

# The future of the EU's lead-candidate procedure

Paul Schmidt | Generalsekretär, Österreichische Gesellschaft für Europapolitik | @ PaulSchmidt ♥

Johanna Edthofer | Österreichische Gesellschaft für Europapolitik | @Johanna Edthofer

#### Theme

This analysis proposes the following policy recommendations. (1) the EU Parliament would be well advised to resuscitate and reform the EU's lead-candidate procedure, which it vehemently claimed and defended until shortly after the European elections of 2019; (2) the EU Parliament should convince the Council of the EU to jointly enforce an electoral reform agenda well before the next European elections in 2024; and (3) transnational electoral lists could be a key element of this electoral reform, with the European lead-candidates being elected directly, thus further raising public interest in the European elections and increasing the democratic legitimation of the European Commission's President.

## **Summary**

The EU's lead-candidate procedure was first applied at the European elections in 2014. The European parties reached an agreement that only those who had run as leadcandidates in the European elections for their respective political party would be approved as candidates for President of the European Commission. The lead-candidate of the party with the most votes is to be proposed by the European Council as the candidate for President of the European Commission and elected by the European Parliament, However, after the European elections of 2019, neither a fragmented European Parliament nor the EU heads of state and government in the European Council were able to agree on one of the candidates. Nevertheless, the lead-candidate procedure should not be abandoned. To save it, it should be embedded in a reform of the EU's electoral law well before the next European elections in 2024. With the introduction of transnational electoral lists, Europe's top representatives would be directly elected. EUwide electoral lists would also enable European parties to lead more active election campaigns at a European level. The link between the European elections and the Presidency of the European Commission is welcome and should be maintained in the form of the lead-candidate procedure, since it ultimately strengthens the EU's democratic legitimacy.

# **Analysis**

#### Introduction

Within the framework of the Conference on the Future of Europe, the EU institutions and EU member states are encouraged to organise public debates to discuss the further development of European integration. The decision to hold the Conference was taken in

July 2019, in the context of the last elections to the European Parliament and the constitution of the then new European Commission. Due to the outbreak of the COVID-19 pandemic, the start of the conference was postponed to 2021. Diverging views between EU institutions and EU member states regarding the relation between the European elections and the constitution of the new European Commission as well as its political agenda ultimately led to renewed questions about the democracy, legitimacy and efficiency of the European decision-making processes.

The Conference on the Future of Europe is another chance to find answers to these questions and to improve the EU's functioning. This time, civil society will be involved in these reflections on an equal footing. In her inaugural speech at the European Parliament on 16 July 2019, the then newly elected EU Commission President Ursula von der Leyen underlined that '... European citizens [should] play a leading and active part in building the future of our Union. I want them to have their say at a Conference on the Future of Europe...'.¹ An essential part of the next steps in European integration should be a new attempt to reform the EU's electoral law. The lead-candidate procedure reached its preliminary limits after the European elections of 2019 due to dissent between the parliamentary groups and a lack of political support by EU heads of state and government. Nevertheless, the lead-candidate procedure should not be abandoned.

### The legal basis

The debate on how to appoint the President of the European Commission is not new. Traditionally, the appointment procedure was determined mainly by national governments and the European Parliament was merely consulted. In the course of time, the EU Parliament gradually gained influence. With the Treaty of Lisbon (2009), the European Parliament became the pivotal place for legitimating the President of the European Commission.<sup>2</sup> According to Article 17 (7) of the Treaty on the EU (TEU), the European Council –after having held the appropriate consultations– should propose a candidate for President of the European Commission to the European Parliament. In doing so, the Council should take into account the result of the elections to the European Parliament. The candidate should then be elected in the European Parliament by a majority of its members.3 By linking the elections to the European Parliament to the appointment of the President of the European Commission -as defined in the TEU- the EU's political system and its functionality should be adapted to appointment processes in parliamentary democracies.4 With regard to the balance of power between the EU Institutions involved, the introduction of the lead-candidate procedure limited the room of manoeuvre of the European Council, while simultaneously strengthening the European Parliament's role in the process of appointing the President of the European Commission.5

<sup>&</sup>lt;sup>1</sup> https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\_19\_4230.

<sup>&</sup>lt;sup>2</sup> Der Europäische Föderalist (2019), 'Reform des Spitzenkandidaten-Verfahrens: Serienauftakt', November.

<sup>&</sup>lt;sup>3</sup> https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12008M017.

<sup>&</sup>lt;sup>4</sup> Der Europäische Föderalist (2019), op. cit.

<sup>&</sup>lt;sup>5</sup> Rudolf Hrbek (2019), 'Europawahl 2019: neue politische Konstellationen für die Wahlperiode 2019-2014', Integration 3/2019.

