

# THIRD TIME LUCKY?

## HOW TO APPOINT THE NEXT PRESIDENT OF THE EUROPEAN COMMISSION

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## How to appoint the next president of the European Commission

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### Abstract

The Conference on the Future of Europe has triggered the debate on some crucial institutional reform ideas. One concerns the procedure to appoint the Commission president. The rise and fall of the lead candidate procedure has shown the need for fresh ideas. Neither the European Parliament's (EP) power grab in 2014 nor the European Council appointing a non-lead candidate in 2019 did well for the EU's reputation and EU-level democracy. What must be prevented for 2024 is another damaging institutional turf-battle between the European Council and the EP. A new procedure to elect the Commission president that reflects the dual legitimacy on which the EU is built (Member States and European citizens) is needed. This Policy Insights paper elaborates on the two previous attempts to appoint a Commission president and lays out an alternative proposal for the future.

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## Recommendations

Ahead of the 2024 European Parliament (EP) elections, an agreement on how to appoint the next Commission president must be found. A revised lead candidate procedure should be built on the following six interlocking elements:

1. Both institutions with the treaty mandate to jointly find a president of the Commission, i.e. the European Parliament and the European Council, have to be involved in appointing the Commission president.
2. To avoid institutional turf battles the new appointment rules must be set down and legally binding. This should be done via an interinstitutional agreement.
3. EU leaders and leaders of national parties should jointly select the party group's lead candidate.
4. The election campaigns need to be launched by the Europarties much earlier (at least nine months before elections) to give voters time to familiarise themselves with the process and the candidates.
5. Ideally, the lead candidates should run for election via transnational lists and can therefore be elected by voters across the EU.
6. The EP will try to build a majority after the election and for one of the lead candidates. The EUCO would have the right to appoint in case of failure, which is preceded by a formal EP hearing of the Commission president-designate.

Furthermore, the term *Spitzenkandidaten* should be dropped by the political elite, observers and analysts. It only speaks to those who understand German and recalls the failed attempts of 2014 and 2019. It is the Commission president appointment procedure, which partly draws upon, but does not completely follow, the lead candidate model proposed during previous elections.

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## Introduction

The long-standing assumption that citizens do not care about the mechanisms of institutional change but only its concrete outcomes (i.e. policies) seems to have been proven wrong; the Conference on the Future of Europe has shown that they do care and they demand democratic standards that they are familiar with from the national level. One of the many recommendations that came out of the Conference is that citizens want a greater say in who presides over the European Commission<sup>1</sup>.

The European Union's unique institutional setup reflects a complex balancing act of different interests: those of sovereign Member States, the political will of the citizens and the general interest of the Union. The EU does not apply a strict separation of powers; as the core executive body, the European Commission also has legislative functions (initiating new legal acts) and shares executive competences with the Council (and national authorities). Nor is the EU a genuine parliamentary system, due to the missing link between the legislature and executive. At national level, the power balance in parliament determines the composition of the government.

At EU level, what is primarily at stake in elections is who will sit in the European Parliament (EP), not who will govern<sup>2</sup>. Up until 2014 (and the launch of the so-called *Spitzenkandidaten* – or lead candidate – procedure) there was no connection between the outcome of the EP elections and the composition of the executive, the European Commission.

The lead candidate procedure was copied from national parliamentary systems (in particular the German model), whereby citizens do not directly elect the head of state but do elect the members of parliament (MEPs) – who in turn elect the head of the executive. To give electoral certainty, the parties announce the candidates who will head their respective lists, with the expectation that this person would be chosen as head of government in the event of electoral victory. The EU's lead candidate procedure was similarly an attempt to close the gap between the legislative and executive branch and thereby between the EU institutions and its citizens. It failed, however, to deliver on that promise.

Following the lead candidate debut in 2014 and its demise in 2019, there is now much confusion about how to proceed in 2024. This paper will consider the appointment procedure of the president of the European Commission. First, it will sketch out the institutional history and run-up to the lead candidate procedure. Second, the paper will make a suggestion for a future procedure to appoint the Commission president.

