

The European Council should not feel obliged to choose any of the leading candidates as President of the European Commission

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*This year's European Parliament election has been noteworthy both for the rise of Euroscepticism and the introduction of leading candidates for European Commission president put forward by some of the European political parties. **Anthony Salamone** argues that the European Council should freely choose its own nominee for Commission president in cooperation with the Parliament, rather than automatically selecting the top leading candidate. He suggests that the absence of a legal basis for the process, limited choice among the candidates, low turnout and lack of interest in both the candidates and broader European issues renders it illegitimate, and instead the Council and Parliament should work together to reach a mutual compromise.*



This time it's different, said the European Parliament in its enthusiastic promotion of the 2014 European election. Indeed, this time is different – following the election results, the European Council and the European Parliament are on the brink of an institutional showdown which may well descend into the abyss over the selection of the next President of the European Commission.

In the past, the EU's Member States, in the form of the European Council, nominated the Commission President, with this nomination being 'approved' by the Parliament. Once the entire Commission had been appointed and its individual members subject to confirmation hearings in parliamentary committees, the European Parliament would vote on the whole group *en bloc*. The current procedure remains largely the same. However, the Treaty of Lisbon, which entered into force in December 2009, added one new, and presently highly contested, element: that the President should be 'elected' (rather than approved) by the Parliament and that this should take account of the results of the European Parliament elections.

The outcome of the European Parliament elections, now aligned with the term of the European Commission, should be reflected in the choice of Commission President. As a result, Article 17(7) of the [Treaty on European Union](#) now reads that, '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...'

It would seem redundant to note the European Council must select a candidate with the election results in mind. Apparently it is not, for the European Parliament at least. It decided to interpret this obligation on the part of Member States to take the election into account as a license for its political parties to propose their own candidates for Commission President. The idea was that each party should have a leading candidate (frequently called by its German name,



Jean-Claude Juncker, Credit: European People's Party (CC-BY-SA-3.0)

Spitzenkandidat) and after the election the European Council should simply nominate the designated candidate from the party with the greatest number of seats.

The concept of leading candidates was [invented](#) by the European Parliament [Secretariat](#) in cooperation with some of the European political parties. In the end, parties from five of the seven political groups in the outgoing Parliament – the centre-right [EPP](#), the centre-left [PES/S&D](#), the centre [ALDE](#), the [Greens](#) and the [European Left](#) – stood candidates. The centre-right [ECR](#) and the right [EFD](#) did not participate, nor of course did the [Independents](#). This process is not provided for in the treaties nor was it agreed with the Member States in legislation.

The candidates engaged in campaigning across much, but not all, of the EU, including participating in debates, notably those organised by [Euronews](#) and the [European Broadcasting Union](#). The UK barely featured on their itineraries, which was mostly attributed to the fact the EPP has no British party in it since the Conservatives left in 2009 and Labour, part of the PES, decided not to back the party's candidate. In any case, most voters across the EU had little idea who the candidates were before Election Day.

This unilateral move by the European Parliament and some of the political parties appears to have had two main goals. The first was to make the election more interesting for voters by allegedly giving them a direct say on the next Commission President, thereby increasing voter turnout, which has been [declining](#) ever since direct elections began in 1979. The second was to ensure that the Parliament would have the greatest influence possible in selecting the Commission President. The message was that people should come out to vote to choose the President. It didn't work.

An illegitimate and ineffective process

The argument on the part of the Parliament and the participating political parties was both disingenuous and misleading to voters. Four principle factors are at play here. First, as stated, no legal basis exists mandating that the Commission President be proposed from nominations by the Parliament or its parties. More to the point, it was never agreed in advance, even on an informal basis, with the Member States. The European Council maintains the prerogative of nomination and national leaders guard this power closely, so it should be no surprise to anyone that they have not rushed to appoint the candidate of the winning political party.

Second, voters suffered from a substantial lack of choice among the candidates. The top three contenders, the EPP's Jean-Claude Juncker, the PES's Martin Schulz, and ALDE's Guy Verhofstadt, all share broadly the same views both on issues and how they should be addressed. They all favour more European integration to address the EU's biggest challenges. Indeed, they are all Brussels veterans, certainly with a great deal of experience, but not necessarily with an outsider's perspective. It's extremely difficult to argue convincingly that offering the public a choice between candidates who share so much in common on policy and priorities is really much of a choice at all.

Third, the initiative didn't increase voter turnout. It was 43 per cent across the EU in 2009, and it remained virtually the same in 2014. In the UK, [turnout](#) was 35 per cent in 2009 and 36 per cent in 2014. The prospect of voting to select the Commission President appears to have had little to no impact on persuading people to vote or abstain. It was always going to be a challenge – attempting to reach 400 million voters across 28 countries in (at least) 24 different languages in a period of a few months. Nevertheless, presuming the Parliament wishes to repeat this process next time, it's highly optimistic to say that this was a good start.

Fourth, the European issues which rather naturally ran through the debate are not what most voters care about when choosing their MEPs. European parliament elections are seen as a national election based on national and local issues. They are frequently used to express satisfaction or dissatisfaction with parties in government. Very little has shown the 2014 election to be any different. Even the one transnational trend – Euroscepticism – had little to do with the EU itself. It derives from national concerns within individual Member States on issues such as the economy, jobs and immigration.

How the next President of the Commission should be selected

What should the European Council do then? It should take the election results into account and work with the European Parliament. From the Council's perspective, the logic runs that, since the centre-right has the most seats in the Parliament, it should likely choose a Commission President from the centre-right. This doesn't preclude a compromise candidate from the centre-left or the centre, depending on the discussions with the Parliament. The Council is well within its prerogative not to select Juncker, or for that matter any of the other leading candidates. Considering the content of the treaties, the pure invention of the concept, the limited choice, low turnout and obvious lack of interest, it is unfounded to suggest that nominating someone else is in any way undemocratic.

The European Council and the European Parliament will have to work together to agree a new Commission President. It could go smoothly, with both institutions striking a deal in the first instance. It could equally result in a protracted struggle, particularly if the Parliament continues to demand that a leading candidate be selected. It's difficult to see the Council moving much on this issue itself, as many national leaders defend their right to choose the presidential nominee. At the same time, of all the individuals interested in the job, presumably none of them would like to be nominated first without a deal in place, only to be shot down by the Parliament in an act of defiance.

Technically the Council only needs a qualified majority to nominate the Commission President, but it is highly unlikely that an institution which infinitely prefers consensus will bypass strong national objections. It's almost inconceivable that it would propose a Commission President over the objections of a big Member State, such as the [UK](#). Trading may well be involved to reach a compromise – for instance, in exchange for a more favourable Commission President, the UK may have to accept a downgraded portfolio in the incoming Commission.

The European Council should not feel obliged to choose any of the leading candidates as President of the European Commission. The Council's clear role is to nominate the President, for approval by the Parliament. Such an arrangement inevitably requires negotiation and compromise between the two institutions. The treaties make them more or less equal on the matter. If the Council can only accept the candidates the Parliament dictates, they are certainly not equal.

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Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.

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About the author

Anthony Salamone – *London School of Economics and Political Science*

Anthony Salamone is a Master's student in Global Politics in the Department of Government at the London School of Economics and Political Science. He will start a PhD focusing on UK territorial politics in autumn 2014. His research interests include European integration, UK devolution and comparative politics. Follow him on Twitter: [@AMSalamone](#)

