Chapter Three

Spitzenkandidaten 2.0:
From experiment to routine in European elections?

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ABSTRACT

The Lisbon Treaty ushered in a new mode of appointing the President of the European Commission. The 2014 European elections witnessed the introduction of the *Spitzenkandidaten* process through which European political parties and the European Parliament managed to wrest control over this appointment from the European Council. While successful from the Parliament's perspective in terms of the political outcome, the academic assessment of the system led to mixed reviews, and from both a political and a legal perspective the process has remained controversial. Nevertheless, in the run-up to the 2019 elections, pan-European campaigns by *Spitzenkandidaten* intensified, with most parties except for the Far Right nominating leading candidates. This article analyses the maturation of this process, by reviewing its evolution from 2014 to 2019, identifying the degree of change and continuity in practices and then assessing the impact of the process on party political campaigns, election results and subsequent appointment decisions. By way of conclusion, the article discusses the degree to which *Spitzenkandidaten* have become established as a routine part of EU politics and reflects on the future prospects of the system.

INTRODUCTION

One of the key features of the 2014 European elections was the innovation of *Spitzenkandidaten* – leading candidates nominated by the main political parties for the post of President of the European Commission. This idea was founded on a new provision in the Lisbon Treaty, for the European Council to take into account the elections in proposing a candidate for the European Commission presidency, who would then be elected by the European Parliament.[1] Providing a particular – some would argue extreme – interpretation of this treaty article, the Party of European Socialists

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1. Treaty of European Union, Art. 17(7): "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."

took the initiative in 2014 by putting forward the then-President of the European Parliament, Martin Schulz, as their candidate. The other parties – Christian-Democrats, Liberals, Greens and the European Left - eventually followed suit, leading to pan-European campaigning including a series of debates among the leading candidates.

The outcome of this process is well-known: the election of Jean-Claude Juncker, the leading candidate of the European People's Party (EPP) as Commission President. It was regarded as a success for the European Parliament (EP) in its inter-institutional power struggle with the European Council, where several heads of state had reservations about ceding the initiative to the EP. As such, it fitted into a wider history of the EP expanding its power beyond the formal text of the treaty – a process which has been termed interstitial institutional change in the European Union (Farrell and Heritier, 2007; Moury, 2007) – and which included previous innovations such as trialogues and hearings for designated Commissioners.

This is not to say that this innovation was without controversy. Beyond the European Council which, as an institution, was somewhat critical about the idea for obvious, self-interested reasons, critics have suggested different interpretations of the legal text. For example, does "taking account of the elections" necessarily mean that the largest party to emerge from the elections has a right to the Commission President position? Does the Treaty not intend that the European Council be the body that proposes the candidate for this position rather than the EP or individual political parties?

Given the novelty of the *Spitzenkandidaten* process in 2014, initial assessments concluded that its introduction had the potential to constitute a transformative moment for representative democracy at the European level (Shackleton, 2017), but that an evaluation of its lasting impact would be more appropriate after the 2019 experience (Christiansen, 2015). The second instalment of the use of this procedure ought to provide clues as to whether the 2014 experiment was a one-off, or whether it has managed to establish itself as a routine part of European democratic governance. While this chapter is written only a couple of weeks after the 2019 election, and prior to the subsequent appointments to the main leadership positions in the EU, it nevertheless provides a first opportunity for such an assessment. In other words, this chapter addresses the question of how the *Spitzenkandidaten* process has performed in 2019, and what this experience tells us about the lasting impact of the system. We do so by providing in the next section a brief discussion of how the system has been assessed, distinguishing between its perceived advantages and disadvantages. This is followed by an analysis of the 2019 experience, considering both developments that have strengthened and those that have weakened the operation and the impact of the system. By way of conclusion we provide an outlook on the future prospects of the system based on this analysis.

