



HIGHLIGHT

NEXT STEP: ELECTING THE COMMISSION'S PRESIDENT

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The Treaty of Lisbon has established a new process for the election of the President of the European Commission. Under art. 17, para. 7, TEU:

“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”.

Compared to the pre-Lisbon regime, the role of the European Council has been manifestly limited in favour of the European Parliament. Moreover, the verdict of the electorate is taken into account, for the first time, as a parameter for deciding the candidate for the Commission Presidency. However the main question is whether this parameter is decisive; whether the European Council is bound by the elections results when proposing a candidate to the European Parliament.

Continuing the 2014 paradigm which reflects a broad interpretation of Art. 17, para. 7, TEU, most of the European political parties nominated their respective lead candidate for the 2019 electoral procedure, implying a direct connection between the European elections results and the proposal of the candidate to the European Parliament. In that sense, the electorate shall be in position to indirectly vote for the President of the Commission when voting for a particular political party.

The aforementioned position does not seem to be fully embraced by all EU institutions. The institutions of supranational nature have underlined the necessity for

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strengthening the lead candidate system. In particular the European Parliament recalled that the process reflects the interinstitutional balance between the Parliament and the European Council as provided for in the Treaties and emphasised that this further step in strengthening the Union's parliamentary dimension is a principle that cannot be overturned. What may be more important is that the European Parliament stressed that, by not adhering to the lead candidate process, the European Council would risk submitting for Parliament's approval a candidate for President of the Commission who will not have a sufficient parliamentary majority.¹ In the same line, the Commission confirmed the positive impact of the lead candidate system on the relationship between the EU institutions.²

On the other hand, the President of the European Council, Donald Tusk, argued that the Treaty provides an autonomous competence to the European Council to nominate the candidate and therefore would not in advance guarantee that the European Council would propose one of the lead candidates for President of the European Commission.³

Should the lead candidate process is not followed, there is a high risk of clash between the European Parliament and the European Council, with the former not electing any candidate that the latter proposes, apart from the parties' respective candidates. This may lead to a major institutional turmoil which disrupts stability in the functioning of the Union.

In either case, the lead candidate model shall be adhered and further developed for two main reasons. First, this model is in line with the parliamentary system followed by the very majority of the member states. Indeed, 22 out of 28 Member States apply a parliamentary form of government,⁴ where the candidates for head of government are known to the electorate before the voting process, providing the right to vote for them indirectly.⁵ That common constitutional tradition which assures indirect confidence to the head of government is reflected in Art. 17, para. 7, TEU.

What is more important is the strengthening of European political identity through the lead candidate system, in times of multilevel crises in EU. As mentioned in Art. 10, para. 4, TEU, the European political parties contribute to forming European political awareness. Nevertheless, political parties at European level do not seem to have developed an autonomous political EU agenda, rather remain coalitions of national parties, often approaching EU matters from a national perspective in accordance with relevant national interests.

¹ European Parliament Decision of 7 February 2018 on the revision of the Framework Agreement on relations between the European Parliament and the European Commission.

² Communication COM(2018) 95 final of 13 February 2018 from the Commission, *A Europe that Delivers: Institutional Options for making the European Union's Work more Efficient*.

³ European Council, Informal Meeting of the 27 Heads of State or Government of 2 February 2018.

⁴ Except from Cyprus, France, Lithuania, Poland, Portugal and Romania.

⁵ For example the parliamentary elections in Germany are described as "Chancellor Elections" (Kanzlerwahl).

The nomination of candidates for the position of such a significant EU institutional post will inevitably increase the quality of political debate on EU matters. Through the preliminary inner party procedure and the main electoral campaign, the European political parties will have to outline their priorities and thoughts on the future of the Union, presented by the respective candidate. Hence, a European dialogue can be better developed, addressed to the Union citizens as a single electorate, in a democratic and transparent political environment.

On the basis of the (provisional) results of the 2019 European elections, the European People's Party has a relative majority in the European Parliament with 179 seats, followed by the Socialists and Democrats with 153 seats, whilst the Alliance of Liberals and Democrats for Europe takes 106 seats.⁶ This being the case, consultations shall begin among the parties and the European Council in order to ascertain who could achieve the majority of 376 members, first and foremost between the parties' candidates, according to their seats in the Parliament. The proposed broad interpretation of Art. 17, para. 7, TEU enhances the EU parliamentary form of governance and at the same time reinforces the role of the European political parties and makes the European electorate more actively involved which ultimately strengthens the very concept of democratic legitimacy in the European Union.

⁶ European Parliament, Provisional Results, available at election-results.eu.