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<sup>1</sup> Proposal 38 (4): 'European citizens should have a greater say on who is elected as President of the Commission. This should be achieved either by direct election of the Commission President or a lead candidate system.'

<sup>2</sup> Despite the fact that the very top of the von der Leyen Commission (i.e. her own post and those of the Executive Vice Presidents) reflects the power distribution between the three biggest parties in the EP. This creates a link, albeit a very vague one, as those officeholders were selected by their national governments and (usually) did not run for EP election.

## The story behind the failed lead candidate system

Who appoints the head of the European Commission? Traditionally, it was the heads of state and government in their capacity as members of the European Council (EUCO) who simply appointed this person, following consultations behind closed doors. From the very early days of European integration, this was the procedure; the Treaty of Rome did not set out any involvement of the Parliament but did stipulate that ‘the members of the Commission shall be *appointed* by the Governments of Member States acting in *common agreement*’ (Article 158) and ‘[t]he President [...] shall be *appointed* [...] with the *same procedure*’ (Article 161).

Throughout the integration process, there were alterations to this system: the Treaty of Maastricht (1992) for the first time involved the EP by prescribing that the member state governments nominate *by common accord*, and after *consulting the European Parliament*, the person they intended to appoint as Commission president. The Treaty of Amsterdam (1999) then expanded on this wording by determining not only that the EP needed to be *consulted*, but that the whole College and its president needed to be *approved* and receive the assent of the EP (Article 40). The Treaty of Nice (2002) only modified the voting rule of the Council. As of then the president-designate was appointed by qualified majority rather than by unanimity (Article 22)<sup>3</sup>.

The 2007 Lisbon Treaty revision specified that the EUCO must ‘*take into account the elections* to the European Parliament and [...] shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be *elected* by the European Parliament by a majority of its component members’ (Article 17(7) TEU). The Lisbon Treaty therefore made two important changes: i) for the first time, there was a link between the result of the EP elections and the head of the EU’s executive; and ii) instead of consulting or approving, the EP was now to *elect* the president of the Commission. Despite the fact that the Lisbon changes were more significant than previous ones, they can be seen as the continuation of a trend to involve the EP in the appointment procedure and thereby as a bolstering of its democratic control function over the main executive body of the EU.

## 2014

The role that the Lisbon Treaty set out for the EP was not a proactive one. In the run-up to the 2014 elections (the first to be held under the Lisbon Treaty) it was the EP itself that exploited the new phrasing of the treaties and upgraded its role through the instigation of the *lead candidate* procedure. This meant that most party groups appointed their *lead candidates on the understanding* that the candidate of the party group with the most seats in the elections would become president of the European Commission. Hence, citizens’ votes translated

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<sup>3</sup> Italics added by author.

(indirectly) into the selection of the next Commission president. Executive power was at stake for the first time in EP elections.

The EP was able to win an interinstitutional battle with the European Council by demonstrating internal cohesion and unity right after the elections, and by exposing divisions within the Council. It acted with astonishing speed to support Jean-Claude Juncker and to present him as the common EP candidate. Institutional power seemed to trump party interest; there was still the grand coalition between the EPP and S&D, and competitors Jean-Claude Juncker and Martin Schulz agreed that whoever ranked second would become the EP president. On this basis Juncker had solid support in the chamber. For its part, the EUCO underestimated the lead candidate device and was unprepared for its clout.

By aiming to make executive power the prize in EP elections, the lead candidate procedure sought to raise awareness of those elections and European issues in general. The idea was that the different candidates would launch a pan-European election campaign to introduce themselves to citizens in all Member States and present the position of their EU-level political groups ([Schulze, 2016](#), p. 24).

The personalisation of candidates can generally (that is, at national level) enhance elections by informing and mobilising voters. This was also expected to happen with the EP election: the nomination of lead candidates should have personalised the election campaign and in turn boost voter turnout (Schulze, 2016, p. 24). It had been suggested that open and rival candidacies for the position of Commission president would liven up the electoral competition and allow a greater connection between voters' references and the EU institutions ([Follesdal & Hix, 2006](#), p. 553). In short, the aim was to raise the stakes of the European elections and personalise European politics, thereby increasing voter turnout and ultimately strengthening democratic (input) legitimacy.