THE PROMISE AND THE LIMITATIONS OF THE SPITZENKANDIDATEN SYSTEM

The underlying rationale for the original treaty change and the subsequent introduction of leading candidates was the intention to increase the democratic legitimacy of the office of the Commission President (and by implication of the Commission as a whole). This would be achieved through a more direct link between the outcome of European elections and the appointment of the head of the European Commission, creating a tangible connection between voter preferences and the way in which Europe is governed. This would be further facilitated by the intermediate steps that the introduction of *Spitzenkandidaten* engenders: the need to form a party-political coalition in order to achieve the required majority for the election of the Commission President, the conclusion of formal or informal agreements among parties concerning the 'governing programme' of such a coalition, and the creation of a more stable majority in Parliament on which the Commission can then base its legislative and policy agenda (Ondarza, 2014).

A corollary of this increase in democratic legitimacy is the greater transparency of the way in which leadership appointment decisions are taken in the European Union. The Commission President is now expected to emerge from a public contest rather than from deal-making behind the closed doors of the European Council (Baldoni et al., 2014). Election to this position involves prior public commitments to certain objectives and adherence to specific positions, making the holder more accountable to Parliament and the electorate as a whole.

Furthermore, the strengthened link between Commission and Parliament resulting from this process also implies a weakening of the link between Commission and European Council, which in turn points to a Commission President who is more independent of national governments, and hence more able to advance the common European interest. This system therefore is seen as enabling the European executive to be more effective and more impartial in comparison with past practice when member states in the European Council could bargain with potential Commission President candidates over favourable treatment in return for their appointment.

One other important benefit of the *Spitzenkandidaten* system was meant to be the greater salience of the European elections, the greater media attention devoted to the individual candidates, and the impact that this would have in terms of public awareness, electoral turnout and ultimately the legitimacy of the election results (Schmitt et al., 2015). Against the background of a decades-long decline in participation rates at European elections (it fell from 62% in 1979 to 43% in 2014 – but see Chapter 4), the *Spitzenkandidaten* system promised a reversal of fortunes in this respect by making the European elections both more visible and more genuinely European (thereby countering their nature as second-order elections).

While expectations with regard to greater democratic legitimacy, an increase in public accountability and a higher electoral turnout were strong arguments in favour of the new system, critics have pointed out several weaknesses. One weakness was that the President of the European Commission is a president in name only, presiding as she or he does over a College of Commissioners that formally decides by sim-

ply majority, and which is composed of members nominated by national governments. This means that Commission Presidents have less authority over their 'government' than prime ministers have at the national level (not to speak of actual presidents like in the US or France).

Beyond the Commission itself, any successful candidate not only has to work with coalitions in the EP in order to succeed with a particular policy-initiative, but also requires majority support in the European Council. In other words, unlike national leaders a Commission President is inevitably engaged in a permanent search for compromise, first within the Commission and then in relations with the other EU institutions. This in turn means that the kind of promises and even manifestos that candidates would be campaigning on cannot actually be taken as indicators of subsequent performance in office and are thus misleading for the electorate. This not only limits the usefulness of the *Spitzenkandidaten* system in terms of holding the Commission President to account, but also suggests that – far from providing a stable legislative majority – the system still requires the search for ad hoc support for each individual policy proposal (Ondarza, 2019).

These arguments run counter to the previous arguments on democratic legitimacy and stability of governance, indeed – if correct – they amount to the charge that the image created by the *Spitzenkandidaten* is actually counterproductive in raising false expectations among the electorate. Once voters come to realise that this promise of a more accountable and stable 'European government' emerging from the outcome of elections is not achievable in practice, the impact on support for the European Union could prove to be negative (Höpner, 2014).

In addition to these criticisms one also needs to consider the wider limitations of such a system. The idea of pan-European campaigning may sound good, but actually hits the buffers when confronted with the multilingual electoral space that constitutes the EU. No single candidate can actually hope to speak directly to the voters of more than a few countries, and on occasion perhaps only his or her own native country. While English has become a lingua franca in Brussels, and debates among candidates have been held in English, French and German, most EU citizens have not been able to listen to communications from leading candidates in their own language. Consequently, in 2014 (and most likely again in 2019) the *Spitzenkandidaten* received most attention in Germany where both candidates were able to debate directly in German (Shackleton, 2017).

