

# Has the Spitzenkandidaten System Failed and Should We Care?

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After days of tense discussion among the leaders of the EU's Member States, the nominations for the top jobs [have been revealed](#). Although the selection of the heads of the European Council, European Central Bank and European External Action Service was much anticipated – the choices being Charles Michel, Christine Lagarde and Josep Borrell – all eyes were on who would succeed Jean-Claude Juncker as President of the European Commission. The nomination of Germany's Defence Minister Ursula von der Leyen is both a beginning and an end. It begins a new chapter for the European Commission with its first woman president. But also appears to mark the end of the [Spitzenkandidaten](#) approach to the selection of European Commission presidents. Indeed, all of the 'lead candidates' of the European political groupings – Manfred Weber, Frans Timmermans, Margrethe Vestager, Ska Keller, Nico Cué, and Jan Zahradil – were left empty-handed. If this is to be the demise of *Spitzenkandidaten*, will its passing be mourned?

Back when EU leaders last gathered to nominate the European Commission President, the *Spitzenkandidaten* system was newly born. Despite the opposition of the UK to his nomination, European leaders chose to nominate the EPP's candidate Jean-Claude Juncker for the Commission presidency. After all, the EPP formed the largest grouping in the Parliament. While some like [Mattias Kumm](#) laboured under a mistaken belief that there was a legal duty to nominate Juncker, [others like myself](#), pressed the point that [Article 17\(7\) TEU](#) simply required the European Council to take into account the results of the last elections to the European Parliament and to engage in appropriate consultations when nominating the candidate for the post. In turn the European Parliament possessed the prerogative of rejecting that nomination. The threat of that veto, ought then to have been a 'penalty default' that would encourage more dialogue between the European Council and the EP. Not only would a rubber stamping of the nomination process deprive European leaders of significant political input in the process, it would be tantamount to an unlawful delegation of the nomination process to the European Parliament. Whether they felt legally obliged or not, European leaders nominated Juncker and the Parliament endorsed it.

Yet even the experience of the Juncker nomination is hardly proof that the system 'worked'. Rather [European leaders were caught out by a process](#) which they struggled to control, with Angela Merkel finally giving her support to Juncker provided Martin Schulz held on to the Parliament's presidency for a bit longer. In process terms, the speeches and the debates between the lead candidates had hardly inspired a sense of a real political competition in which the performance of the lead candidates made the slightest bit of difference to voting intentions. It all just felt a little fake. A light democratic gloss on a process by which a Brussels insider landed the top job.

One might credit the *Spitzenkandidaten* system with some greater success this time round. It offered a new opportunity to debate European issues and [voter turnout in the 2019 EP elections exceeded 50% for the first time](#). However, the turnout pattern was not uniform across EU states. It rose in post-2004 EU states. It rose in France, Germany and the Netherlands but fell in Luxembourg, Belgium and Italy. In any case, attributing increases in turnout to the *Spitzenkandidaten* feels like a stretch. Instead what might be changing is the nature of European politics itself. Rather than EP elections being dismissed as a second-order vote about domestic politics, voters may be beginning to realise that European politics IS domestic politics. The separation of the 'European' and the 'national' which has hitherto limited the capacity of politics about Europe to find its place – a separation which Brexit is intended to formalise – is perhaps beginning to break down in EU states. When linked to voter preferences on issues like climate change, political parties like the Greens can find ways of linking domestic and European concerns to their political advantage.

One very clear unintended consequence of having a slate of lead candidates was that once it became obvious that Manfred Weber would not command political support among European leaders, the candidacies of the others fell too. Margrethe Vestager would have been a very obvious person to be the first woman President of the European Commission, but with Weber's candidacy failing to get traction, the slate was wiped clean and an old-fashioned process of political horse-trading took its place with [President Macron finally securing some political victories](#) in Brussels.

Of course, the [EP still has its powers of veto which it could use to flex its political muscle](#) and deny van der Leyen the Commission presidency. But given what has happened it is almost impossible to see how any of the candidacies of the other lead candidates could be resurrected. Rather the bigger prize may be to actually try and formalise in legal terms a process that has a flimsy foundation in law, and is so obviously capable of being buffered by political winds on both side of the EP-Council relationship.

All of which would force into the open what is really at stake. And I think there are two issues, one of which is obvious and the other hidden.

The obvious issue is how to secure democratic legitimacy for the Union. The *Spitzenkandidaten* system clearly nods in the direction of a system of parliamentary democracy in which the European Commission – like a national executive – sets its political priorities and is accountable to the EP and EU citizens for its performance. Certainly, this seems to be how Jean-Claude Juncker conceived of his '[political Commission](#)'. And yet the Union's democratic legitimacy also comes from the Member States whose cooperation is enshrined in international treaties agreed among themselves and which provide a legal mandate for the European Commission. With the European Council emerging as a key forum for European politics, it is surely right that European leaders offer a political direction to the Union which the European Commission and the Council fulfil subject to parliamentary input and oversight. The challenge is not for either the European Council or the EP to try and steer the tandem in their own preferred direction but to find a way of working that ensures the tandem has both speed and direction. After all, that was what was implied by Article 17(7) TEU in the first place.

The less obvious issue is the question of representation in politics. The problem of the *Spitzenkandidaten* system is that it focuses only on who gets nominated for the European Commission presidency. As is clear, there is more than one top institutional post. In a multinational Union that means dividing jobs among people of diverse nationalities and not just according to the vagaries of political preferences expressed in EP elections. It also requires that women get to occupy the top jobs just as much as the men. Specifically in respect of the European Commission, would we really want to stick with a *Spitzenkandidaten* system that resulted in male candidates for the biggest political parties having a privileged route to the Commission presidency? But there is another unspoken issue of representation and that is about racial and ethnic diversity. The 2019 European elections saw [more black and minority ethnic MEPs elected](#) than before. But the novelty of this is perhaps summed up when the UK's black MEP Magid Magid [was reportedly asked to leave the Parliament building](#) in Strasbourg when MEPs took up their posts. There is more to political representation that whether or not the *Spitzenkandidaten* system survives or not. It's a question of who gets to be represented in and by European politics.

But while we mull over these questions, it is useful to reflect on the views of the editor of the UK's Sunday Telegraph newspaper. Commenting on the outcome of the talks, [Allister Heath tweeted](#) this: "The EU is a sham democracy and its pitiful new leaders are the proof." But if a process by which candidates for institutional jobs have their nominations subject to the approval of a parliament elected by a franchise of over 400 million people across 28 democracies is a "sham" what should we call a process by which a franchise of 160,000 members of a single political party gets to choose a candidate for the role of leader of their party and Prime Minister, whose candidacy is anointed by an unelected monarch? Its more than a sham. Its shambolic.