## The European elections of 2014 and 2019

Equipped with this legal basis, the lead-candidate procedure was first applied after the elections to the European Parliament in 2014. The European parties agreed that only those who had run as lead-candidates in the European elections for their respective political party would be approved as candidates for President of the European Commission. Accordingly, the lead-candidate of the party with the most votes –Jean-Claude Juncker (of the European People's Party, EPP)—was nominated by the European Council as candidate for President of the Commission and subsequently elected by the European Parliament. He managed to prevail over his main challenger, Martin Schulz (of the Progressive Alliance of Socialists and Democrats, S&D) in the European parliamentary elections of 2014 and gathered the support of a majority of Members of Parliament (MEPs).

This first success of the lead-candidate procedure motivated most European parties to nominate lead-candidates also for the elections to the European Parliament in 2019. In contrast to the European elections in 2014, the now more fragmented and mainly renewed parliamentary groups in the European Parliament were not able to agree on one of the candidates after the elections. Although the EPP with Manfred Weber as lead-candidate came in first place in 2019, there was not enough support for him in the European Parliament. The lead-candidates of the other parties were equally not able to gather the necessary majority of MEPs behind them. Since none of the lead-candidates enjoyed the necessary support of the EU heads of state and government, the European Council took the liberty to unanimously nominate the former German Defence Minister, Ursula von der Leyen, as 'compromise candidate' for President of the European Commission. Despite bypassing the lead-candidate procedure, the majority of MEPs voted von der Leyen as the first female President of the European Commission into office on 16 July 2019 –although by a narrow majority compared with her predecessor, Juncker—.6

The election campaign of the EU lead-candidates in 2014 also differed substantially from 2019's. Between the Christian-democratic Jean-Claude Juncker and the Social-democratic Martin Schulz, there was no disagreement on the central questions of European integration. In 2019 the election debates of the two main contestants —the Christian-democrat Manfred Weber and the Social-democrat Frans Timmermans— were much more controversial. The emerging loss of the parliamentary majority of the informal 'grand coalition' between the EPP and the S&D had broken the consensus between the two still largest parties in the European Parliament. While the polarisation in the course of the European elections 2019 enhanced public attention for the lead-candidate procedure, it also limited the possibilities for a post electoral compromise and thus the chances of the European Parliament to prevail over the European Council. To overcome

<sup>&</sup>lt;sup>6</sup> Election of Ursula von der Leyen, 16/VII/2019: 383 yes; 327 no; 22 abstention; https://www.europarl.europa.eu/news/de/press-room/20190711IPR56824/parlament-wahlt-ursula-von-der-leyen-zur-prasidentin-der-eu-kommission; election of Jean-Claude Juncker, 15/VII/2014: 422 yes; 250 no; 47 abstention; https://www.europarl.europa.eu/news/de/press-room/20140714IPR52341/europaisches-parlament-wahlt-juncker-zum-prasidenten-der-eu-kommission.

these contrasts, more time and more political will as well as new majorities would have been needed.<sup>7</sup>

## Reforming the EU's electoral law

Still, the lead-candidate procedure should be seen as part of a broader reform of the EU's electoral law. The reform has been demanded by the European Parliament for some time and the first steps of implementation had already been taken in the past. Although the EU's electoral law sets some basic principles for the elections to the European Parliament, they are still regulated mainly by the different national election laws. Against this background, the European Parliament repeatedly tried to harmonise the EU-wide regulatory differences. The legal basis for the reform of the EU's electoral law can be found in Article 223 of the Treaty on the functioning of the EU (TFEU). According to Article 223 the European Parliament is entitled to initiate a reform of its own electoral process.8 The reform of the EU's electoral law is a simplified treaty revision procedure. According to Article 223 paragraph 1, the European Parliament draws up a proposal to lay down the provisions necessary for the election of its members and submits the proposal to the Council of the EU. The Council takes its decision unanimously and after obtaining the consent of the European Parliament. The approval of the European Parliament should be given by a majority of its members. In a second phase, the member states have to approve the election regulations in accordance with their respective constitutional requirements (Article 223 paragraph 2 TFEU).9

Already in 2013, the European Parliament adopted an initiative report (the Duff-report)<sup>10</sup> on reforming the organisation of the European elections in 2014 and the foundation of the lead-candidate procedure was set.

In 2015 the European Parliament proposed common rules to harmonise the European elections and make them more 'European'<sup>11</sup> (see the Hübner-Leinen report).<sup>12</sup> In order to anchor the lead-candidate procedure introduced in 2014, the MEPs demanded an official nomination of EU lead-candidates running for the European Commission Presidency in the upcoming European elections in 2019. In addition, they lobbied for an EU-wide standardised time period to complete national electoral lists,<sup>13</sup> the possibility of casting one's vote for a candidate of the respective country of origin also from abroad,<sup>14</sup> an equally high proportion of men and women on the electoral lists of the parties, a mandatory barring clause of between 3% and 5% for the larger EU member states, a

<sup>&</sup>lt;sup>7</sup> https://www.foederalist.eu/2020/07/polarisierungsdilemma-europawahl-spitzenkandidaten.html.