This structural impediment to pan-European campaigning contributes to and is reinforced by media coverage of European elections that is still very much divided along national lines, with – essentially still *national* – media reporting on national lead candidates (which many parties in various members states appoint in addition to the EU-level leading candidates). The consequence of this is a generally low level of name recognition of the leading candidates across the EU (Van der Brug et al., 2016), and *Spitzenkandidaten* receiving attention from the media predominantly in their own country (Hobolt, 2014). For their part, national political parties have little incentive to prioritize candidates of another nationality for Commission President above their own candidates standing for the European Parliament. These practical

considerations feed into the much broader question of an elusive European *demos* (Weiler, 1999) and the presence of multiple *demoi* in the European polity (Nicolaï-dis, 2004). In other words, the new system cannot remove the structural obstacles to pan-European elections, and its pretence of doing so could also be counterproductive in terms of the legitimacy of EU governance.

<div align="center">ASSESSING THE PERFORMANCE OF THE SPITZENKANDIDATEN SYSTEM</div>

Against the background of the advocacy in favour and against the idea of *Spitzen-kandidaten* it is important to be specific about the manner in which the actual prac-tice of the system and its impact on EU politics is being assessed. A fairly simple, if not simplistic, approach to such an assessment would focus on the basic continua-tion of the discourse about, and the practice of, the system. In that regard, a repe-at in 2019 of the 2014 practice counts as a success. However, even such an assessment does not take us very far. A more meaningful assessment must include an analysis not only of the basic maintenance of the system, but ultimately also of the impact it has on the nature of campaigning, electoral behaviour and post-election decision-making.

Implicit in the above discussion of "success" for the EP was the idea that a mea-sure of its performance was the ability to determine who would be the "winner". Ho-wever, we would suggest a more nuanced understanding of what constitutes "suc-cessful" performance of the system. This includes recognition of several elements of what the system stands for, not all of which may be realised. In other words, suc-cess or failure can be partial.

Specifically, a variety of scenarios and outcomes are possible in this regard. First, EP and European Council may have different preferences regarding the choice of Com-mission President, and a resolution of such a disagreement would require one side or the other to back down. This would mean that if the EP managed to coalesce around a single candidate and to impose him/her on the European Council, the system could be seen to have succeeded in firmly establishing itself. On the other hard, if the Eu-ropean Council was able to get its preferred choice for Commission President elec-ted by the EP and that person had *not* been a leading candidate, then that would be seen *per se* as a sign of failure for both the EP and the idea of the *Spitzenkandidaten* system.

However, matters are more complex than that. For example, the parties in the EP may come to an agreement on one particular lead candidate while the Europe-an Council, perhaps due to different party political majorities in that institution, may push for a different *Spitzenkandidat* representing one the other European political parties. If the European Council succeeded in this strategy, this could be seen as a loss for the EP, but nevertheless as a success for the procedure – increasing its chan-ce of become a routine part of EU politics.

Indeed, the case could also be made that even if in the end a Commission Pre-sident is elected who was not among the nominated leading candidates, that would not necessarily mean that the system had had no influence. It would be a matter for

empirical assessment whether the European Council had to "buy" the nomination by giving in to the EP on other issues (i.e. matters of policy substance or other leadership appointments), and also as to the degree to which an alternative candidate would have had to demonstrate particular ability, not required in the *pre-Spitzenkandidaten era*.

Beyond this assessment of the inter-institutional struggle over the appointment of the Commission President, there are wider criteria to be considered. Specifically, a measure of success of the system is the nature and extent of the media attention it generates ("To what extent do pan-European leading candidates help to raise the profile of the European elections?") and the impact that the system has on participation rates in the European elections ("To what extent is turnout at European elections related to the presence of leading candidates?").

For this paper it has not been possible yet to conduct the kind of empirical data collection that would be required to make dependable statements about the system's impact on media coverage and voting intentions. It is true, of course, that in 2019 the turnout at European election had gone up for the first time ever, rising above 50 per cent for the first time since 1994.[2] It is tempting to attribute this increase to the added publicity and political debate generated by the *Spitzenkandidaten* (*Financial Times*, 2019). However, without further research this remains an assumption rather than a proven fact. Instead, in the analysis below we limit ourselves to a preliminary assessment of the way in which the re-appearance of the system in 2019 has impacted on inter-institutional relations, party politics and leadership appointments.

