



Universiteit
Leiden

The Netherlands

Interinstitutional conflict in the context of leadership appointment of the commission

Heidbreder, E.G.; Schade, D.D.; Ceron, M.; Christiansen, T.; Dimitrakopoulos, D.G.

Citation

Heidbreder, E. G., & Schade, D. D. (2024). Interinstitutional conflict in the context of leadership appointment of the commission. In M. Ceron, T. Christiansen, & D. G. Dimitrakopoulos (Eds.), *European Administrative Governance* (pp. 197-213). Cham: Palgrave Macmillan. doi:10.1007/978-3-031-48173-4_9

Version: Publisher's Version

License: [Licensed under Article 25fa Copyright Act/Law \(Amendment Taverne\)](#)

Downloaded from: <https://hdl.handle.net/1887/4212514>

Note: To cite this publication please use the final published version (if applicable).



Interinstitutional Conflict in the Context of Leadership Appointment of the Commission

Eva G. Heidbreder and Daniel Schade

1 INTRODUCTION: INTERINSTITUTIONAL CONFLICT AS DRIVER AND RUMMER FOR EU DEMOCRATISATION

The Lisbon Treaty introduced an altered wording as to the designation and election of the Commission President as part of its wider attempts to strengthen the European Union's (EU) democratic legitimacy. To this end, it codified the linkage between the elections to the European Parliament (EP) and the selection of the Commission presidency, which

E. G. Heidbreder (✉)

Institute of Social Sciences, Otto von Guericke Universität Magdeburg,
Magdeburg, Germany
e-mail: eva.heidbreder@ovgu.de

D. Schade

Institute for History, Leiden University,
Leiden, The Netherlands
e-mail: d.d.schade@hum.leidenuniv.nl

© The Author(s), under exclusive license to Springer Nature
Switzerland AG 2024

197

M. Ceron et al. (eds.), *The Politicisation of the European
Commission's Presidency*, European Administrative Governance,
https://doi.org/10.1007/978-3-031-48173-4_9

set the scene for one of the most interesting inventions in the EU's electoral and political system: the *Spitzenkandidaten* system. Much like other relevant developments in the EU, it was the imprecision of the language in the treaty which triggered a dispute over the actual interpretation of the changes. Concretely, the Treaty of Lisbon altered the existing Treaty on European Union (TEU) and set out in its Article 17(7) that the European Council, "[t]aking into account the elections to the European Parliament and after having held the appropriate consultations [...] shall propose to the European Parliament a candidate for President of the Commission", who shall then "be elected by the European Parliament" (European Council, 2007). Already before the enforcement of the Treaty of Lisbon, based on the draft Constitutional Treaty, the European Council had taken on the practice to propose a Commission president from the party family that gained most votes in EP elections. Yet, after the formal enforcement of the new Treaty the EP questioned if this informal practice sufficiently met the spirit of the new article.

Based on a wide party-political agreement, the EP utilised the interpretative space ahead of the 2014 elections to introduce the *Spitzenkandidaten* system. Accordingly, the new article was considered to mean that a party-political candidate who stood and succeeded in the elections represented the majority of the EP, hence suggesting that the European Council had to propose this very candidate. While the European Council acceded reluctantly to this interpretation in 2014 (Heidbreder & Auracher, 2015), it successfully managed to enforce its own interpretation of the treaty in the aftermath of the EP elections of 2019 (Heidbreder & Schade, 2020). Whereas the use of the *Spitzenkandidaten* system in 2014 had been understood by the EP as a precedent, in 2019 the European Council not only snubbed the parliamentary groups' campaign promise to put the Commission presidency to the vote, but it also threw the precedent into doubt altogether. Which positions and core understanding of the functioning of the EU system underpin this conflict over the *Spitzenkandidaten* system? What determines the outcome of this interinstitutional quarrel? And what wider consequences does the conflict over the *Spitzenkandidaten* bear for the democratic configuration of the EU?

