

**SPECIAL EDITION EUROPEAN  
ELECTIONS 2024**

**THE LEAD CANDIDATE PROCESS, KNOWN  
AS "SPITZENKANDIDATEN"**

One of the major problems regarding the European Parliament's ("EP") elections, or European elections, as they are commonly known, is generally the low turnout of citizens, which many associate with the lack of legitimacy of the electoral process and thus of the European institutions.

This was the reason for the creation of the lead candidate process, which was followed for the first time in the 2014 elections. Born within the EP itself, the idea was to establish a link between the choice of the Members of the EP ("MEPs") and the choice of the executive, the European Commission ("EC" or "Commission"). In simple terms, the European political parties choose their main candidates, and the most voted party's candidate is designated as President of the EC.

This process, after the success of the 2014 elections, suffered a setback in 2019 with the election of Ursula von der Leyen instead of Manfred Weber, who was the main candidate of the European People's Party ("EPP").

In the course of 2024, the European parties have been presenting their main candidates as aspirants for the post of Commission President; it remains to be seen how the process will unfold. What is certain is that, in the EP elections taking place in June, in addition to the MEPs, the leader of the European Union ("EU") executive will also be chosen.

## **A democratic organisation**

The European elections are one of the most important occasions in the democratic life of the EU. Under Article 10 of the Treaty on European Union ("TEU"), representative democracy is one of the main pillars of the EU's functioning, being the citizens directly represented at Union level in the EP. Everyone has the right to participate in the democratic life of the Union, and decisions must be taken openly, transparently and as closely as possible to European citizens.

The EP has long endeavoured to ensure that, by voting in the European elections, European citizens would not only elect a new EP, but also have the opportunity to have a say in the choice of the new President of the EC.

The Spitzenkandidaten process is a procedure whereby the European political parties, prior to the European elections, nominate candidates for the post of EC President as their list leaders, with the Commission Presidency being awarded to the political party's candidate that is able to garner sufficient parliamentary support.

As such, the process begins with the European elections. Voters in the 27 Member States vote for their national parties, each belonging to a European political family. Once the MEPs have been elected and the composition of the EP for the next parliamentary term has been determined, the European party that won the most votes has a stronger chance of seeing its leading candidate nominated as the future President of the European Commission.

Under Article 17(7) TEU, the European Council must propose a candidate for the EC Presidency, taking into account the elections and in the expectation that the candidate put forward by the party that won the most seats will be "the first to be considered". The EP then votes on the candidate,

requiring an absolute majority of MEPs for him/her to be confirmed as President of the Commission. If the candidate does not obtain the necessary majority, the Council proposes a new candidate within a month, who will be elected according to the same procedure.

The choice of *Spitzenkandidat* is therefore intrinsically linked to the choice of MEPs. In this way, the fact that European voters have the possibility of influencing the choice of the new leader of the EU executive makes the whole process of electing the EC President more transparent and democratic.

While the process started well in 2014, it ran aground in 2019. We will now see how it goes this year, when for the first time the incumbent presents herself as *Spitzenkandidat*.

## **The *Spitzenkandidaten* process to the present day**

### 2014 elections

The main candidacy process was held for the first time in 2014, and Jean-Claude Juncker, the EPP's main candidate, was elected President of the EC.

Despite some shortcomings, such as the lack of a link between the *Spitzenkandidaten* and the national political parties, a link that could have increased the visibility of the leading candidates during the national election campaigns, the 2014 *Spitzenkandidaten* selection process was considered a positive experience. Not only did more voters go to the polls, but the whole process democratised the relationship between the European institutions and instilled confidence in the Commission.

The 2014 European elections resulted in the largest number of seats in the European Parliament for the EPP (221 out of 751 seats at the time). The candidate proposed by the EPP would therefore have to "be the first to be considered" for leader of the EU executive. And he was.

The European Council meeting of June 2014 reached a qualified majority on Juncker's appointment, with the United Kingdom and Hungary voting against. This was followed by a vote in the EP, which gave Jean-Claude Juncker the approval of an absolute majority of MEPs (422 votes in favour and 250 against), which, under Article 17(7) TEU, confirmed his Presidency.