THE IMPACT OF SPITZENKANDIDATEN SYSTEM ON THE 2019 EUROPEAN ELECTIONS

The first point to note is that, as in 2014, the main political parties did again nominate leading candidates (see Table 1 below), that these candidates engaged in pan-European campaigning, that a significant number of public, televised debates were held involving some or all the candidates (*Financial Times*, 2019; Fleming, 2019), and that post-election discussions about the future Commission President were dominated by the *Spitzenkandidaten* system (*Politico*, 2019). As in 2014, the leading candidates of the two largest parties, EPP and PES, Manfred Weber and Frans Timmermans, respectively, received most of the attention and debated on a number of occasions, both alone and with the other candidates (even if Weber was strangely absent from the Maastricht Debate, the biggest debate outside the official debate in the EP). At first glance, it therefore seemed as if it was business as usual for the system, giving credence to the belief that it had gone beyond a one-off experiment and had established itself as an emerging routine.

2.   Turnout (in per cent) at European elections: 61.99 (1979); 58.98 (1984); 58.41 (1989); 56.67 (1994); 49.51 (1999); 45.47 (2004); 42.97 (2009); 42.61 (2014); 50.95 (2019). See Chapter 4 for analysis on this point.

EUROPEAN POLITICAL PARTY	EUROPEAN POLITICAL PARTY
European People's Party (EPP)	Manfred Weber (DE)
Party of European Socialists (PES)	Frans Timmermans (NL)
Alliance of Liberals and Democrats for Europe (ALDE)	Emma Bonino (IT); Guy Verhofstad (BE); Katalin Cseh (HU); Luis Garicano (ES); Margrethe Vestager (DK); Nicola Beer (DE); Violeta Bulc (SV)
European Green Party	Bas Eickhout (NL); Ska Keller (DE)
Alliance of Conservatives and Reformists in Europe (ACRE)	Jan Zahradil (CZ)
Party of the European Left (GUE)	Nico Cué (BE); Violeta Tomić (SV)
European Free Alliance (EFA)	Oriol Junqueras (ES)

Table 1 - Lead candidates nominated for the 2019 European elections by European political parties

However, while at the time of writing a decision on the new Commission President is still outstanding, one can already observe how the situation has changed in important ways. The 2019 experience exhibited a number of significant differences as compared to 2014 when it comes to the manner in which the EP and the European Council entered the 'game'. First, the European Council in 2019 was much better prepared than in 2014 when it arguably was taken by surprise at the dynamic that the Parliament's initiative in favour of *Spitzenkandidaten* produced. It struggled and ultimately ran out of time – under pressure from EP and the media – to propose credible alternatives to the EP's preferred candidate. In 2019, the European Council knew better what to expect, scheduled meetings for 28 June and 21 July in order to debate its options in good time, and appointed its own working group composed of six of its members – two each representing the EPP, Socialists and Liberals (De La Baume and Herszenhorn, 2019b).

Second, by contrast, the EP appeared significantly less cohesive than it had been in 2014. Whereas previously there was unanimous consent among the four biggest groups that had nominated leading candidates that they would support each other in order to ensure that the procedure would succeed (Shackleton, 2017), that unity was broken in 2019 when the Liberals changed position on the idea of *Spitzenkandidaten*. They now regarded it as illegitimate, particularly because of the absence of agreement in Parliament and the European Council on the creation of transnational lists for the European elections (Rios, 2019). Instead they appointed an 'expertise team' of seven senior politicians that was to be regarded as pool for the various leadership positions that would need to be filled in 2019. This 'having your cake

and eating it' approach worked well, since it allowed Liberal politicians to participate in the various debates among leading candidates, while at the same time keeping their options open with regard to the deals that would subsequently be made to appoint not only the Commission President, but also the positions of European Council President, EP President and High Representative for Foreign Policy.

Both the better positioning of the European Council and the more fragmented support in the EP can be linked to the same source: the opposition of French President Macron's to the idea of *Spitzenkandidaten* reflecting not only his interest as a member of the European Council, but also the fact that in 2019 the Liberals – the political party that Macron's *En Marche* was intending to merge with after the elections – actually had a position of strength comparable to EPP and Socialists in the European Council, in contrast with their minority position in 2014. Based on the calculation that it would be highly unlikely that the Liberals would emerge as the largest party from the elections, but that it was perfectly reasonable to expect the European Council to agree on a Liberal candidate, it made sense for the Liberals to 'defect' from the previous coalition of parties supporting the new system.