This chapter proceeds as follows. The next section offers our theoretical frame that juxtaposes a model of a dual and a singular legitimacy base for the EU. While the first theoretical perspective suggests the relevance of interinstitutional interest mediation in a system of interinstitutional power-sharing, the latter considers party politics as a structuring principle not

only in elections but also in the EU's interinstitutional policy-making. The hypotheses derived from these perspectives serve to analyse the *Spitzenkandidaten* system and its implications so far. It is shown that both models offer some partial explanations but that, actually, a decisive mechanism remains untheorised. As expected by the dual legitimacy model, the interinstitutional dimension remains decisive: rather than partisan politics, institutional interest formulation and strategic action matter. Whereas there is some evidence that the politicisation of the appointment of the Commission president somewhat vitalised EP elections, it is clear that—at present—partisan politics do not make a Commission president. At the same time, while interinstitutional dynamics are crucial in the appointment of the Commission president, the presence of interinstitutional conflict does not necessarily block the *Spitzenkandidaten* system either. Against expectations, the *Spitzenkandidaten* system has not led to a reallocation of institutional powers. Instead, what we surprisingly find is that a rebalancing of institutional powers takes place after each appointment of a novel Commission president which re-establishes effective power-sharing as the dominant legitimising mechanism.

2 THE CONFLICT CONTEXT: MODELS OF INTEREST REPRESENTATION AND MEDIATION IN THE EU

How the *Spitzenkandidaten* system affects interinstitutional conflict is directly linked to the encompassing query about the democratic credentials and legitimacy of EU governance. To evaluate whether the system achieves its inherent democratic objectives, we need to identify what democratic model the EU is based on and which democratic ideals actor strategies cater for. This section presents two competing models, which allows us to formulate hypotheses about the trajectory of interinstitutional conflict related to the *Spitzenkandidaten* system (for a critical analysis Goldoni, 2016).

The first model builds on the long-standing notion of the EU as system with a dual-legitimacy base and a dual decision-making system (on the history of the dual logic see Cavallaro & Zaccaria, 2024; Fabbri, 2024). The democratic core of the EU is based on the representation of potentially competing interests aggregated by the member states, by the people, and by the promotion of shared EU interests, each respectively represented by the EU's core institutions (Majone, 2002). While the Commission

represents the interests of the EU's wider *common good* the member states represented in the European Council and the Council of the EU embody the varying *national will*, and the EP, as a directly elected body, the direct *will of the people*.

In this system of shared—rather than separated powers—interinstitutional competition safeguards and balances between the specific interests. Interinstitutional competition and conflict are thus built into the core of the EU's system of interest representation. Here, constant mediation and compromise-seeking is what produces EU policies. Complementary to the shared powers in decision-making, the institutions mutually control one another. With respect to the *Spitzenkandidaten* innovations, the EP's control function vis-à-vis the Commission is crucial, as strikingly shown when the EP dismissed the Commission serving under President Jacques Santer out of office in 1999. In line with the dual-legitimacy logic, the investiture of the Commission is a shared responsibility of the European Council, i.e. a compromise between member states based on specific national interests, and the EP, i.e. an agreement between party groups representing a majority of the directly elected parliamentarians. Notably, party politics remain marginal in interinstitutional power-sharing and is to be neglected explicitly in interinstitutional checks and balances. In fact, partisan politics that would bind actors to a political agenda across institutions would undermine the primarily institutional logic of power-exercise and mutual controls and power-balancing. Most evidently, partisan alliances between the EP and the Commission clash with the EP's institutional control function over the Commission.

The second, competing logic, is the one that underpins the *Spitzenkandidaten* system. Here, party politics move centre stage. Two doubts about the legitimacy of the traditional EU architecture are essential to comprehend the logic behind this alternative vision of the sources of the EU's legitimacy. First, the Commission's explicitly non-partisan role as agenda-setter and legislative initiator is put into question, and the need for a more direct legitimisation of the Commission implied. Second, the observation that partisan politics have gained momentum in the EP entails the claim that the EU is turning into a more 'normal' political system akin to political practice throughout Europe at the national level.

Whereas politicisation along party-political lines clashes with the first model, it is at the heart of this model: politicisation of the EP elections aims to shift attention to actual policy content and conflicts between political ideas, and away from the less partisan logic of interinstitutional

conflict (Follesdal & Hix, 2006; Hix, 2006). The virtue of the *Spitzenkandidaten* system is that it renders the EP elections from being considered rather irrelevant and of ‘second-order’ into an actual vote over alternatives in EU politics and policies (Hix & March, 2011). The alternative vision of EU legitimacy promises that citizens’ votes in EP elections are not blurred in interinstitutional coordination and conflict but can be traced up to and including the Commission presidency appointment. In so doing, it aims to foster voter-turnout and strengthen voters’ loyalty shifts from the national to the EU level. In essence, the underpinning aim is to bend the dual legitimacy logic towards the logic of a direct, single legitimating base for the EU in which the Commission president inevitably becomes a political appointee.

