

Five Questions on the EP Elections and the "Spitzenkandidat" Process: Answers by MATEJ AVBELJ

Matej Avbelj

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For the upcoming European elections, most European parties have nominated candidates for President of the EU Commission. In the Brussels jargon, this issue is called the „Spitzenkandidat process“. How German is this idea? Does it actually make sense in other parliamentary systems or constitutional traditions?

The “*Spitzenkandidat* process”, other than for its German denomination, is neither a particularly German idea nor something that would be characteristic exclusively of the German constitutional tradition. In the parliamentary systems the identification of potential candidates for the prime minister prior to the elections facilitates the elections through their personalization, makes them more accessible to the electorate, so that they are not merely (or at all) a choice between different political programs and ideologies but foremost between different leaders and what they stand for. The Slovenian constitutional practice, which I am most familiar with, has traditionally been conducted in those terms.

If the „Spitzenkandidat process“ succeeds and the next Commission President will in fact be the top candidate of the party with the largest share of the vote – will he/she then possess proper democratic legitimacy of his/her own right? And if so, how would that affect the power balance in the EU with respect to member state governments?

A thereby elected Commission President will certainly enjoy more democratic legitimacy as his predecessors did. Whether this will be proper, sufficient in itself or the like, is hard to tell in advance as legitimacy is always composed of an input and an output side. With regard to the former, the new process of nomination of the Commission President might be as good as it gets in terms of legitimacy within the present EU constitutional constellation. With regard to the latter, his legitimacy will depend on the performance of his role. It is still unclear what new dynamics this will introduce in the relationship between the Commission and the Member States in terms of shifting the power balance, but what is sure is that the Commission will become greatly more politicized. Squaring this with its carefully preserved role of the “supranational” institution, charged with the promotion of the exclusively EU interests (non-national, but also non-partisan), will be a major challenge.

How does a Westminster-style European Parliament organized along the lines of government and opposition match with the hard-won influence the Parliament has secured for itself in the European legislation process (e.g. the informal „trilogue“ meetings between Parliament, Commission and Council)?

A Westminster-style European Parliament organized along the lines of government and opposition does not match with its present role, nor do I see it coming in the future. If the predictions that the euro-skeptical parties win up to 1/3 of the parliamentary seats hold true, the rift between the “coalition” and the “opposition” in the European Parliament will even more than before run between those who are for Europe and those who are against it. The classical Westminster-style coalition/opposition division between different political visions of Europe (conservative, socialist, liberal, green etc.) will therefore remain of secondary importance. The legislative triangle, consisting of the Commission, Parliament and Council, will remain the *modus operandi* in which the pro-European bloc in the European Parliament will work as closely as possible with the other two key actors in the legislative process, but especially with the Commission as a promoter of the EU interests.

The linkage of the EP election with the election of the Commission President, so the hope of its proponents, will help politicizing the European law-making process and thus ultimately strengthen its legitimacy. Is this a realistic expectation in a situation where the „Spitzenkandidat process“ will probably end in a continued PES/EPP Grand Coalition with an opposition dominated by eurosceptic and/or right-wing populist parties?

Only time will tell how this new institutional factum is going to influence the entire law-making process. However, making the Commission President an explicitly political figure will certainly politicize the functioning of the Commission. Its role will then become more politically divisive. Its work might therefore attract more public attention, and the same might happen with regard to the legislative process as such. There is, however, no guarantee that the overall legitimacy of the law-making process will be strengthened. We should not be surprised if in a year or two we have witnessed a whole chain of unintended (and not necessarily positive) consequences.

Can a European election without a European electoral law ever really be a European election?

What makes a European election really a European election is not the electoral law but the mainstream perception, a shared belief across the Member States, that this election is about our common European identity which floats above and beyond the primary national ones. In other words, it is the sociological attitude, commitment to the election as European issue *latu sensu* that makes it European, not the electoral law. The latter can facilitate the development of the sociological dimension, but again not too much. *For the upcoming European elections, most European parties have nominated candidates for President of the EU Commission. In the Brussels jargon, this issue is called the „Spitzenkandidat process“. How German is this idea? Does it actually make sense in other parliamentary systems or constitutional traditions?*

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