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‘This time it’s different’ – the European lead candidate procedure of 2014 and its historical background

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SUMMARY

The 2014 elections for the European Parliament (EP) witnessed a novel procedure: the lead candidate (or Spitzenkandidaten) procedure, which was to (and did in fact) link the polling results to the nomination of the new European Commission President. This article investigates the procedure’s historical background from a long-term parliamentary perspective. It points out that there were three factors or developments that explain its introduction: the EP’s assertive political culture, increasing attention for the EP’s representative function and the support of prominent political actors who were able to make a difference.

KEYWORDS

European elections; European Parliament; lead candidate procedure; Spitzenkandidaten; European Commission presidency

Introduction

‘History is being made tonight, welcome to the first ever European presidential debate!’ With these words Euronews presenter Isabelle Kumar opened a debate between Jean-Claude Juncker, Martin Schulz, Guy Verhofstadt and Ska Keller that took place on 28 April 2014.¹ In May of the same year, there would be European elections, and the four participants in the debate were designated as so-called lead candidates (or Spitzenkandidaten, according to the German term that became generally used in several European Union member states) of their respective European political groups. In previous elections, there had not been any lead candidates, and it had always been the prerogative of the European Council to select a person to become the new Commission President. However, in a joint effort to reinforce the link between the elections for the European Parliament (EP) and the presidency of the European Commission, the major European parties had decided to introduce a new procedure according to which the candidate nominated by the largest European party would become the new Commission President.

In October 2013, EP President Martin Schulz set the ball running with a public letter declaring his ambition to be the lead candidate of the Party of European Socialists (PES). With no alternative socialist candidate, it was an uncontested election for him. The European People’s Party (EPP) nominated the experienced former Prime Minister of Luxembourg Jean-Claude Juncker; the Alliance of Liberals and Democrats for Europe (ALDE) elected

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the former Belgian Prime Minister Guy Verhofstadt as their lead candidate; two Members of the European Parliament (MEPs) Ska Keller and José Bové were chosen as lead candidates for the Greens; and the European United Left/Nordic Green Left (GUE/NGL) group in the European Parliament put forward Greek Syriza leader Alexis Tsipras. For pragmatic or principled reasons, the other European groups did not select lead candidates.2

In spite of limited resources and all kinds of organizational and practical problems that are inevitably inherent in transnational campaigning in 28 member states, the candidates tried to give their campaign a pan-European character, among other things by paying visits to different member states and by a number of television debates.3 In a publicity campaign that was launched in February 2014, the EP’s press service hopefully announced, ‘This time it’s different!’ ‘For the first time, the composition of the new European Parliament will determine who will lead the next European Commission …’.4 Four months later, it was indeed the winning party’s lead candidate, Juncker (EPP), who was appointed as Commission President, but when the EP started its campaign, it was not at all certain that the procedure that it proposed would actually be followed. At meetings EP officials who explained the ambitious plans for the 2014 elections were often outright laughed at.5 The text of the Lisbon Treaty, which had entered into force on 1 December 2009, was somewhat ambiguous with respect to the appointment of the Commission’s President. It read:

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. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.6

Even though this new provision explicitly mentioned the EP elections as a factor to be taken into account, many expected that the European Council would not easily give up its prerogative to propose a candidate of its own preference. Sure enough, member state governments did initially not take the EP’s preparations for a new procedure seriously. When they finally realized their misjudgement, it was too late to stop the running horse. The EP got its way.7

In media comments, the course of events was more than once described as a ‘parliamentary coup’.8 Apparently, many politicians and commentators were taken by surprise. In hindsight, it is hard to understand why they were unable to foresee the eventual outcome, or to consider the EP scheme at least as something that could perfectly possibly become reality. What was perceived as a ‘coup’ was not only openly prepared, it was also in line with longer-term historical tendencies.