Ultimately, the template of the *Spitzenkandidaten* system moves the Commission and EP closer to the model of a parliamentary system in which the parliament appoints a government (cf. Fabbrini, 2021, p. 932). Similar to this model of legitimation used in most EU member states, the executive is thus legitimised by and accountable to the parliament, which is in turn legitimised by parliamentary elections. In the EU context, the institutions’ roles necessarily shift under this model because party-political conflict moves centre stage and binds the institutions along partisan positions. Rather than shared powers and mutual checks-and-balances, the *Spitzenkandidaten* logic is based on party-political bonds and programmes that are pursued across the boundaries of EU institutions by political actors belonging to the same party families.

The contrast between the two legitimacy models is outlined in Table 9.1. Whereas the dual legitimacy model rests on power-sharing and checks-and-balance between EU institutions that represent the two legitimacy bases (domestic and EU-wide constituencies), the *Spitzenkandidaten* system suggests a single legitimacy base. It redirects political representation to the EP only and claims EU-wide electoral outcomes as the single legitimating procedure. Instead of institutions representing different *wills*, parties that offer different policy or ideological programmes become the key actors. This also entails that compromise-seeking and mitigation between different positions does not occur in an interinstitutional setting but rather through partisan politics and party interaction.

The models predict different implications for politicising the EU (Bartolini & Hix, 2006): according to the first model, politicisation of the EU and its elections will most likely foster interinstitutional conflict, according to the second model, it will overcome second-order electoral

Table 9.1 Models of EU legitimacy

	<i>Dual legitimacy base</i>	<i>Single legitimacy base</i>
Source for legitimate EU action	Citizens direct political demands and loyalty both to national governments and EU institutions	Citizens direct political demands and loyalty on EU policies directly to EU institutions
Central actors	Council (Member state democratic will formation) EP (EU-wide democratic will formation) Commission (EU interest; EU-wide coordination and mitigation between two sources of legitimacy)	EU-wide parties
Organisation of conflict resolution	Institutions share powers to produce agreement between member state and EU-wide generated positions (veto options) Institutions control and (counter) balance each other to ensure double legitimacy base	Institutional actors orient their actions along electorally expressed will of EU citizens

Source: Own compilation

effects and—as a desired effect—will increase conflict over distinct policy options. The underlying logics lead to the following working hypotheses on the interinstitutional effects that the *Spitzenkandidaten*-induced politicisation will generate.

First, we can formulate hypotheses on conflict during the appointment process of the Commission president. According to the first model, politicisation will lead to overt interinstitutional conflict, if not stalemate, because it is the interinstitutional competition itself that will be politicised. According to the second model, not only should we see more ‘normalised’ electoral campaigns, meaning party-political competition and less ‘second-order’ effects, but the actual appointment procedure and its aftermath should be dominated by partisan politics.

H1a: Politicisation implied by the *Spitzenkandidaten* system will lead to more interinstitutional conflict or even stalemate over the appointment of the Commission president.

H1b: Politicisation implied by the *Spitzenkandidaten* system will lead to partisan political linkages in the appointment of the Commission president.

Second, as partisan politics are the backbone of the *Spitzenkandidaten* system, the presence and capacities of EU-wide party alliances is crucial. The first model falls in line with the description of the EU as an incomplete party system which lacks genuine EU-wide political parties (Mair, 2007). Under this model one cannot expect the EU-level party families and associated political groups in the EP to develop similar levels of policy and voting coherence as one can find within national political systems. The second model instead sees the potential of said party families to develop into entities similar to those found at the national level, with the *Spitzenkandidaten* system being a key factor in their strengthening.

H2a: The *Spitzenkandidaten* system, short of genuine and established EU-wide parties, will lead to a dominance of institutional interests.

H2b: The *Spitzenkandidaten* system will strengthen party-political visibility and coherence, including across institutions.

Third, the interinstitutional relationships should be affected more broadly as partisan politics are not restricted to the electoral moment. Electoral programmes ought to remain meaningful for the full electoral cycle if the *Spitzenkandidaten* system is being followed. In turn, if the *Spitzenkandidaten* system does not succeed, we should see less partisan bonds between the EP and the Commission. Should the Commission president orient its agenda towards partisan interests formulated by a party-political majority in the EP, then the *Spitzenkandidaten* system delivers on its promises. However, this would come at the expense of interinstitutional controls in the EP-Commission dimension. Should the Commission president not orient its agenda in this direction, then the partisan politicisation actually falls short of the initial promise of the *Spitzenkandidaten* system altogether.