However, this system had no tangible effect. Voter turnout hit an all-time low in 2014 and research has shown that voters were largely unaware of a) the lead candidate system as such (i.e. that their vote indirectly translated into the choice of Commission president); and b) the individual candidates, particularly outside their own home countries. The awareness of indirect support for one candidate was highest in Luxembourg, France and Germany (74.8 %, 63.3 % and 60 % respectively). Awareness was significantly lower in northern and eastern countries (35.2 % on average), with the lowest level of knowledge in the UK, at 13.9 %.

Unsurprisingly, this study shows that knowledge of specific candidates was highest in the home countries of the (key) candidates: about 55 % of voters in Luxembourg and 25 % in Germany and Belgium could name one or more candidates. However, in the other Member States the

average was 8.2 %. In the UK, only 1.1 %<sup>4</sup> of voters were able to recognise a candidate ([Hobolt, 2014](#))<sup>5</sup>.

As it turned out, the debates around key policy issues (such as migration) were not shaped by the lead candidates, but rather by anti-establishment and Eurosceptic parties (Hobolt, 2014, pp. 1536–1537) as ‘neither pre-election campaigning nor post-election decision-making delivered greater party-political competition or a genuine choice between rival political programmes’ (Christiansen, 2016, p. 1 007). Instead, the 2014 elections perpetuated the long-term trend of close cooperation between pro-integrationist parties at the centre of the political spectrum.

Candidates were more prone to campaign in countries where they were already known and where it was hoped their appearance would have a positive effect on the electorate ([Schmitt et al., 2015](#)). The bigger Member States, i.e. Germany and France, were favoured as campaign venues because the larger the population, the more seats in the EP up for grabs. Germany (by far) and France were therefore the most attractive countries to campaign in (Christiansen, 2016). Furthermore, studies on the media coverage of the candidates have shown that the media did not promote the system: the EP elections were in general not very visible and the lead candidate appeared more as a ‘side issue’ (Schulze, 2016).

In summary, the lead candidate system had no positive effect on turnout, or on the second-order nature of the EP elections. It therefore failed to improve the representativeness and the accountability of the EP. The only effect it did have was institutional in nature, as the EP successfully enhanced its own influence in selecting the Commission president, thereby slightly altering the EU’s interinstitutional dynamic (Hobolt, 2014).

## 2019

Proponents of the lead candidate procedure had hoped to see it firmly established in 2019. In the election campaign, most political groups selected a candidate to campaign across Europe, but the system lost further momentum. It was significantly weakened institutionally compared to 2014, especially because one of the most important political groups, ALDE, which was afraid of losing Emmanuel Macron as a potential political group partner, did not participate. At the same time, President Macron – one of Europe’s most important leaders – did not support it in the European Council.

The increased turnout of almost 8% at the European elections could have strengthened the Parliament’s hand. But despite the higher turnout, the EP found itself in a weaker position vis-

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<sup>4</sup> These low numbers for the UK can partly be explained by the opposition of all three main British parties to the lead candidate system and their refusal to let the candidates campaign (Christiansen, 2016).

<sup>5</sup> Based on an AEER-commissioned post-election survey in 15 Member States, where voters and non-voters were asked directly after the elections about the degree of awareness of the political parties and candidates at the European level, see (Hobolt, 2014, p. 1536).

a-vis the European Council. Without a majority for the two biggest parties and with more support for fringe parties, the EP became more fragmented. The EPP (narrowly) obtained the most votes, but the other parties did not agree to back its lead candidate (Manfred Weber). The major political groups in the EP were simply unwilling to rally behind one common candidate.

As a result, one could observe a very different institutional power play in 2019 compared to 2014. Without institutional unity inside the EP, it was much easier for the EUCO to keep a firm grip on its prerogative to appoint the Commission president. In other words: greater pluralism and the end of the duopoly hitherto enjoyed by the EPP and S&D parliamentary groups came at a cost for the EP in terms of institutional power.