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2For a detailed reconstruction of the nomination of the lead candidates, see N.P. García and J. Priestley, The Making of a European President (Houndmills, 2015), pp. 75–104.
3For more details on the campaigns and the problems encountered, see García and Priestley, Making, pp. 105–43.
6Treaty of Lisbon, art. 17.7.
7García and Priestley, Making, p. 154.
Political scientists who reviewed the lead candidate procedure afterwards showed themselves to be more aware of the procedure’s prehistory, but their main interest has been to assess the consequences and effects of the new procedure on, for instance, voter involvement or inter-institutional relations in the EU. Two exceptions that can be mentioned are a paper by College of Europe Professor Martin Westlake, and a book by two insiders, Nereo Peñalver García and Julian Priestley. Westlake tries to explain the how and why of Juncker’s presidency from the confluence of a series of longer-term trends. Contrary to this article, his insights are primarily focused on structural changes in the European Commission and much less on developments in and around the EP, on which this article aims to concentrate. García and Priestley give a detailed account of the course of events around the lead candidate procedure and the appointment of Commission President Juncker. These include the parliamentary preparations, but they focus on the period immediately preceding the political battle around the right to appoint the Commission President, and only briefly mention what happened before.

To fully understand the lead candidate procedure’s historical background, a longer-term parliamentary perspective is needed. Three factors or developments can be distinguished that explain why the time was ripe for this procedure to be introduced and followed up on. First (and completely interwoven with its institutional history), there was the EP’s assertive political culture. As will be explained briefly in the first section of this article, the battle for parliamentary powers has always been a central theme for the EP, and over the years, it has developed a keen sense of opportunity and a great persistence to gradually gain a better position. Second, starting from the 1990s, there was a growing awareness that the EP’s representative function would need more attention. As this article will show, this gave new impetus to an old idea to increase the EP’s role in the Commission appointment, which had up to then been principally federally inspired only. Third, it was crucial that the maturing idea to link the Commission presidency to the outcome of the EP elections was taken up by political actors who could actually make a difference. This is dealt with in the last section. The article concludes with a summary of the main findings and tries to look ahead to the next elections in 2019.

Seizing parliamentary power

During the first decades of their existence, the EP and its predecessors basically operated as a consultative assembly. The original institutional set-up of the European organizations was to a large extent based on the so-called functionalist approach of European


11The EP’s predecessors were: the Common Assembly of the European Coal and Steel Community (from 1952 to 1958) and the European Parliamentary Assembly (formally from 1958 to 1986, but in 1962 the Assembly had already started calling itself the European Parliament).
integration, in which pragmatism and non-political forms of administration were the main points of departure. Democratic control was no priority; it was assumed that economic effectiveness and efficiency would automatically legitimize the decisions taken. Other possible approaches were the federalist and the intergovernmental approach. According to the first approach, European integration should ultimately result in a federal form of European government in which a central role would be reserved for the EP, while the latter preferred to stick to an intergovernmental organization in which the main democratic functions would continue to be exercised by the national parliaments.12

In the course of the European integration process, each of these viewpoints continued to exert influence, with the current hybrid organizational EU structure as a consequence. Traces of the three perspectives can also be recognized in recent debates concerning the question of democracy in the EU. For instance, in discussions about the desirability of a lead candidate procedure its proponents typically argued that the European Commission needed parliamentary backing because it was essentially a political organ with regulatory functions that were comparable to that of a national government (federalism), whereas opponents or those with hesitations feared that the new procedure would irreparably damage the Commission’s role as a neutral honest-broker (functionalism) or maintained that, as a forum of democratically elected leaders, the European Council was more entitled to nominate the Commission President than a remote EP (intergovernmentalism).13 In their legitimacy claims, each of the European institutions predictably tends to follow its own logic too: the EP emphasizes its direct electoral representativeness, the European Commission underscores its expertise and its frequent consultation with stakeholders, and the members of the Council stress their accountability to national parliament as a primary representative of their people.14

Although the percentage of more intergovernmentally minded and even anti-integrationist MEPs has recently increased, traditionally, the federalist point of view prevailed in the EP. Its institutional ambition was to become a ‘real’ parliament, fulfilling the same three core functions as national parliaments normally do: passing laws, monitoring government actions and representing citizens’ interests.15 Over the years, it developed an assertive political culture to arrange matters to its advantage and to secure a better and more influential position. It successfully expanded its powers, partially with the help of member state governments through treaty revisions, but also by exploiting loopholes and procedural opportunities.16

The EP’s attempts to strengthen its position focused on legislative and budgetary powers first. With the treaties of Brussels and Luxembourgh of 1970 and 1975, the EP gained some authority over the budget. Its rights were restricted, because it could decide on certain types of expenditure only, but if parliament was not satisfied with the