To have the third-largest party depart from the previous script certainly weakened the system (Eder, 2019). On the other hand, the fact that in 2019 the European Conservatives (ACRE) nominated a leading candidate for the first time – the Czech MEP Jan Zahradil – meant that the Eurosceptic side also had a voice in the debates prior to the elections, and thus strengthened the representative character of the system. Indeed, in 2014 one of the main objections had been that the debates had not reflected the full range of political views since none of the Eurosceptic elements in the EP had nominated a candidate. How far the absence in 2019 of a leading candidate from the Far Right – Matteo Salvini (Lega, IT), Marie Le Pen (RN, F), the German AfD and other right-wing populists had not been able or willing to agree on joining the race with their own leading candidate – weakened the system is difficult to judge in the hypothetical. A populist anti-European contribution to the public debate might have added legitimacy to the contest but might also have generated more heat than light in the course of the debates.

This discussion already indicates that party political considerations mattered more in 2019 than they did in 2014. What was previously very much an inter-institutional battle between EP and European Council (i.e. national governments) was by 2019 much more a contest between the main political parties. For a start, it became evident already in the campaigning for the elections that the formation of a workable coalition in support of a Commission President would be required. According to all forecasts, and as confirmed by the election result itself, EPP and PES would be unable to command sufficient votes in the new EP to decide matters among themselves. Whereas in 2014 a fairly straightforward deal between these two parties – PES support for Juncker as Commission President in return for EPP support for Martin Schulz as EP President – was enough to unite the EP against the European Council, the arithmetic in 2019 is more complicated. A majority in the newly elected EP now requires either the support of the Liberals (who, as discussed above, had failed to back the system) or a deal with the Greens and exclusion of the Liberals. Either of these ave-

nues implied that the European Council would have a strong position in confronting the EP's preferred candidate with its own choice.

This observed shift from a mainly inter-institutional battle to one dominated by party political considerations is also evident from the – arguably remarkable – candidacies of several politicians who were serious contenders for the Commission President position: Frans Timmermans, First Vice-President of the Commission and the PES leading candidate, Margarethe Vestager, Competition Commissioner and among the slate of ALDE candidates, and Michel Barnier, the EU's Brexit Negotiator who, while not a leading candidate had been frequently mentioned as a possible successor to Jean-Claude Juncker. Each of these politicians was regarded, before and after the election, as a credible candidate for the Commission position, even though none of them was a member of a party that formed part of the government in their own country. This aspect of their CV was considered a certain limitation, but it did not categorically exclude them from consideration in a way that it would have done in the pre-*Spitzenkandidaten* era. In other words, the arrival of the new system of nominating candidates massively enlarged the pool of politicians from which a Commission President would be chosen, and this happened because party affiliation at the EU level now mattered at least as much, if not more, than party affiliation at the domestic level. Depending on the final decision regarding the various leadership posts, this change may well constitute a significant transformation in EU politics.

The leading candidates, today, dominate discussions about the choice of the next Commission President. However, it also needs to be recognised that not all of this talk has been supportive. Beyond the kind of fundamental critique against the system launched by Emmanuel Macron and others referred to above, questions were also raised about Manfred Weber's qualifications for the position, given his lack of executive experience – similar to the doubts raised about Martin Schulz's candidacy in 2014, given that he also had made his career in the European Parliament. Still, such objections against the system and individual candidates actually demonstrate the degree to which the *Spitzenkandidaten* system has set the agenda for the post-election appointment cycle. Commentators may have raised issues about Manfred Weber's fitness for the job (De La Baume and Herszenhorn, 2019) as well as his acceptability to the European Council (Kelemen, 2019), but he was nevertheless regarded as the frontrunner throughout the election campaign, given that the EPP was predicted to become the largest party in the 2019 parliament (De La Baume, 2019). 'Outsiders' such as Michel Barnier are talked about as possible alternatives to Manfred Weber (or to other *Spitzenkandidaten*) if the European Council could coalesce around them (Beswick, 2019), but that also signifies that they are seen (merely) as *alternatives* and evaluated *in comparison to* the leading candidates.