Ursula von der Leyen, then President-elect of the European Commission, did not run through the lead candidate procedure but was instead nominated by the European Council and eventually elected by the EP, by only a paper-thin margin. Many in the newly composed EP felt they had been robbed by the European Council riding roughshod over the lead candidate procedure. By excluding the EP, this 'backroom' appointment denied the citizens of any say on this personnel decision. Furthermore, it ridiculed those who had engaged in the lead candidate campaigns by simply ignoring them.

### *The EU as a parliamentary system?*

The failure of the lead candidate system is partly due to systemic reasons. The procedure implicitly promotes the 'parliamentarisation' of the EU and a federal model of European democracy, in which the EP receives a democratic mandate from the electorate to select the executive and then ultimately hold it accountable (Hobolt, 2015, p. 1537). However, the EU is not a genuine parliamentary system.

Certainly, the legislative procedures provide a strong link between the two institutions and the EP has a number of control mechanisms over the Commission at its disposal.<sup>6</sup> To be a parliamentary democracy, however, the [following criteria](#) need to be fulfilled:

- (1) A democratic form of government in which the party (or a coalition of parties) with the greatest representation in the (legislature) forms the government, its leader becoming [prime minister](#) or chancellor
- (2) Executive functions are exercised by members of the parliament appointed by the prime minister to the cabinet.

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<sup>6</sup> Approval of the College of Commissioners as a whole (Article 17 (7) TEU); posing of parliamentary questions (oral, written and 'question time') (Article 230 TFEU); motion of censure to force to collectively step down (Article 17 (8) TEU and Article 234 TFEU).

- (3) The parties in the minority serve in opposition to the majority and have the duty to challenge it regularly.
- (4) Prime ministers may be removed from power whenever they lose the confidence of a majority of the ruling party or of the parliament.

When applied to the institutional setup of the EU, we see that so far only the last criterion is met, as the European Parliament has the power to issue a no-confidence vote against the Commission and thereby force it to step down collectively (Article 17 TEU and Article 234 TFEU). Even if the Commission president would be the leader of the strongest political party in the EP elections according to a new lead candidate system, other key elements are missing: Commissioners are not members of the EP<sup>7</sup> and there is no classical government-opposition divide within the EP. Majorities are built on a case-by-case basis **to pass legislation**; they do not translate into government.

These elements are not only missing, but also impossible to introduce, as they do not fit the EU's institutional logic. The lead candidate procedure would always only extend to the Commission president, not to the whole executive – the appointment of the other members of the College follows a different logic. Even if the president assigns their portfolios and can refuse individual candidates, they are ultimately selected by their respective national governments. This arrangement does justice to the existence and importance of the Council and the EUCO as the fora of the voice of the Member States.

In a similar vein, further structural limitations arise from the fact that key areas of decision-making<sup>8</sup> remain in the hands of the Council as the sole legislator, with only very light involvement (consent or consultation) of the EP in the decision-making process<sup>9</sup>. Hence, the introduction of a fully-fledged parliamentary democracy at EU level is impossible due to the role that national governments play as 'constituent actors' ([Fabbrini, 2015](#), p. 573).

One cannot, therefore, measure the EU's democratic quality against national parliamentary standards. Yet there are many ways to improve EU democracy, such as harmonising electoral law (as proposed by the [EP](#)) or introducing EU wide referenda (as proposed by the [Conference on the Future of Europe](#)) ([Blockmans & Russack, 2020](#)). Another way, to which this paper now turns, is the revision of the appointment procedure of the president of the European Commission – to include not only EU leaders, but also European citizens in this important decision.

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<sup>7</sup> Some Commissioners run for election and are elected. The EU treaties, however, do not allow members of the College to hold any other offices (Article 245 TFEU).

<sup>8</sup> E.g. law-making in internal market exemptions and competition law; as well as non-legislative procedure when international agreements are adopted under common foreign and security policy.