13For the pros and cons, see García and Priestley, Making, pp. 38–44. For different visions of democracy that were at stake, see also Hobolt, ‘Vote’, p. 1538.
overall picture, it did have the right to reject the whole budget by a two-thirds majority. The EP was not afraid to actually use that power: it rejected the budget twice and also regularly used its repudiating power as a leverage to gain more concessions from the Council and to expand its influence.\textsuperscript{17} The EP also used its budgetary powers to obtain some legislative influence: it could threaten to withhold money for the implementation of legislation with budgetary consequences, and made the Council agree to the creation of a special ‘conciliation procedure’ to seek agreement with the EP over these types of legislation.\textsuperscript{18}

A typical example of the EP’s clever use of loopholes is that concerning the ‘Isoglucose’ judgment of the European Court of Justice of 1980. To the great frustration of many MEPs, the Council did not usually pay much attention to the recommendations the EP made in relation to its legislative proposals. Often the Council had already reached agreement before the EP had even had the chance to submit its opinion; only the formal decision was postponed until the EP had been consulted. In this particular case, even the symbolic waiting was omitted: the Council adopted its final decision without the EP’s opinion. However, when the Court annulled this decision, it became clear that, in spite of its non-binding character, obtaining the EP’s opinion was a necessary step in the legislative procedure. For the EP, this meant an opportunity to increase its bargaining power: when the Council refused amendments that it considered important, it could threaten to postpone its final vote and to prevent the adoption of the legislation concerned.\textsuperscript{19}

Combined with emerging discomfort among policy-makers about the growing amount of policy areas falling within the scope of European legislation without accompanying proper democratic procedures, the legislative practices that resulted from these EP victories gradually paved the way for treaty changes in favour of the European Parliament. Starting from 1986, legislative powers were progressively given to the EP until it was placed on an equal footing with the Council in all but a few areas in 2009. Both have to give their approval to new European legislation, otherwise it cannot be adopted.\textsuperscript{20}

With respect to one of the other parliamentary core functions, the power of scrutiny and control, a comparable process of gradually increasing powers ensued from the EP’s tenacious efforts to establish a more influential position.\textsuperscript{21} The EP’s strongest accountability instrument was available right from the start: the right to dismiss the Commission as a whole. But obviously, this was an instrument of last resort that would and could not easily be used. To be able to force the Commission to resign, a qualified majority was required of two-thirds of the votes cast representing a majority of the MEPs. For a long time, the EP’s right of censure was really just regarded as a theoretical option. Motions of censure were submitted on only a few occasions and they did not even come close to meeting the required parliamentary support.\textsuperscript{22}


\textsuperscript{21}Corbett et al., \textit{European Parliament}, pp. 365–94.

\textsuperscript{22}For an overview: Corbett et al., \textit{European Parliament}, pp. 362–3.
This radically changed in the late 1990s. Owing to asserted maladministration in the context of the BSE crisis (a bovine disease that can be transmitted to humans), the EP tightened its grip on the Commission and convincingly threatened to use its right of censure if its recommendations failed to be followed.23 In 1998, the EP closed down on the Commission again when it refused to grant it discharge for the implementation of the 1996 budget. Although the Socialist Group (one of the major groups in parliament) did not initially intend to, the course of events was such that majority support of a censure motion became almost unavoidable, and in March 1999, the Santer Commission resigned.24 It was a decisive and pivotal event: from that moment on, it was crystal-clear that the EP’s confidence in the Commission was essential for the Commission’s political survival.

In relation to the Commission’s accountability to the EP, the latter’s attempts to create a practice of parliamentary investiture should be mentioned too. After all, what such a procedure boiled down to was that an incoming Commission would have to secure the support of a parliamentary majority before it could take office. Originally, Commission appointments were a purely intergovernmental affair with no role for the EP.25 However, as of 1981, the EP unilaterally decided to organize a debate and a vote on the incoming Commission. In the Stuttgart Declaration of 1983, member state governments made a slight concession in this regard. They agreed that the parliamentary leadership would be consulted on the choice of the Commission President, but this was still entirely a matter of form that did not give the EP any real influence. The Maastricht Treaty of 1992 became the true turning point: it made consultation of the EP (not just its leadership) on the nomination of the Commission President obligatory and formally gave the EP the right to vote on the incoming Commission as a whole.