<sup>8</sup> https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E223.

<sup>9</sup> https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E223.

<sup>&</sup>lt;sup>10</sup> https://www.europarl.europa.eu/doceo/document/AFCO-PR-472030\_DE.pdf?redirect.

<sup>11</sup> https://what-europe-does-for-me.eu/en/portal/2/X10 03101.

<sup>12</sup> https://www.europarl.europa.eu/doceo/document/TA-8-2015-0395\_DE.pdf.

<sup>&</sup>lt;sup>13</sup> At least 12 weeks before the European elections.

<sup>&</sup>lt;sup>14</sup> During the European elections of 2014, four EU member states did not allow their citizens living abroad to cast their votes for a candidate of the country of origin: the Czech Republic, Ireland, Malta and Slovakia.

joint closing of polling stations in all EU member states, a harmonised minimum voting age (preferably 16, as in Austria), as well as a better visibility for European parties.<sup>15</sup>

In February 2018 the EU Parliament attempted to get its reform ideas of the EU's electoral law off the ground again. MEPs voiced their support to maintain and firmly establish the lead-candidate procedure in the context of the European elections of 2019. No parliamentary majority could be found for the introduction of transnational electoral lists —an idea that had been disputed already for some time—. They were rejected by 54% of MEPs. 17

With regard to the EU Parliament's proposal of 2015, an agreement was reached in the Council of the EU in June 2018,<sup>18</sup> though accepting only parts of the original proposal.<sup>19</sup> No support could be found for, eg, the EU Parliament's proposal to introduce an EU-wide harmonised minimum voting age of 16 years.<sup>20</sup> In July 2018 the European Parliament approved the now diluted measures to modernise the EU's electoral law. Therefore, the reform of EU electoral law adopted in 2018 only brought minimal improvements. Still today, not all EU member states have ratified it.<sup>21</sup>

Another recent attempt of the EU Parliament to make democracy progress at the European level ahead of the next elections to the European Parliament in 2024 was undertaken in November 2020. In a new report, <sup>22</sup> a majority of MEPs demanded reforms intended to strengthen the European dimension of EU elections –among them, another attempt to introduce an EU-wide harmonised minimum voting age of 16 years –. They also expressed their support for the lead-candidate procedure by underlining that in the

<sup>&</sup>lt;sup>15</sup> https://www.europarl.europa.eu/news/de/press-room/20151109IPR01698/parlament-fordert-euwahlrechtsreform-spitzenkandidaten-und-sperrklauseln; EU-Parlament uneins über Reform des EU-Wahlrechts – EURACTIV.de.

 $<sup>^{16}\</sup> https://www.europarl.europa.eu/news/de/press-room/20180202IPR97026/europawahl-2019-parlament-wird-am-prinzip-des-spitzenkandidaten-festhalten.$ 

<sup>17</sup> https://www.votewatch.eu/blog/bad-news-for-macron-as-majority-of-policymakers-opposed-transnational-lists-for-ep-elections/; https://www.wienerzeitung.at/themen/recht/recht/2034305-Konkrete-Empfehlungen-fuer-Reform-der-Europawahl.html; https://www.foederalist.eu/2020/03/charles-goerens-listes-transnationales-spitzenkandidaten.html.

<sup>&</sup>lt;sup>18</sup> https://www.consilium.europa.eu/de/press/press-releases/2018/06/07/european-parliament-elections-council-reaches-agreement-on-a-set-of-measures-to-modernise-eu-electoral-law/.

<sup>&</sup>lt;sup>19</sup> These include, *inter alia*, the introduction of a national barring clause for constituencies with more than 35 seats (between 2%-5%) at the latest from 2024 onwards as well as new regulations concerning sanctions in order to avoid double voting, regulations concerning the casting of votes in third countries, varying voting regulations as well as the visibility of European parties in the member states. With the new regulations, member states have the right to allow different modes of voting –including e-voting– as far as certain basic conditions (election secrecy, protection of personal data) are met. See <a href="https://www.consilium.europa.eu/de/press/press-releases/2018/06/07/european-parliament-elections-council-reaches-agreement-on-a-set-of-measures-to-modernise-eu-electoral-law/; <a href="https://www.europarl.europa.eu/news/de/press-room/20180628IPR06818/parlament-billigt-modernisierung-des-eu-wahlrechts">https://www.europarl.europa.eu/news/de/press-room/20180628IPR06818/parlament-billigt-modernisierung-des-eu-wahlrechts; <a href="https://what-europe-does-for-me.eu/en/portal/2/X10">https://what-europe-does-for-me.eu/en/portal/2/X10</a> 03101.

