Barroso himself. On 21 June 2004, he marked his candidacy speech to the European Parliament by claiming full independence from the member states and declaring his allegiance to the Parliament in three ways:<sup>2</sup> by promising to ask any non-performing commissioner to resign, by intending to bring in a greater proportion of female commissioners than heretofore and by refusing any ranking of commissioners into 'super-commissioners' and others.

It is noticeable that Barroso's comfortable election majority, obtained on the basis of the promises mentioned, probably included the British Labour contingent and the Spanish socialists, the latter hoping, in return, for support to Solana's future appointment as Foreign Minister, but did not include the other socialists, among which were the 32 French deputies.<sup>3</sup>

#### THE COMMISSION TEAM, JACQUES BARROT

Since the entry into force of the Nice Treaty, Article 214 makes the nomination and appointment of commissioners a matter for the Council and there is hence no official national act of nomination of a candidate. The French Constitution of 1958 by all means gives no indication to what office it belongs to make the French proposal. It is constitutional practice to leave this to the head of state's reserved domain of foreign affairs. To be more precise, the designation cannot happen without the president's approval, but in times of 'cohabitation' it may need the non-opposition of the prime minister. As long as France was entitled to two commissioners, this allowed for a ready solution even in such periods. With only one commissioner at most, this is bound to be less easy from now on.

Jacques Barrot was already a member of the Prodi Commission team from 26 April 2004, in replacement of Michel Barnier, who had become French foreign minister. Both Barnier and Barrot were among the founders in 1999 of the *Dia-*

<sup>1</sup> Press briefing given in Brussels, 17 June 2004.

<sup>2</sup> Rafaële Rivais, 'M. Barroso donne trois gages à la Commission qu'il va diriger', *Le Monde*, 23 July 2004.

<sup>3</sup> Jean Quatremer, 'La droite européenne adoube Barroso', *Libération*, 23 July 2004, No. 7215, p. 9; Rafaële Rivais, 'Confirmé par le Parlement européen, M. Barroso négocie cet été avec les États pour former le collège', *Le Monde*, 24 July 2004.

*logue et Initiative* Think Tank, breeding institution of the present UMP, the French consolidated Right, all of whose European Parliament members are in the EPP-ED group. Barrot himself is of undisputed quality, even if his 'European competences' by themselves may not be convincing. He has been a member of the French Assembly for 34 years and has been called to ministerial functions four times. It is impossible to know whether Chirac's choice was motivated by the wish of his faithful friend himself or by the need to compensate him for not obtaining an important post in the third cabinet of Raffarin. The press showed hardly an interest.<sup>4</sup>

The Commission team, including Barrot, was officially announced on 12 August 2004. Apart from some immediate reservations concerning the clearly market and atlanticist orientation of Barroso's team, there was general acclaim for the president elect's speed of action. Soon, however, this benevolence disappeared. Precisely the modest attributions for Jacques Barrot, the transport portfolio, gave rise to a polemic, which was well kept up in the press, notably in *Le Monde* and *La Tribune*, fuelled by the Left and by a part of the Right, both of federalist and euro-sceptic denomination.<sup>5</sup> The general idea was that this minor portfolio for Barrot, even if he was also made a vice president, was an insult to France. The French president then became faulted both for not having proposed Pascal Lamy for the Commission presidency and for moving Barrot back into the Commission. From 18 August onward, this debate, so hot that it forced the authorities to a reaction,<sup>6</sup> became an alibi for analyses on three principal themes: the decline of France in Europe, the weakening of the Franco-German motor and, finally, the European errors of the majority in power including the sin of arrogance of its president, Jacques Chirac.

None of the three themes was new, however, nor are they all equally convincing. The French decline theme was already developed at ratification of the Nice

<sup>4</sup> Patrick Roger, 'M. Barrot, un conciliateur à la Commission européenne', *Le Monde*, 2 April 2004.

<sup>5</sup> *Agence France Presse*, 'Risque d'une perte d'influence française à Bruxelles malgré de nouveaux atouts', 19 Aug. 2004; Thomas Ferenczi, 'Pourquoi l'influence française s'est affaiblie à Bruxelles' and Moscovici interview, *Le Monde*, 18 Aug. 2004; Éric Chalmet, 'Le couple franco-allemand apparaît affaibli dans la Commission Barroso' and Gilles Bridier, 'Un poste aux antipodes des aspirations françaises' and Bourlanges interview: 'Le couple franco-allemand se trouve marginalisé', *La Tribune*, 13 Aug. 2004; Nathalie Dubois et Julie Majerczak, 'L'exécutif européen claqué Paris', *Libération*, 21 Aug. 2004, p. 7; Alain Louyot, 'Débat: la France s'est-elle sabordée?', *L'Express*, 6 Sept. 2004; Marc Nexon et Alain Franco, 'La France au piquet', *Le Point*, 14 Oct. 2004.