According to the letter of the law, the parliamentary vote on the presidential candidate had a consultative status only, but when, in 1993, the EP successfully persuaded the incoming president Jacques Santer to declare that he would withdraw if he were unable to gain majority support, it convincingly demonstrated that, in practice, it was a real power. A few years later, this was recognized in the Amsterdam Treaty, which officially changed the consultative vote into a binding one.26 Again, the EP sought opportunities to get the most out of this newly recognized right: it decided that its vote of confidence would be preceded by public hearings with each of the designate commissioners. On the first few occasions, these hearings did not have political consequences, but in 2004, the Italian and Latvian candidate commissioners, Rocco Buttiglione and Ingride Udre, were refused. The EP threatened to vote against the whole Commission if these candidates were not replaced and incoming Commission President Barroso did not have any other choice than to revise his team.27 From that moment on, it was clear that individual candidates would also have to secure parliamentary support before they could take office.

Hence, the EP developed a shrewd fighting mentality and it did well out of it: it successfully expanded its role in relation to two core parliamentary functions: to pass laws and to
exert control. Yet, in respect to the third important parliamentary function – to represent the people – there was still much to be won.

European elections that never became European

In spite of its ambitions, the idea that the EP would voice the opinion of the people has never really convinced members of the public that the EP was supposed to represent. Naturally, it did not have much power or influence in the first decades of its existence, and until 1979, its members were delegated members of the national parliaments, who were unable to spend more than only a limited amount of time on their European duties. Under these circumstances, it was no wonder that people regarded the EP’s work as a matter that did not in any way concern them or their lives.

Apart from getting more power, the realization of direct European elections was therefore an important EP ambition. It was assumed that if people were able to cast their vote, then this would have a positive effect on their political involvement with European policies. A direct voter’s mandate would in turn add to the EP’s legitimacy, thus giving a boost to its bargaining power and its ability to translate this expression of popular will into actual policy influence, so it was thought.

The Treaty of Rome held out the prospect that one day European elections would become a reality and the Treaty determined that the Assembly (as the EP was then still called) would draft proposals ‘for elections by direct universal suffrage in accordance with a uniform procedure in all Member States’. However, the Council of Ministers as well as the individual member states would need to approve the proposals too. This appeared to be a very difficult hurdle to clear: whereas Parliament completed a draft convention in 1960, owing to opposition by France in particular it took the Council no less than nine years to decide that it would give further attention to the matter. In 1973, the EP appointed another rapporteur to design a draft, among other things to take the accession of three new member states into account. This draft was the basis for the eventual ‘Act concerning the Election of the Representatives of the Assembly by Direct Universal Elections’ and for the elections that finally took place for the first time in May 1979.

The debates concerning the early EP proposals for an election act had already made it clear that reaching agreement on a common electoral system for all member states would be difficult. Therefore, it was pragmatically decided that the ‘uniform electoral procedure’ which the Treaty spoke of did not necessarily need to be interpreted as identical. It was presumed that these words could also be understood to mean that elections would be based on a number of common democratic requirements: they were to be free, equal, secret, direct and general. Principally, this meant that, for the time being, it was left to the member states to design their own electoral systems. Attempts to create a uniform system that were made in preparation of later elections all failed, with the temporary solution becoming the permanent situation as a consequence.

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28 Art. 138.3 Treaty establishing the European Economic Community.
The differences between the electoral systems that were used in the individual member states were considerable and negatively impacted on the EP’s homogeneity and representativeness. Another important implication of the continued diversification was that it reinforced the national focus of the elections. Politicians as well as voters remained oriented to the national political arena: what were supposed to be European elections were in reality a set of parallel elections held in each of the member states. Soon after the first EP elections, the term ‘second-order elections’ was coined. Since national politics continued to dominate political life in the member states, national elections were seen as the more important moment for power distribution, thereby automatically reducing regional, local and indeed also European elections to the second-order category. What characterized such elections is that campaigns as well as voting behaviour were rather determined by national political considerations than by issues and actors that were relevant to the political arena for which the elections were actually held. According to this theory, this was even more true for European elections than for regional or local elections, because here not even a second-order government was at stake. After all, the EP did not determine the composition of either the European Commission or the Council of Ministers.

In recent literature, the image of European elections as second-order national elections and its underlying assumptions have sometimes been criticized as too one-sided or partially incorrect. According to some authors, a gradual Europeanization of the elections can be discerned, while others maintain, for instance, that the low turnout for European elections is not a consequence of the voters’ perception of its relative unimportance, but should rather be attributed to a general lack of EU knowledge. Nonetheless, the fact remains that the second-order national elections model dominates many discussions about EP elections: not only did it take root in academic literature, in the EP itself, it has been adopted as an accurate diagnosis for its inability to fully fulfil its representative functions too.