H3a: Politicisation implied by the *Spitzenkandidaten* system will move the Commission agenda closer to the institution that appointed the Commission president.

H3b: Politicisation implied by the *Spitzenkandidaten* system will move the Commission agenda closer to the party or party-coalition that installed its *Spitzenkandidat* as Commission president.

3 CONFLICT FOCAL POINTS AND PERIODIC EFFECTS

To test the hypotheses, we first analyse how interinstitutional conflict played out in the two rounds when the *Spitzenkandidaten* system was applied (Sect. 3.1), as well as how party conflict and cross-party alliances worked in the appointment process (Sect. 3.2). The third set of hypotheses is tested by analysing the two initial Commission agendas presented in 2014 and 2019 (Sect. 3.3).

3.1 Council vs. EP: *Spitzenkandidaten* or Not?

The Lisbon Treaty reform of 2009 and the battle of how to interpret Article 17(7) TEU on the appointment of the Commission president materialised as an open interinstitutional conflict between the EP and the European Council. The underlying conflict presented itself in the immediate aftermath of the 2014 and 2019 EP elections. Both can be seen as an instance of a larger process of building or adapting constituent institutional rules which could eventually lead to the normalisation of the *Spitzenkandidaten* or its demise (Heidbreder & Schade, 2020). Notably, while the EP expected that its success in 2014 to appoint a *Spitzenkandidat* as Commission president would lead to a normalisation of this procedure, the European Council did not accept the outcome of 2014 as a precedent for the Commission presidency selection in 2019. Short of legally binding and mutually accepted institutions on how to invest the Commission presidency, actor strategies and the use of their power resources ultimately determine the outcome. Both in 2014 and 2019, the actual abilities to strategically push the competing institution into the respective treaty interpretation were decisive—and are likely to be decisive after the 2024 election.

Research on the 2014 and 2019 applications of the *Spitzenkandidaten* procedure has identified the key variables that determine who wins the conflict between the EP and the European Council. Various studies (Crum, 2023; Müller Gómez & Reiners, 2019) show that the strategic

use of power resources matters in constitutionally unsettled situations, such as the one present here. The resources which emerge as crucial here are intra-institutional coordination and unity, on the one hand, and timing, on the other.

First, neither the EP nor the European Council is an unitary actor. However, in an interinstitutional competition, a coherent institutional position is key. While the EP was quick to stand united behind the winning candidate in 2014, it could not immediately form a coherent position in 2019. In contrast, the European Council had no agreement on an alternative candidate to the winning *Spitzenkandidat* in 2014 but brought forward a personality in 2019 before the EP had even found a shared position (de Wilde, 2020; see also Bujard & Wessels, 2024). Second, besides the pressure on the other institution, presenting a candidate first created public pressure for the respective Treaty reading of the institution that moved first (we develop and test this argument in Heidbreder & Schade, 2020).

The experience with the *Spitzenkandidaten* procedure so far leads us to conclude that, short of a formally institutionalised reading of the Treaty, each election revives the constituent battle over how to institutionalise the investment of the Commission presidency. Thus, actual power resources and their strategic use determine the outcome in a continued interinstitutional conflict—as hypothesised in H1a and H2a. However, other than H1a hypothesises, despite being dominant, the interinstitutional conflict does not necessarily block the system from operating. Instead of leading to a stalemate politicisation instead increases institutional incentives to fight over their prerogatives in the interinstitutional dimension.

Regarding partisan politics in the 2014 appointment (H1b), it is striking that the EP was successful only because partisan linkages remained shallow and largely limited to a single institution. Here, the EP could harness the resource of institutional unity and timing by presenting a joint candidate for the Commission presidency shortly after the election. This, however, required foregoing the development of a more profound political platform and remained limited to partisan politics in the EP only. In 2019, this trend was reversed as it was the Council which was able to agree on a joint candidate and present her ahead of the EP, with the latter still being occupied by attempts at inter-party coalition-building. H1b is thus firmly disconfirmed by the developments observed in the aftermath of both the 2014 and 2019 EP elections.