<sup>9</sup> According to the Special Legislative Procedure.

## Introducing a new concept

The new Commission president appointment procedure should build on the following principles:

### *Involve both institutions: EP and EUCO*

The EU is a Union of citizens *and* states. A new appointment procedure must do justice to the EU's unique institutional framework and reflect the dual legitimacy on which the EU is built: coming from the Member States' governments (represented in the EUCO) and the European citizens (represented by the members of the EP). The EU treaties gave the prerogative to appoint the Commission president to both institutions – this must be respected and reflected in a new procedure.

The EP's involvement is crucial to translate the majority vote and citizens' policy preferences into the appointment of the president. However, a fully-fledged lead candidate system under which the EP would nominate the candidate in any event is not only difficult to implement (as it is not guaranteed that majorities can be found, as we have seen in 2019) but also not desirable.

The Member States' governments' inclusion is equally important for both legal and legitimacy reasons. Furthermore, the revised procedure should ensure that national and party interests are respected and that the political equilibrium among EU governments is reflected, as are the balances between big and small Member States, geography and gender.

The Commission president appointment procedure must reflect the need for consensus between the European Council and the European Parliament as the two main institutions involved, rather than one institution attempting to impose its candidate on the other.

### *Interinstitutional agreement*

All principles of a new procedure to appoint the Commission president need to be captured in writing by an interinstitutional agreement (IIA). The purpose of such an agreement is to clarify procedures between the institutions in order to prevent or limit conflicts among them. An interinstitutional agreement can, but need not, be legally binding (Article 295 TFEU). The one proposed here should be designed as a binding IIA, so that in case of dispute over the interpretation or application of its provisions, the Court of Justice of the EU would have jurisdiction to rule upon it.

This agreement should be drafted and prepared by the Commission and negotiated and concluded together with the European Parliament and the Council. Despite Article 295 TFEU not explicitly mentioning the role of the Commission in IIAs, it should prepare this agreement given a) its usual initiating role in regular legislative procedures; b) the need for a mediator in this process; and c) the fact that the outcome of this procedure eventually concerns the Commission first and foremost. The IIA should capture the common objectives of the lead

candidate procedure – the commitment to a transparent process and the acknowledgement of the respective responsibilities of the institutions involved – and define all concrete steps of the appointment procedure, as well as details of its implementation and application.

Whilst the European Council does not exercise any legislative function and cannot be part of the IIA pursuant to the procedure laid down in Article 295 TFEU, the Member States are represented at the level of the Council of Ministers. The heads of state or government would do well to consider the European Council also bound by either adopting a decision to that effect (Article 15(4) TEU) or – at the very least – endorsing the IIA in the conclusions of an upcoming summit.

### *An earlier campaign kick-off*

One of the arguments used to justify the poor performance of the first lead candidate experiment in 2014 was that there was little time to prepare and campaign. Hence, one of the obvious reform ideas was that Europarties should select their lead candidates earlier to allow time for intensive campaigning across the EU, and to give voters the chance to familiarise themselves with a) the process as such; and b) the candidates running for the office of president.

This is not what happened, however. Only the EPP (2014: March; 2019: November) and the Greens (2014: January; 2019: November) nominated and therefore presented their candidates earlier. Even later than in previous elections were the Left (2014: December; 2019: February) and the Social Democrats (2014: November; 2019: December, with a formal campaign kick-off only in March). Renew's predecessor, ALDE, only declared in February 2019 that it would not participate in the *Spitzen* race, coming up with five candidates ('Team Europe') instead and bringing even more confusion to the whole situation.

Lead candidates, but also other candidates from the transnational lists, need time to make themselves known across the EU and to create space for genuine debate and deliberation on policies. Europarties must acknowledge this and nominate their respective candidates at least nine months before elections.

### *The joint selection of candidates*

In an attempt to involve EU citizens in this decision as much as possible and to create space for debate and deliberation, the European political groups should continue to identify their leaders. This, however, has to happen in close collaboration with the respective heads of state and governments.