**Early ideas for improvement**

From the beginning, the whole way in which the EP elections were organized was a thorn in the federalist flesh. In the run-up to the elections, the Dutch European Movement’s periodical *Nieuw Europa* published an article that was written by Jan Prilleltjes, a Dutchman who was working at the EP’s Information Office. He deeply regretted the absence of a uniform electoral law and he feared that successful attempts to restore the situation and to create a pan-European election system were not to be expected any time soon. A major distortion was the electoral system used by the United Kingdom: whereas the other

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member states used proportional representation, the United Kingdom stuck to its traditional first-past-the-post system, which the EP official considered as a great setback and a stumbling block on the road to a uniform European procedure. An article by another author that was published later in the same magazine clearly demonstrates that there was disappointment about the attitude of the political parties too. To the writer’s annoyance, national political parties failed to coordinate their campaigns. National topics dominated the campaigns and seemed to serve primarily domestic political purposes.

The national focus of the elections and the absence of a uniform procedure were a source of frustration for the EP. In the years following the 1979 elections, it published a series of reports (each named after their rapporteur) that tried to improve the situation: the Seitlinger Report of 1982, the Bocklet Report of 1985 and two reports by the Flemish Liberal Karel De Gucht that were published in 1991 and 1992 respectively. What these reports had in common was their aim to introduce a proportional voting system for the European elections and their concentration on electoral regulations concerning, for instance, the constituencies, the allocation of the seats or passive and active voting rights. Preparatory discussions also typically converged around the level of ambition that could and should be pursued, a matter that was eventually solved by an article in the Treaty of Amsterdam of 1997 that determined that common election principles sufficed.

In retrospect, two details should be observed. In the first place, the reports show that, in its attempts to improve the way European elections were organized, the EP’s focus was mostly on procedural improvements. Its main aim was to reach more uniformity in the member states’ election procedures, and the question how to make the elections more European clearly prevailed over the question of how to bring them closer to the people. The publicity campaigns that accompanied European elections indicate that there was some awareness that the voters’ willingness to bring out their votes could not be taken for granted. Yet, generally speaking, it can be said that until the 1990s, the question of how to democratize Europe was dealt with mostly from an institutional angle: citizens were usually dealt with in the abstract and did not truly come into the picture yet.

What should be noted in the second place is that, in these reports, the question of the election procedure’s improvement was not related to the EP’s attempts to strengthen its role in Commission appointments (as would later be done in the lead candidate

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procedure). As was described earlier in this article, the first real steps on that road were taken in the early 1980s, but appeals to involve the EP in the appointment of the Commission were much older and went back to the period before direct European election even took place. For instance, in the Vedel Report of 1972, composed by a committee that studied the question of the EP’s competences on the European Commission’s request, it was maintained that the EP should get the right of co-decision in the appointment of the Commission. This would, in the words of the committee, ‘have the advantage of stressing the political importance of the Commission, and would perhaps orientate the choices of governments towards outstanding political personalities.’ It would, in other words, make the European Commission more of a political, government-like, institution.

Similar lines of federally inspired thinking can also be discerned in comments that were occasionally published in Dutch newspapers and newsmagazines. This is clearly visible in an article by the leader of the Labour Party in the Dutch House of Representatives, Ed van Thijn, that was published in 1975. He believed that the European Commission’s weak position was a vulnerable element in the institutional structure of the European Community. To strengthen the Commission’s position, he recommended measures that would increase its political responsibility to the European Parliament. One important suggestion was to relate Commission appointments to the political composition of the European Parliament. Other commentators approached the necessity of EP involvement in Commission appointments from a parliamentary perspective and primarily linked it to the EP’s general struggle for power and monitoring competences. What was the point of sending the Commission home, they wondered, if the EP did not have any influence on the appointment of its successor? The idea that the composition of the European Commission should reflect the preferences of European voters was sometimes mentioned parenthetically as an argument, but the institutional perspective and the desire to strengthen the supranational institutions dominated the discussion.