3.2 *The Link Between Party Politics and Spitzenkandidaten Success*

Having established timing and intra-institutional coherence as determinants for success in the *Spitzenkandidaten* procedure, it is important to consider how this showed in the behaviour of political parties and their programmatic positions. Accordingly, has partisan politicisation been bolstered by the *Spitzenkandidaten* procedure? Given the explicit party-political makeup of the EP, the behaviour of the political groups represented in the EP in the immediate aftermath of EP elections is central to answer this question. The organisation of the EU's party systems is crucial in this context. While EU-wide Europarties present *Spitzenkandidaten* in the electoral campaigns, their ultimate suggestion as a formal candidate for the Commission presidency and final appointment is strongly influenced by European Party Groups, which are actually alliances amongst national parties represented in the EP (Ahrens & Miller, 2023). Here, those national parties ultimately remain reluctant to fully embrace the *Spitzenkandidaten* system (Braun & Reinl, 2024), while they do not outright reject it either.

Following the 2014 election the EP was able to swiftly present Jean-Claude Juncker as the parliament's joint candidate. This was possible because the mainstream political actors had ascribed to the *Spitzenkandidaten* system already before the election. In the aftermath of the election, when the results were in, it was thus immediately possible for both the European Peoples Party (EPP) and the Socialists and Democrats (S&D) as the largest party groups in the EP to establish a 'grand coalition' in support of the EPP's candidate. This strengthened the EP's hand in coming together as a united actor vis-à-vis the European Council, as well as having the timing advantage of putting forward their choice before the European Council could even deliberate.

This was deferred in 2019, as party-political conflict surrounding the EP's nomination of their candidate for the Commission presidency dragged on (see Heidbreder & Schade, 2020). This was due to the explicit aim by key parties to link this choice of a candidate to actual coalition negotiations which would establish a political programme. The European Commission president would then have to uphold and implement this programme with the support of the party groups making up the EP's majority, and which voted the Commission president into office. This lack

of (immediate) coherence within the parliament then weakened it compared to a European Council which was intent on demonstrating that the 2014 outcome of the *Spitzenkandidaten* system had not set a precedent based on which the Europarties (and EP party groups) could now negotiate a candidate.

In addition, what contributed to the weakness of the EP in 2019 was also the fact that unlike in 2014 the same ‘grand coalition’ would no longer command a majority of its own, thus requiring at least three political groups to support any collective Commission presidency candidate supported by the EP. Moreover the EPP’s ‘winning’ *Spitzenkandidat* Manfred Weber failed to garner sufficient cross-party support, including over his parties’ previous opposition to strengthening the EPP electorally by introducing pan-European electoral lists when EU electoral rules were reformed in 2018 ahead of the 2019 EP election (de Wilde, 2020, 40). The establishment of such pan-European electoral lists, however, was seen as key by other political party groups to further strengthen the *Spitzenkandidaten* system and its likelihood of success amidst the interinstitutional conflict with the European Council.

Not only does this illustrate in more detail that the hypothesis on politicisation due to the *Spitzenkandidaten* system leading to more partisan politics in appointing the Commission president (H1b) is not met. It also shows that neither in 2014 nor in 2019 were Europarties particularly strengthened (H2b). The experience of 2019 shows that the Europarties and European Party Groups did not stand univocally behind ‘their’ candidate. The outcome of 2014 also illustrates that what looked like a strengthening of the partisan dimension in EU politics was in reality shallow and limited to a personality, rather than being illustrative of a strengthening of partisan competition over a policy platform for the EU.

What’s more, both the experience of 2014 and 2019 shows an almost total lack of an interinstitutional party-political dimension between the Council and the EP. Here, the Council has largely defended its collective interests in the appointment of the Commission presidency irrespective of the political affiliation of the individual heads of state and government. This is further illustrated by its unity in blocking the introduction of the *Spitzenkandidaten* system into EU electoral law. The evidence outlined here thus emphasises the relevance the EU’s institutional power balance over issues of party affiliation as hypothesised in H2a.

3.3 *The Spitzenkandidaten Procedure's Effect on the Commission's Agenda*

While party-political cooperation, or lack of it, was critical for the *Spitzenkandidaten* nomination, the question remains as to how its outcome links to the activity of the European Commission, and thus whether the presence of the *Spitzenkandidaten* system has contributed to an increasing party-political politicisation of the institution itself. The agenda setting after the elections provides at least preliminary findings (for a detailed analysis see Bressanelli et al., 2024).

Whereas the speedy action of the EP was crucial for its 2014 interinstitutional dominance, its focus on winning the nomination against the European Council made it near impossible for the underlying 'grand coalition' to establish a collective political programme which would underpin Jean-Claude Juncker's tenure of office at the European Commission. As much as 2014 thus represented a win for the EP institutionally, it did not contribute to a strengthening of its party-political dimension along the example of a parliamentary system of government.