<sup>6</sup> Pascal Ceaux, 'Jean-Pierre Raffarin compte sur l'expérience et le "talent de négociateur" de Jacques Barrot', *Le Monde*, 18 August 2004; Baudouin Bollaert, 'José Manuel Barroso: "La France est bien représentée"', and Barnier interview, "Cessons de nous dénigrer!", *Le Figaro*, 20 Aug. 2004.

Treaty,<sup>7</sup> but it may be noted that at Nice president Chirac was seconded by Pierre Moscovici (for prime minister Jospin), the same who was presently the principal artisan of the polemic. As to the weakening of the Franco-German axis, this was obviously felt differently across the Rhine. And as to the portfolio-question, there seems to be a misunderstanding of the Commission's position in the institutional system.

True, there is no doubt that France, just like Germany and the United Kingdom, hoped for a weighty portfolio for its national candidate, even if this was officially denied. Jacques Barrot himself had not hidden his wish to be given competition or the internal market. The impression of some dishonour in the treatment of the French candidate was made the more acute as Messrs. Chirac, Schröder and Blair had publicly suggested the creation of a post of Commission vice-president for economic questions, nick-named 'super-commissioner' by the press,<sup>8</sup> and each hoped that this portfolio would befall his own candidate. But one should on the other hand realise the limitations weighing on the Commission president in distributing the portfolios. He must work with the person offered to him and with that person's preferences. The meagre harvest for France seems to be mainly attributable to its candidate's personal choice.

In fact, as happened right away, Barrot had been proposed Liberty, Security and Justice first, which he declined. Later, on 18 November 2004, after the final investiture of his second team, president Barroso put this on record himself in a press conference and said that Barrot had preferred transport.<sup>9</sup> This is of some irony because, had Barrot accepted, the Buttiglione affair would never have happened, nor would most of its interesting and important consequences probably have occurred.

What remains is that, rather than Barroso downgrading France, it was Jacques Chirac who seemed to have committed a major 'error of casting' in proposing Barrot, a man who could not be expected to go all out for a position that France expected. This viewpoint finds confirmation in further events. When offered the chance, in negotiations for the second team, Barrot seems not to have wished to change portfolios.<sup>10</sup> And when interrogated by the press after the Treaty signature on 29 October 2004, president Chirac said he was astonished by the negative

<sup>7</sup> Flavien Mariatte, 'La Conférence intergouvernementale 2000 et l'élaboration du Traité de Nice', in *Le Traité de Nice, Premières analyses*, V. Constantinesco, Y. Gautier et D. Simon, (ed.), (Strasbourg, Presses Universitaires de Strasbourg 2001) p. 11 à 74.

<sup>8</sup> Joint Letter from Chirac, Schröder and Blair to Prodi, 18 Feb. 2004.

<sup>9</sup> *Agence France Presse*, 'Barroso avoue la difficulté de négocier la composition d'une Commission', 18 Nov. 2004; David Gow, 'Grateful Barroso offers MEPs a say on EU reform', *The Guardian*, 19 Nov. 2004; <<http://www.guardian.co.uk/international/story/0,,1354670,00.html>>; Marc Nexon et Alain Franco, 'La France au piquet', *Le Point*, 14 Oct. 2004, No. 1674, p. 40.

<sup>10</sup> Hervé Nathan, 'Paris entend renflouer Barrot', *Libération*, 28 Oct. 2004.

reactions on this portfolio, considering that Transport is 'essential', that Barrot had not asked for a change and, finally, that the distribution is a prerogative of the Commission president-elect.

As was mentioned, Pascal Lamy's name was briefly hinted at for the Commission presidency, but met with a categorical refusal from the French president to support him. Several explanations have been put forward for this refusal, of which the principal ones are not related to his political allegiance (the Socialist Party), but to his positions adopted as a commissioner, be it in WTO agriculture negotiations or concerning the Stability pact.<sup>11</sup> In short, it was his independence. It is not fully mistaken to hold, as has been done mainly by the foreign media,<sup>12</sup> that to maintain Jacques Barrot at the expense of Pascal Lamy, championed by his colleagues in the Commission, was a major error. Together with the fate suffered by Mario Monti for the benefit of Rocco Buttiglione and its consequences, Pascal Lamy's case suffices to demonstrate to what point the choice of a national Commission candidate can no more be dictated solely by internal political or electoral considerations.