The MEPs and the members of the EUCO belong to two different EU institutions, but they are members of the same party families. Europarties could in theory play a crucial role in this as

they are in the best position to bring together their members: MEPs and leaders from different national parties, united under the same party family roof<sup>10</sup>.

The EPP's Helsinki congress would have been a good occasion to bring together the members of the party family and to select a common candidate. However, it did not work in practice, as proven by the rapid demise of Manfred Weber as candidate shortly after the elections. Why did it not work? This convention was composed of a large number of delegates, several per national member party. Two problems arose from this: a) delegates were disproportionate to their population size. There were for instance 30 [delegates](#) from Bulgaria (which has a population of around seven million) and seven from Belgium (with 11.4 million people). This is because such congresses follow a party, not a national logic; and b) The even greater disadvantage of such massive congresses is that the voices of the EU leaders get drowned out: in Helsinki there were 758 delegates with voting rights, among them 14 EPP heads of state and government. There is too little buy-in of leaders if their voice does not carry much weight.

Therefore, party family meetings should be organised in a small-group format, which Europarties and their secretariats would have the mandate to coordinate. Instead of several delegates per national member party, these meetings would bring together only the leaders of the national member parties, plus all heads of state and government belonging to the respective political family.

In most cases these two functions overlap, but where they do not, the head of state and government plus the party leader would participate. Only national member party leaders from EU Member States should be involved, as only their citizens will later be able to vote for the candidate selected. Only full/ordinary national member parties should be invited. Furthermore, the respective leaders/chairs from the EP groups should take part, plus the presidents and secretary-generals of the Europarties. Some Member States will be represented by more than one leader, as some countries have more than one member party<sup>11</sup>.

These meetings would be attended by most probably not more than 60 people. That way, national parties' voices would be heard, but they would not be over dominant in comparison to the members of the European Council, as in the Helsinki format of 758 delegates. Due to its smaller size, this format would not only allow for voting, but also for debate and exchange. These meetings would certainly also follow a party more than national logic, but with a significantly smaller number of participants, those inaccurate representations of their population would be less significant.

Europarties already have experience in meetings of such format: they organise regular leaders' conferences, where the leaders of the national member parties come together (see [here](#) an example of the PES). The meetings to discuss and nominate the common candidate to run for

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<sup>10</sup> These are umbrella organisations that bring together many different parties from the same party family across Europe. They are linked to, but not synonymous with, political groups in the European Parliament.

<sup>11</sup> Example: The EPP has two Danish members: Det Konservative Folkeparti and KristenDemokraterne.

the office of Commission president would be designed in a similar way (except that members of the Commission and other EU institutions should not be present).

### *Transnational lists*

Transnational lists are the intuitive counterparts to the lead candidate procedure. They would allow all EU citizens to vote for the lead candidates, not just their compatriots. Such lists would contain candidates to be elected in a single constituency formed of the whole territory of the European Union. This would facilitate voting for candidates across Member States and give citizens two votes: one for their national or regional constituency, and the other for the entire EU.

Each party family would define a certain number of candidates and thereby create their respective transnational lists. These lists would be headed by those who have been selected as the respective lead candidate by each Europarty. Hence, the different lead candidates would be leading their respective transnational lists. To ensure that the lead candidates for the respective party remain the candidate for the Commission presidency, the lists would need to be closed (meaning voters cannot change the order of candidates).

A revised lead candidate procedure could in theory stand on its own, but it would strengthen the legitimacy of the procedure if all EU citizens could vote for each of the running candidates, not only their respective compatriots. On 03 May 2022, the European Parliament adopted a resolution proposing 28 additional MEPs to be elected via such EU-wide lists<sup>12</sup>. It remains to be seen whether the Council finds agreement and what amendments it will propose.

### *Ultimo Ratio: non-lead candidate and EP hearing*

If one of the candidates can rally a solid (absolute) majority in the EP behind him/her, the European Council would have to nominate this person. The EP has a certain amount of time in which to do so. The EP [has proposed](#) to assign the task to build a majority coalition to the next lead candidate, if the first one fails. That is an option, but the overall time that the Parliament has to find such a majority should be limited. When the EP did not manage in a given timeframe, the European Council should be allowed to propose its own candidate – also someone who did not participate in the lead candidate procedure.