A new reason for change

The focus on Europeanization and strengthening of the European Community’s supranational institutions was probably an important reason why efforts to improve the European elections act and attempts to strengthen the EP’s investiture rights developed mostly on separate tracks. However, starting from the 1990s, this gradually changed. The decade brought a mounting interest in the citizens’ points of view. The Maastricht Treaty of 1992 would considerably broaden the scope of European integration, thus making questions concerning the democratic character of European decision-making more important to deal with. Especially after the negative and narrowly positive outcomes of referendums on the Maastricht Treaty’s ratification in Denmark and France respectively, the involvement of the people became a pressing issue. The alarming referendum results were a wake-up call: popular support had been taken for granted, but suddenly appeared much

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44 ‘Nederland en Luxemburg: Benelux-overleg over politieke unie is gewenst’, *De Tijd/De Maasbode*, 6 October 1964.
weaker than had previously been assumed, thus giving rise to serious concerns about the so-called ‘democratic deficit’ of the EU and reinforcing two tendencies that had already been carefully set in motion during the treaty negotiations. On the one hand, the events led to an increased interest in the role national parliaments could play in the EU. On the other hand, they also forced the EP to pay more attention to its representative function.

The turnout rates for European elections were a particular source of concern: they had dropped from 61.9 per cent in 1979 to 56.7 per cent in 1994, with no clear prospect for improvement in the coming years. There had always been a general awareness that European elections might become more interesting for voters if their vote would also determine the composition of the Commission, but as Professor of European Law Joseph Weiler rightly remarked in this regard, ‘good ideas that remain in books are just such’. Now, growing awareness of the need to get the people involved with Europe put things in another light. The time seemed ripe to connect the increasingly successful attempts at parliamentary influence on the Commission nominations to the discussion about the best way to organize European elections. Ideas about personalizing European elections and giving voters the opportunity to express their preference for a candidate Commission President began to circulate among academics and opinion leaders. As can be demonstrated by a statement British MEP David Martin (PES) made in the months preceding the Maastricht Treaty negotiations, the idea appealed to European politicians too: ‘European elections are genuinely about electing a Parliament, but the effect of casting one’s vote is less immediately perceptible to the voter. To allow the Parliament to elect the president of the Commission would go some way to rectifying that situation.’ As a precondition for a linkage between the composition of the two institutions, the Maastricht decision to change the length of the Commission’s mandate to five years (similar to that of the EP) was an important step. Nonetheless, it would still take a while before things would actually reach that stage.

Making the elections more of a European affair continued to be an important motive behind the EP’s attempts to improve the election procedure, but as the Anastassopoulos Report of 1998 explicitly stated, the conviction that something needed to be done about the low turnout rates for European elections and the EP’s popular legitimacy became an important underlying motive too. In the report, the opinion could be read that if the EP were to fulfil its role as ‘democratic pillar’ in the EU, an electoral system would be needed which would ‘mobilize the maximum number of voters’, because if ‘citizens do not vote, or vote only for national political reasons relating to each member state, such elections will have no effect on the legitimacy of the Union’. For that reason, the changes to the electoral system that the report proposed aimed at a closer relationship

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47 Illustrative in this regard is the term’s increased use in academic and newspaper articles, see Rittberger, Building, pp. 28–9.
50 For concrete examples, see Garcia and Priestley, Making, pp. 55–8.
51 Quoted in Garcia and Priestley, Making, p. 45.
52 Quoted in Garcia and Priestley, Making, p. 45.
between European citizens and their representatives. It proposed, among others, to create mandatory regional (instead of national) constituencies for member states with more than 20 million inhabitants and to designate May instead of June as the election month because of the early vacation period in some of the member states. To contribute to the citizens’ European political awareness, the report also recommended that 10 per cent of the EP seats be elected from a transnational list.

These ideas were also promoted by the EP’s next rapporteur on electoral reform, the British Liberal MEP and President of the Union of European Federalists, Andrew Duff. His first two reports of 2010 and 2011 respectively recommended to add a supplement of 25 MEPs who were to be elected from a single, pan-EU constituency. However, when sufficient support for this idea appeared to be lacking, he changed his course, and in his third report, he asked ‘the European political parties to nominate their candidates for the Commission presidency sufficiently well in advance of the election for them to be able to mount a significant, European-wide campaign’, and expressed the expectation ‘that, in this process, the candidate for Commission President put forward by the European political party that wins the most seats in the EP will be the first to be considered’, thus putting into words and formally proposing what would eventually become the lead candidate procedure.