### What failed in the 2019 elections?

In the 2019 elections, the lead candidate process was adopted by almost all European political parties, including those that had not participated in the process in the 2014 elections. However, the European Council's reaction was quite different from the one of the European Parliament.

Ahead of the 2019 elections, European Council President Donald Tusk argued that "*there is no automaticity in this process. The Treaty is very clear that it is the autonomous competence of the European Council to nominate the candidate, while taking into account the European elections, and having held appropriate consultations*".

The European Council's lack of support for the *Spitzenkandidaten* process was not surprising, considering for example that even President Emmanuel Macron's party labelled it a "democratic

anomaly". Other national leaders have also come out against the lead candidate system, arguing that Article 17(7) TEU only states that the European Council must propose a candidate for the post of President of the EC, "taking into account" the elections. The choice of the expression "taking into account" should therefore not oblige the European Council to choose the leading candidate presented by the party that received the most votes, but only to take into account the results of the European elections when making its choice.

The 2019 European elections resulted once again in the largest number of seats in the EP for the EPP. As such, EPP's main candidate and party president, Manfred Weber, was to be voted by the European Council to become the next President of the EC. However, the European Council - or rather, its members - had other intentions.

It was not only the lack of or insufficient legal basis for the *Spitzenkandidaten* case that allowed the European Council to rule out the candidacy of the EPP's leading candidate in 2019, but also the fact that the party put forward a highly controversial candidate. Not only did Manfred Weber have no experience regarding governance at national level, as he was also accused of being too close to the party of Viktor Orbán, the Hungarian Prime Minister. Weber was portrayed as a protector of the far right in Hungary, a factor that contributed to Macron's opposition to his appointment. Ironically, Orbán himself announced that he would not accompany Weber.

After the EPP's victory, the Liberals and Socialists also declared that they would not support Weber, which prevented a majority coalition in the EP in his favour.

As a result, the party was forced to follow one of two political paths. If it wanted to save the *Spitzenkandidaten* process, it would have to support the candidate of one of the other major parties, who could have been able to put together a majority coalition in the EP. Alternatively, the party could abandon it and demand the nomination of another EPP politician. It ended up choosing this option. What happened was considered by many as a "counter-revolution" and a blow to the EU's institutional development.

On 16 July 2019, the EP elected Ursula von der Leyen as the new President of the EC, by a narrow majority of 383 votes to 327. While her leadership was officially supported by the three main European parties in the EP, many MEPs opposed to her candidacy: some of them maintain this opposition in 2024.

### *What is the future of the Spitzenkandidaten process?*

The use of this process, in the opinion of its advocates, facilitates the greater involvement of citizens in political life and brings more political maturity to the relationship between the European institutions.

It is expected that in these elections the process will be carried through to the end, with one of the leading candidates voted for in the EP, depending on the outcome of the elections and the balance of power between the European Council and the EP.

Some European political parties have already chosen their main candidates for the June 2024 elections.

EC President Ursula von der Leyen has already announced that she will be the EPP's *Spitzenkandidat*. Luxembourg's Nicolas Schmit, who in the current legislature is the European Commissioner for Employment and Social Rights, has been appointed *Spitzenkandidat* of the Party of European Socialists. German MEP Terry Reintke and Dutch MEP Bas Eickhout will represent the European Greens, while the European Left has chosen Austrian Walter Baier.

## **Conclusion**

It seems clear that the European Council does not intend to give up its role in choosing the President of the EC. On the other hand, it would also be very important for the legitimisation of the electoral process and the choices for the EC that the candidate for President reflected the choices of European voters and the political configuration of Parliament, and not just the choices of national leaders.

Thus, the future of the *Spitzenkandidaten* process will depend on how easy it is for the EP and for the European Council to balance their goals and wills, while protecting the values of democracy, which are crucial not only during European elections, but always.

Cruz Vilaça Advogados will continue to closely monitor the European elections.