What's more, unlike predicted by the expected politicisation tendencies of the *Spitzenkandidaten* system, it was not the EP but the Council which had a decisive impact on President Juncker's political agenda. With reference to Juncker, Goldoni points out that "immediately after the proposal of Juncker as the Commission President by the European Parliament, the European Council advanced a detailed programme for the new Commission—'The Strategic Agenda for the Union in Times of Changes'—which set some policy priorities for the EU in the next 5 years and tasked the forthcoming European Commission to implement it" (Goldoni, 2016, p. 287). This had the effect that Juncker took up the European Council's rather than the EP's priorities despite being the parliament's *Spitzenkandidat*. The European Council thereby demonstrated its continued power even amidst its initial defeat over the acceptance of the *Spitzenkandidaten* system by having published a Commission agenda itself (Fotopoulos, 2019, p. 198; Müller Gómez & Reiniers, 2019, pp. 266–267). This represented a continuity from the time prior to the introduction of the *Spitzenkandidaten* system in how Commission agenda setting is shaped in an interinstitutional setting (Bocquillon & Dobbels, 2014, p. 34).

In contrast, despite or rather because of the European Council appointing the Commission president in 2019, von der Leyen took the opposite approach to Juncker when it came to presenting her agenda. When she

introduced it in the EP she explicitly linked her intended agenda to the objectives of the EP and those of specific party groups (European Commission et al., 2019). She effectively pre-empted the European Council when she first presented herself as a candidate to the European Parliament so as to bolster her parliamentary support despite not having been a *Spitzenkandidat* herself. What's more, she explicitly voiced support in favour of EU reform that would enshrine the *Spitzenkandidaten* system into law, as well as strengthen the EP otherwise through transnational electoral lists (European Commission et al., 2019, pp. 20–21).

These findings are highly interesting as they differ from the expectations of both models. Rather than lining up with the institution that wins the interinstitutional battle (H3a) or the winning party(coalition) (H3b) we see that the nominee orients the initial agenda towards the institution that did not appoint him or her. While this does follow an institutional—rather than a partisan logic—it is not the logic of institutional conflict that leads to power shifts. Instead, workable power-sharing is re-established through rebalancing even where institutional politicisation has affected institutional powers (cf. H1a). Interestingly, the dual legitimising base is reinforced in the end given that intense interinstitutional conflict is fenced subsequently and power-sharing is re-enforced by mediating interests across institutions.

4 CONCLUSION: THE EFFECTS OF THE *SPITZENKANDIDATEN* SYSTEM ON EU-LEVEL DEMOCRACY

Based on the still limited evidence of the *Spitzenkandidaten* system, what can we learn about the underpinning operating mode of EU legitimacy and the effects it has on the wider EU system? First, instead of settling institutional roles into a new balance, the *Spitzenkandidaten* system has increased interinstitutional conflict between the Council and EP as predicted by the dual legitimacy model. However, this is not to say that some of the intended effects regarding the politicisation of EP elections did not take effect. Even if a second-order effect still dominates (de Wilde, 2020), some results from politicisation are at least not ruled out in the future.

However, as shown, rather than fostering partisan politics, the *Spitzenkandidaten* system creates a fundamental dilemma for Europarties. The more the campaign is politicised, the more electorates shift attention, loyalties, but also expectations to the EU level in a single-legitimising

logic. This implies that the parties will lose credibility if they ignore party-political differences to win the interinstitutional competition immediately after the elections and if the Commission does not deliver on the promises. As shown, the EP can, however, only succeed in appointing a *Spitzenkandidat* if it lets go of partisan politics to take an institutional stand behind a winning candidate. The 2019 attempt to first negotiate amongst Europarties in the context of EP party groups instead of abandoning party-positions at once, highlights the dilemma. Analysing how politicisation via the *Spitzenkandidaten* system affects partisan *and* institutional competition shows the blind spot of the single legitimacy-based model: the more successful it is during the campaign, the less capable the EP is to install a Commission president after all due to the institutionalised veto rights of the dual decision-making logic (Fabbrini, 2024).

This sheds more fundamental doubts on whether further politicisation will, in the long run, lead to cross-institutional partisan politics. The rejection of transnational party lists by national parties points very much into a different direction, not least because transnational lists would allow to really define partisan lines that at least partially decouple distinct Europarties from national party agendas. In addition, we do not see that party politics dominate the Commission agenda, nor do we see the Commission president privilege the institutional positions of the institution that nominated the president.