Contrary to his earlier proposals, the implementation of this idea did not require any treaty changes. As the leader of the ALDE caucus at the European Convention, Duff had been closely involved in discussions about the new article on the appointment of the President of the European Commission that eventually found its way to the Lisbon Treaty. Without any doubt, he was aware of the opportunities it offered. All that was really needed was the political will to exploit them and to continue the EP tradition of institutional assertiveness.

**How an idea became reality**

As it appeared, the political will was there. In the preceding years, a tendency to pay more attention to a candidate Commission President’s political colour had already become visible. The first sign of change was the appointment of José Manuel Barroso as Commission President in 2004. French President Jacques Chirac and German Chancellor Gerhard Schröder recommended Belgium’s Prime Minister Guy Verhofstadt for the Commission leadership, but as a convinced federalist, he was not acceptable for the United Kingdom. Objections could furthermore be heard from the EPP. Before the European elections, the EPP Congress had agreed that its representatives in parliament should give their support only to a candidate from the winning political family. The appointment of the liberal Verhofstadt would not be in line with this policy: the EPP had won the elections and it demanded that the new Commission President be chosen from the EPP ranks.

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After the proposal to nominate the British European Commissioner Chris Patten had met with objections from France and Germany, finally Portugal’s Prime Minister, José Manuel Barroso, was accepted as Commission President.57

Hence, it was the EPP that took the first steps to politicize the Commission’s presidency. At the Convention on the Future of Europe, a body which the European Council had established in 2001 to draft a constitution for the EU and to replace all previous EU treaties with a single text, the EPP had also presented itself as a great proponent of changing the appointment procedure for the position of the Commission President. It had actually preferred a more far-reaching formulation of the new treaty provision, but basically, the articles that were included in the refused Constitutional Treaty and the later Treaty of Lisbon were in line with its ideas.58 In the EPP yearbook, the 2004 insistence on a centre-right candidate was described as a conscious attempt to start applying the new provision in anticipation of the member states’ ratification of the treaty.59

Whereas the EPP had initially been in the vanguard, in the run-up to the 2014 elections it was the PES that took the lead in attempting to link the nomination of the candidate Commission President to the EP election results. Barroso’s reappointment in 2009 had frustrated the Socialist leadership; it had not put forward an alternative candidate and was left empty-handed. Ideas concerning the Europeanization of the EP elections and the parliamentarization of the European Commission continued to circulate in all the EP’s main political groups, but incited by this party political vexation, it was PES leader Martin Schulz who became the principal front-runner in favour of what would eventually become the Spitzenkandidaten procedure.60

Schultz’s energetic lobby was successful: on 22 November 2012, less than a year after he was elected as EP President, the EP adopted a resolution in which it urged the European political parties to ‘nominate candidates for the Presidency of the Commission’.61 Its supporters hoped that the rivalry between lead candidates, and their corresponding sets of political preferences, would mobilize citizens and increase the participation rate in European elections. It was furthermore hoped that this kind of competition would also help giving the elections a more pan-European character and would perhaps even assist in creating a real ‘European public space’.62

As was mentioned in the introduction, Martin Schulz was the first to announce his candidacy as PES designate. His pronouncement inspired other parties to take steps too, especially because Schulz was not just an average MEP taking a shot, but an established European politician who had already earned himself a name. The Greens, GUE/NGL and ALDE followed suit; the EPP hesitated – with a majority in European Council and uncertain polling results, a greater nominating role for the EP had temporarily become

59 Westlake, ‘Chronicle’, p. 34.
60 García and Priestley, Making, pp. 64–7.
less attractive – but eventually it decided to nominate Jean-Claude Juncker as its lead candidate.63

The European Commission openly supported the lead candidate procedure from the start.64 In an increasingly critical climate with Eurosceptics regularly referring to the Commission as ‘unelected Brussels bureaucrats’, any initiative that could improve its legitimacy was more than welcome.65 Besides, a link to the popular vote could also strengthen its position vis-à-vis the President of the European Council, a newly created position that existed since 2009. In the European Council reactions to the newly invented procedure were, by contrast, far from enthusiastic. Many of its members were reluctant to embrace the initiative and some hoped that the route that the EP majority had set out could still be evaded. Right after the elections, an extra meeting of the European Council was scheduled: if the heads of government were able to make the first move, they might regain the initiative. But the attempt failed. The EP and its major political groups had committed themselves to the cause and their credibility would be damaged if the procedure would now be reversed. Hence, the leaders of the main groups in parliament responded by organizing their own meeting before the European Council could even convene, and jointly expressed their support for Juncker.66