#### THE 27 OCTOBER CRISIS

According to an article in *Le Monde*,<sup>13</sup> the Commission president-elect's withdrawal of his team had originated directly in the manoeuvres of the extreme Right, notably Jean-Louis Martinez, MEP for the *Front National*. He was received by Barroso on 26 October 2004 and made him the offer of seven votes of the *Front National*, six of the Polish party Samoobrona and of some other non-registered deputies, after having proposed this publicly to Jacques Barrot. Already on 22 October, the German candidate Commissioner Verheugen had indicated that he would not hesitate to withdraw himself if the college was approved by only votes from the Right and the extreme Right. This dark perspective was also said to have moved other social democrats in the Commission and even Christian democrat Viviane Redding to address themselves to their President-elect, and, especially, led Jacques Barrot to solicit the intervention of Jacques Chirac with Barroso. According to *Le Monde*, the French President, who was then in Berlin in the company of Gerhard Schröder, had called Barroso and told him that in this case he would create a 'major crisis' and would see to it that the French commissioner would step down. He called Buttiglione irresponsible and his departure inevitable. The French

<sup>11</sup> Eric Chalmet, 'Pascal Lamy dans le collimateur de Paris', *La Tribune*, 11 May 2004.

<sup>12</sup> Nicci Smith and Tom Walker, 'France piqued by its slim EU pickings', *The Sunday Times*, 15 Aug. 2004; Rosemary Righter, 'Stop the world, Jacques Chirac wants to get off', *Times Online*, 24 Aug. 2004.

<sup>13</sup> Hervé Gattegno et Arnaud Leparmentier, 'Comment José Manuel Barroso a failli tomber dans le piège tendu par l'extrême droite', *Le Monde*, 30 Oct. 2004.

president's words, repeated in Rome on 29 October 2004, implied clearly that Buttiglione should step down and that not only Barroso but also the government leaders, among who was Berlusconi, should take their responsibilities. So far for *Le Monde*.<sup>14</sup>

It is of course impossible to know exactly what the French president said and did, nor to know precisely its effects. By any means, the explanations given for Barroso's withdrawal vary between member states and commentators. Probably Chirac and Barroso simply agreed not to let the Commission be saved by the extreme right. Nevertheless the episode is instructive as it tends to demonstrate to what extent, in France at least, the life of the Commissioner remains, to some extent, in the hands of the *Président de la République*.

#### THE 18 NOVEMBER FRENCH CRISIS

In the debate preceding the final investiture vote on 18 November 2004, the British Member for the United Kingdom Independence Party, Nigel Farage, created a scandal. Denouncing the incompetence and corruption of new commissioners in general, he singled out Jacques Barrot for a conviction in 2000 to an eight months prison conditional sentence for embezzlement, concerning his role in secret financing operations of the CDS (Center of Social Democrats) of which he was the secretary general.

Barroso, embarrassed, said he was not informed of this conviction and indeed the sentence had been immediately annulled by the tribunal on the basis of an amnesty voted after the 1995 presidential election. What is more: the amnesty law prohibited anyone, including the press, to mention an amnestied conviction in any document.<sup>15</sup> But it is remarkable that neither the candidate concerned nor the French government had seen fit to even mention the fact to him. This is difficult to verify, but it seems quite probable in view of the offer made to Barrot for the Liberties and Justice portfolio.

The matter brought confusion in the Parliament. Liberal foreman Graham Watson at first demanded Barrot's dismissal or at least his suspension. Socialist colleague Schulz was more moderate, asking for an explanation as to why Barrot had not at least mentioned his conviction in the hearing. When Barrot directly sent a letter of explanation to the Parliament's president, Josep Borrell, they decided to leave the matter to the Parliament's legal service.

<sup>14</sup> Also, 'Apartés tous azimuts à Rome sur la recomposition de la Commission Barroso', *Agence France Presse* 29 Oct. 2004; 'Commission: Chirac demande à Barroso de prendre 'les décisions appropriées'', *Agence France Presse* 29 Oct. 2004.

<sup>15</sup> 'Jacques Barrot estime avoir été diffamé', *Le Monde*, 19 Nov. 2004; in fact, see Court of Appeal of Paris, 25 March 2002, *Darcourt v. Broussard*, No. 01/03810.

On 24 November 2004 this legal service gave its verdict, referring to a letter of the French justice minister explaining the nature of the amnesty. It was considered that ‘in the absence of European criminal law, the national legislations apply’, so that Barrot could not be legally obliged to report his amnesty. The Parliament’s group leaders then met to consider that in the future ‘this sort of information (amnestied criminal convictions)’ should be made known in hearings. The matter quickly subsided, but what would have happened if this omission, legally justified but politically impossible to justify, had *not* been allowed to pass?

Of the final Parliament’s vote on 18 November 2004, in which Barroso’s new team had obtained a comfortable majority, one remarkable figure remains to be mentioned, pointing maybe at France’s relative exceptional situation from which this report started out. Of the 78 French members, only 17 approved the Commission team while 45 rejected it and 11 abstained (5 did not vote).