Hence, despite the dominance of interinstitutional conflict, we do not witness a blockage or stalemate or even institutional capture in that the winner institution dominates the EU agenda. In essence, even though the dual-legitimacy model dominates, interinstitutional competition and conflict do not lead to stalemate but rebalancing and power-sharing between the institutions. While the party-political dimension of the EU may thus have become more visible at the time of EP elections, thus potentially reducing the public perception as to their second-order nature, this has no significant wider effect thus far on the actual functioning of the EU's political system in its institutional and interinstitutional dimension. Ironically, the presence of the underlying rebalancing leads to a situation in which the success of the *Spitzenkandidaten* system may actually weaken the underlying democratic model which currently legitimises it at the EU level.

Which promise does this analysis hold in light of the 2024 election? First, to pre-empt the unintended effects of the *Spitzenkandidaten* system from the EP's perspective—i.e. dominance of interinstitutional conflict and thus the need for a quick depoliticisation after the election—moving

the decision over an actual candidate before the elections seem the best option available. Hence, appointing a likely winner who would be backed by the European Council and the EP could become the king maker. From the national parties as well as the European Council's position, a prominent and promising *Spitzenkandidat* would, in contrast, not only manifest the unwanted system. It would also limit national parties' power in appointing Commissioners and the European Council's interinstitutional power.

Aside from these strategic considerations related to the experience of the initial two rounds of the *Spitzenkandidaten* system, the appointment of the Commission President in 2024 will also likely be affected by altered personnel constellations. For the first time since the Lisbon Treaty changes is there at least the possibility of the incumbent Commission President entering a second term. While Ursula von der Leyen's credentials and promises have made her at least eligible to now be formally supported as a *Spitzenkandidat* supported by the EP, this is complicated by the EPP's internal party group dynamics at the EU level, as well as by the fact that Germany is no longer ruled by a Christian Democrat. This would technically mean that the coalition of Social Democrats, Greens and Liberals would have to support a candidate who is not a member of either of their parties. The coalition treaty technically grants the right of nomination for next German EU Commissioner to the Green party, but this only applies "provided that the Commission president does not originate from Germany" (Coalition Agreement, 2021, 177; translation ours), thus already anticipating the potential of a second Von der Leyen term. This situation reflects the partisan confusion of the EU's party-political state-of-affairs. It demonstrates that as a singular instrument, the *Spitzenkandidaten* system cannot achieve party-political politicisation on the EU level on its own, but instead risks to make a mockery of party-political promises which have raised the expectations of an EU-wide electorate.

REFERENCES

- Ahrens, P., & Miller, C. (2023). The relationships between Europarties and European political groups: Changing formal and informal rules and the Spitzenkandidatur. *Journal of Contemporary European Research*, 19(1), 108–128. <https://doi.org/10.30950/jcer.v19i1.1283>
- Bartolini, S., & Hix, S. (2006). Politics: The right or the wrong sort of medicine for the EU? *Notre Europe, Policy Paper 19*. Retrieved August 20, 2007, from