As a result, the majority of government leaders caved in, but a number continued their opposition. Much depended on what German Chancellor Angela Merkel would do. Her reaction to the EP initiative was rather reserved and, as long as she did not declare herself in favour of the EP’s preferred candidate, the critical turning point that would make his appointment unavoidable was not reached. However, it soon appeared that the European Council lagged behind in its public communication: citizens had been promised a vote in the election of the Commission presidency and this could not easily be undone. Critical media comments emphasized the promises that were made and forced Merkel to accept Juncker’s nomination, thus tipping the scales in his favour. With two votes against (by the British Prime Minister David Cameron and his Hungarian colleague Viktór Orban), Juncker was formally nominated by the Council on 17 June 2014. Two weeks later, he received majority support in the EP and, after the appointment of the other commissioners, Juncker could take office in November of that same year.67

Conclusion and expectations for the future

In this article, the historical backgrounds of the newly invented Spitzenkandidaten procedure that was first applied in the 2014 EP elections have been sketched from a parliamentary perspective. It has been demonstrated that the EP’s perseverance in realizing the new procedure is perfectly in line with its history and parliamentary culture. The EP has always had to struggle for power and eventually its tenacious attempts have often been rewarded. In January 1975, EP rapporteur Schelto Patijn defended his draft European Election Act in the plenary. On this occasion he spoke the following words:

63Garcia and Priestley, Making, pp. 75–104; Christiansen, ‘After the Spitzenkandidaten’, p. 995.
65Quotation from Priestley, Six Battles, p. 45.
'We must have no illusions: no one simply by virtue of European elections is going to hand us power or legitimacy on a plate. We ourselves must fight for them!' In these years, efforts made to that end were still very much concentrated on European institution-building, but, starting from the 1990s, citizens were more ardently brought into the picture. The struggle for parliamentary influence on the appointment of the Commission President and the challenge to improve European elections procedures became interrelated issues which only gained importance as public criticism against the EU increased during the Euro Crisis.

As ideas about how to link European election results to the nomination and appointment of the Commission President became more concrete, much depended of course on the question whether prominent political actors were willing to dedicate themselves to the cause. Initially, backing came mostly from the EPP ranks, but in the run-up to the 2014 elections, it was eventually the PES and its leader, Martin Schulz, who gave the most decisive support.

Some government leaders had serious objections against greater EP influence or politicizing the Commission’s presidency, which is why Juncker’s nomination by the European Council was accompanied by a declaration in which the European Council declared that it intended to ‘consider the process for the appointment of the President of the European Commission for the future, respecting the European treaties’. However, informal institutional changes that have emerged between formal treaty revisions are notoriously difficult to overturn. Several European political parties have already started preparing a procedure to select their lead candidate for the 2019 elections, and among scholars and commentators, it is also generally expected that the precedent set in 2014 is unlikely to be ignored in the next round of European elections and Commission appointments.

Even though it remains doubtful whether the procedure offers an adequate solution for the limited public interest in European elections and the resulting legitimacy problems – in 2014, voter turnout was even lower than in 2009 – the fact that it was able to control the Commission’s presidency appointment procedure clearly stimulated the EP to continue on the same course. In November 2015, the newly elected EP adopted a so-called ‘legislative initiative resolution’ for the amendment of the European Election Act. It proposed, among others, to make the names of European political parties to which national parties are affiliated visible on the ballot papers and to introduce new voting possibilities, such as Internet voting or voting by post or by mail. It also sought to formalize the lead candidate procedure and proposed introducing a common deadline of 12 weeks for the nomination of European parties’ lead candidates and letting these candidates head the lists in a newly
created pan-European constituency. In the Council of Ministers these ideas were critically received though, and a number of national parliaments raised objections too.73

Considering the rather vigorous statements against the EP proposals, further steps in the direction of its preferred solutions are currently not feasible. Some authors expect that heads of government and national party leaders will try and seek to gain a say in the nomination of the lead candidates of the European political parties in 2019.74 Given the difficulties that would be involved in any state’s attempt to try and block a repetition of the 2014 procedure in 2019, and the uncertain outcomes of such efforts anyway, this is indeed the most likely course for member states to take when they are eager to claw back some lost power. Shocked as they still are, member state governments will need time to get to grips with the new procedure before they will even consider any further steps. So for the time being, the EP will most likely have to content itself with an informally established practice and make the best of that.

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