Observers and – presumably – political actors have also considered the wider range of EU leadership positions that will need to be filled in 2019 (Russack, 2019). Thus, parties having proposed lead candidates for Commission President may accept that this goal is unattainable for them in the light of the electoral arithmetic, but nevertheless have staked a claim to one of the other positions available. What in 2014 was a fairly straightforward division of spoils between Jean-Claude Jun-

cker (Commission President) and Martin Schulz (EP President), has become a more complex game in 2019, with the positions of European Council President and High Representative also in play. This logic appeared to be one of the drivers behind AL-DE's decision to nominate a "Team Europe" in order to have a range of candidates for consideration for the various positions. Even the succession of Mario Draghi as head of the European Central Bank became caught up in these considerations, if only because of informal rules about nationality: for example, if the German government were to succeed in its bid to appoint the *Bundesbank* president to this position, then this would undermine Manfred Weber's chances of becoming Commission President – and vice versa.

In other words, the *Spitzenkandidaten* system in 2019 has a number of corollary effects on EU politics beyond just the designation of the Commission President. In 2019, the system has evolved and become more complex. On the one hand, the ambivalent attitude of the Liberals and explicit opposition of Emmanuel Macron and other heads of government weakened the system. On the other hand, the larger number of parties across the political spectrum participating in the system gave it a boost, even if anti-European populists did not engage with it. Until the decisions about the Commission Presidency and other leadership positions have been concluded, it is too early to draw final conclusions about the system's impact on the 2019 elections. What we will offer in the final section below is therefore an attempt at some preliminary observations about the effects the system has had on EU politics and about its future prospects.

CONCLUSION

The title of this chapter promised a judgement on whether the *Spitzenkandidaten* system has established itself as a routine part of EU politics or was a one-off (and therefore failed) experiment. The 2019 experience has demonstrated that the system did return, and arguably more strongly so, with a wider range of parties and candidates actively participating in it. However, that does not mean that it has already acquired the status of an accepted routine. The idea remains contested, and – perhaps precisely because of its initial success in 2014 – this contestation has become more intense in 2019. After a heady launch in 2014 the *Spitzenkandidaten* system has matured in 2019, but only a successful reprise in 2024 will make it possible to offer a firmer judgement as to whether it has become a permanent fixture of EU politics.

As for the immediate impact in 2019, the outcome of negotiations over who takes over from Jean-Claude Juncker as Commission President will signal whether EP or Council have prevailed on this occasion. While this remains unresolved at the time of writing, a number of lessons can already be drawn. First among these is that the system has proven to be an effective tool for the European Parliament to set the agenda and to impose itself on the European Council. The fact that for the first time since Jacques Delors' appointment as Commission President none of the candidates, whether lead candidates or 'outsiders', was a previous member of the European Council is a powerful sign of the new dynamic and the loss of control over the

process that the European Council has experienced. The idea that the European Council would simply choose one of their own as a Commission President seems to be a thing of the past.

However, rather than looking at this in terms of absolute winners and losers, it is more appropriate to view the *Spitzenkandidaten* system as part of the wider inter-institutional relations that continue to evolve. The European Council has responded to the challenge laid down by the EP and is learning better how to play the game. Furthermore, beyond the horizontal relationship between EU institutions, the vertical nature of the process has become more apparent: in having opened up a new pan-European circuit of electoral politics, the system has also strengthened the EU level of party politics vis-à-vis the domestic level. National political parties now have to recognise the significance of EU level politics – from intra-party decision-making to party political voting shares in Parliament and European Council – in a way that was not the case before.

This is perhaps the most lasting impact so far: the *Spitzenkandidaten* system, despite being contested and still emerging, has significantly raised the importance of party politics at the European level. By 2019, in addition to inter-institutional battles and bargaining among national governments, the strategies of individual political parties, their electoral fortunes and the formation of coalitions and alliances have also become essential parts of the process determining the Commission leadership. In 2014 it might have been controversial for Jean-Claude Juncker to declare that he wanted to lead a more political European Commission. From the experience of the 2019 European elections, it is apparent how things have developed further since then, as party politics have become a defining element in the process of electing the President of the European Commission.

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