- <http://www.notre-europe.eu/fr/axes/visions-deurope/travaux/publication/politiser-lue-remede-ou-poison/>
- Bocquillon, P., & Dobbels, M. (2014). An elephant on the 13th floor of the Berlaymont? European Council and Commission relations in legislative agenda setting. *Journal of European Public Policy*, 21(1), 20–38. <https://doi.org/10.1080/13501763.2013.834548>
- Braun, D., & Reinl, A.-K. (2024). The Spitzenkandidaten process in the context of the EP campaign: The role of party competition. In M. Ceron, T. Christiansen, & D. G. Dimitrakopoulos (Eds.), *The politicisation of the European Commission's presidency: Spitzenkandidaten and beyond* (Chapter 8). Palgrave.
- Bressanelli, E., Ceron, M., & Christiansen, T. (2024). The impact of the Spitzenkandidaten process on EU policy-making. In M. Ceron, T. Christiansen, & D. G. Dimitrakopoulos (Eds.), *The politicisation of the European Commission's presidency: Spitzenkandidaten and beyond* (Chapter 13). Palgrave.
- Bujard, B., & Wessels, W. (2024). The European Council's electoral power—The national leaders as driving forces behind EU top-level appointments. In M. Ceron, T. Christiansen, & D. G. Dimitrakopoulos (Eds.), *The politicisation of the European Commission's presidency: Spitzenkandidaten and beyond* (Chapter 11). Palgrave.
- Cavallaro, M. E., & Zaccaria, B. (2024). The European Parliament and the European Commission presidents relationship in historical perspective. In M. Ceron, T. Christiansen, & D. G. Dimitrakopoulos (Eds.), *The politicisation of the European Commission's presidency: Spitzenkandidaten and beyond* (Chapter 2). Palgrave.
- Coalition Agreement. (2021). Mehr Fortschritt Wagen: Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit. <https://www.bundesregierung.de/resource/blob/974430/1990812/1f422c60505b6a88f8f3b3b5b8720bd4/2021-12-10-koav2021-data.pdf?download=1>
- Crum, B. (2023). Why the European Parliament lost the Spitzenkandidaten-process. *Journal of European Public Policy*, 30(2), 193–213. <https://doi.org/10.1080/13501763.2022.2032285>
- de Wilde, P. (2020). The fall of the Spitzenkandidaten: Political parties and conflict in the 2019 European Elections. In S. Kritzing, C. Plescia, K. Raube, J. Wilhelm, & J. Wouters (Eds.), *Assessing the 2019 European Parliament Elections* (pp. 37–53). Routledge.
- European Commission, Directorate-General for Communication, & von der Leyen, U. (2019). *A union that strives for more: My agenda for Europe: Political guidelines for the next European Commission 2019-2024*. Publications Office. <https://data.europa.eu/doi/10.2775/018127>
- European Council. (2007). Treaty of Lisbon: Amending the Treaty on the European Union and the Treaty establishing the European Community. *Official Journal of the European Union*, 50(C 306).

- Fabbrini, S. (2021). Who holds the Elephant to account? Executive Power political Accountability in the EU. *Journal of European Integration*, 43(8), 923–938. <https://doi.org/10.1080/07036337.2021.1915304>
- Fabbrini, S. (2024). The European Parliament and the European Commission Presidents relationship in historical perspective. In M. Ceron, T. Christiansen, & D. G. Dimitrakopoulos (Eds.), *The politicisation of the European Commission's presidency: Spitzenkandidaten and beyond* (Chapter 4). Palgrave.
- Follesdal, A., & Hix, S. (2006). Why there is a democratic deficit in the EU: A response to Majone and Moravcsik [pdf filed]. *Journal of Common Market Studies*, 44(3), 533–562.
- Fotopoulos, S. (2019). What sort of changes did the Spitzenkandidat process bring to the quality of the EU's democracy? *European View*, 18(2), 194–202. <https://doi.org/10.1177/1781685819879862>
- Goldoni, M. (2016). Politicising EU lawmaking? The Spitzenkandidaten experiment as a cautionary tale. *European Law Journal*, 22(3), 279–295. <https://doi.org/10.1111/eulj.12181>
- Heidbreder, E. G., & Auracher, J. (2015). Die Europawahl 2014 als Weichenstellung für die Politisierung der EU: Die Rolle der Spitzenkandidaten im institutionellen Wettstreit. In M. Kaeding & N. Switek (Eds.), *Die Europawahl 2014* (pp. 223–232). Springer.
- Heidbreder, E. G., & Schade, D. (2020). (Un)settling the precedent: Contrasting institutionalisation dynamics in the spitzenkandidaten procedure of 2014 and 2019. *Research & Politics*, May(online), 1–6. <https://doi.org/10.1177/2053168020925975>
- Hix, S. (2006). Why the EU needs (left-right) politics? Policy Reform and accountability are impossible without it. *Notre Europe, Policy Paper 19*. Retrieved August 20, 2007, from <http://www.notre-europe.eu/fr/axes/visions-deurope/travaux/publication/politiser-lue-remede-ou-poison/>
- Hix, S., & March, M. (2011). Second-order effects plus Pan-European political swings: An analysis of European Parliament Elections across time [pdf filed]. *Electoral Studies*, 30(1), 4–15.
- Mair, P. (2007). Political opposition and the European Union [pdf filed]. *Government and Opposition*, 42(1), 1–17.
- Majone, G. (2002). Delegation of regulatory powers in a mixed polity [no, pdf filed]. *European Law Journal*, 8(3), 319–339.
- Müller Gómez, J., & Reiniers, W. (2019). Rivalität mit System? Zehn Jahre institutioneller Wettbewerb zwischen Europäischem Parlament und Europäischem Rat. *Integration*, 42(4), 262–279. <https://doi.org/10.5771/0720-5120-2019-4-262>