The downside of this last-resort solution is that it cannot establish a link between citizens' preferences and the president-designate's agenda. Citizens would not be able to debate the policies put forward by the candidate. However, the MEPs as the citizens' representatives would do so in their place: The Commission president-designate should be required to undergo a parliamentary hearing similar to those of the Commissioners-designate. So far, the president

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<sup>12</sup> When the UK's left the EU in 2020, 73 seats became vacant. 27 of those have been [redistributed](#) to other Member States. The remaining 46 have been kept in reserve thus far (also with potential future enlargements in mind).

(like Ursula von der Leyen in July 2019) has met the different political groups informally. A cross-party hearing could either be organised as one plenary session or be split into different committee sessions.

If conducted as proposed, the competitive element of the lead candidate procedure remains, while the EU leaders can be involved twice: first at the very beginning of the process when nominating the candidates, here in their capacity as party members, and second at the end of the process if the EP is not able to build a majority, this time in their capacity as members of the EUCO.

## Practicalities

### *Timeframe*

After the election in May, the Parliament would have June to find a majority. The nomination by the European Council would follow in early July and the candidate should have until early September to prepare the hearing before the EP. The hearings of the Commissioners-designate could then follow later that month. It should then still be fully possible to hold the inauguration of the new Commission in November.

If the president-designate is not one of the lead candidates, s/he would be allowed time over the summer to prepare properly for the EP hearing and confirmation and to put together a detailed agenda for the upcoming legislative term.

### *Do we need treaty revision?*

The European Parliament's [recent approach](#) to revise the treaties has not been successful, as the European Council has [did not vote to convene a convention](#) during its last summit. The fact that the EU Treaties will probably not be revised anytime soon does not matter for the revision of the lead candidate procedure as outlined here<sup>13</sup>, as Article 17(7) TEU would remain untouched<sup>14</sup>. An interinstitutional agreement would be based on Article 295 TFEU and not require an amendment of the EU treaties.

The introduction of transnational lists would also not require treaty change, only the adaptation of EU electoral law. This, however, requires unanimity to change [Council Decision 2018/994](#) and the adoption of amendments to European electoral law in each of the 27 national

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<sup>13</sup> It would only require treaty change if the procedure would be modifications along the lines of what Paolo Rangel (MEP) has proposed: that the roles of the EO and the EUCO are reversed so that the EP would propose and the European Council would approve the new President of the Commission.

<sup>14</sup> 'Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members.'

parliaments: Article 223(1) TFEU of this act stipulates that this revision process is initiated by an EP proposal, which is then adopted in the Council by unanimity and approved by Member States in accordance with their respective constitutional requirements. The EP has just tabled its [proposal](#) to the Council.

Article 14(2) TEU sets out the criteria for the composition of the European Parliament. It remains broad, only determining the minimum and maximum threshold per member state, the maximum number of MEPs, and that representation is to be degressively proportional. A Council Decision lays down the details of the composition (exact seat allocation per Member State). Hence, this Decision might have to be adapted if the allocation of seats is affected.

### *Conclusion: providing added value*

An agreement along the lines proposed would guarantee both institutions a fair share in the decision-making process and eliminate the waste of energy on institutional muscle-flexing. That way, neither the EU institutions nor the political parties/Europarties would be distracted from what is actually at stake: identifying the best suitable candidate for the office.

However, institutional reform is never an end in itself. To rethink the Commission president appointment procedure goes beyond institutional harmony and smooth workflow. This is about bolstering democracy and representativeness. This new procedure would make the process more democratic by involving both EU citizens and their governments in the decision, thereby activating both strands of EU legitimacy. A revised procedure is certainly no silver bullet for European democracy, and it is the only proposal that sits next to many others to strengthen EU democracy. But it has the potential to narrow the gap between the EU legislative and executive branch and thus also between the EU institutions and EU citizens.