<sup>&</sup>lt;sup>20</sup> https://www.wienerzeitung.at/themen/recht/recht/2034305-Konkrete-Empfehlungen-fuer-Reform-der-Europawahl.html?em\_cnt\_page=1.

<sup>&</sup>lt;sup>21</sup> Manuel Müller (2020), 'Die Bedeutung der Europawahl stärken. Wie kann die parlamentarische Demokratie auf EU-Ebene verbessert werden?', Friedrich Ebert Stiftung/Institut für Europäische Politik.

<sup>&</sup>lt;sup>22</sup> https://www.europarl.europa.eu/doceo/document/TA-9-2020-0327\_DE.html.

upcoming elections to the European Parliament voters should be able to determine who would ultimately become President of the European Commission.<sup>23</sup>

## Of advocates and opponents

The lead-candidate procedure enhances the EU's democratic legitimacy as well as the visibility of Europe's parties. At the same time, it strengthens voters across the EU. Furthermore, it correlates with an upgrading and a Europeanisation of the elections to the European Parliament. The lead-candidates canvass for voters transnationally -this means they can eventually help to create a European public as well as a European electorate. Finally, the lead-candidate procedure enhances the transparency of the nomination and appointment procedure of the President of the European Commission. It is no longer perceived as a trade-off of political offices behind closed doors, mainly determined by EU heads of state and government. 24 The advocates of the leadcandidate procedure regard it as one of several steps to correct the EU's oft-cited democratic deficit and to transform the EU into a fully-fledged parliamentary democracy. Against this background, the EU's lead-candidate procedure is seen as short-term measure in order to parliamentarise the European Commission. 25 As in other parliamentary systems, there should be a direct connection between the head of the EU's 'government0' (the European Commission) and the majority in the European Parliament. The lead-candidate procedure should not only strengthen the correlation between the European elections and the Presidency of the European Commission, but should also boost the role of the European parties during the election campaign.<sup>26</sup>

On the other hand, the opponents of the lead-candidate procedure point to its failure in the context of the European elections of 2019. The hope that with the introduction of the lead-candidate procedure the EU would become more democratic and EU citizens would be brought closer to the EU's institutions did not materialise. One reason for this was the 'mistaken' orientation along with the rules of parliamentary governmental systems because parliamentarism in the EU can hardly be compared with national parliamentary systems. At the EU level, the relationship between government majority and opposition -as we know from the national level- is non-existent. Changing majorities are no exception but rather a general rule in the European Parliament. Depending on the subject, varying voting coalitions are formed when legislative decisions are adopted. Moreover, the EU's 'government' (the European Commission) does not depend on the permanent support of a parliamentary majority once it has been approved. It can be removed from office by a two-thirds majority but cannot be dissolved ahead of schedule. In a national parliamentary system, this option typically guarantees that in the event of a loss of the parliamentary majority of the respective government, either a new majority is found or new elections are called. Therefore, the lead-candidate procedure and its aim to tie the European Commission more strongly to the majority in the European Parliament

<sup>&</sup>lt;sup>23</sup> https://www.europarl.europa.eu/news/de/press-room/20201120IPR92133/steps-to-improve-eudemocracy-ahead-of-2024-elections.

<sup>&</sup>lt;sup>24</sup> Die Presse (2019). 'Die Vor- und Nachteile des Spitzenkandidatenprinzips', 4/I/2019.

<sup>&</sup>lt;sup>25</sup> Müller (2020), op. cit.

<sup>&</sup>lt;sup>26</sup> Müller (2020), op. cit.

is regarded as a step in the wrong direction, since the EU's political system does not correspond to a parliamentary system of governance.<sup>27</sup>

#### The stakeholders on the two sides

The power struggle between the European Council and the European Parliament can hardly be overlooked. From the very beginning, a majority of the EU's heads of state and government was generally sceptical regarding the lead-candidate procedure and rejected its institutionalisation.<sup>28</sup> There was no interest in losing the lead when appointing the President of the European Commission and other important European positions, that also entailed a loss of power and influence with respect to the EU Parliament. At the same time, a number of EU heads of state and government were directly involved in the intraparty selection processes of 'their0 respective lead-candidate.

Naturally, the majority of MEPs in the EU Parliament advocated the introduction of the lead-candidate procedure in line with the European elections of 2014 as well as its retention in the context of the elections of 2019. It was assumed that the lead-candidate procedure would lead to a strengthening of the institutional role of the EU Parliament.<sup>29</sup> Obviously, some political parties as well as individual MEPs in the EU Parliament tended to be more in favour of the lead-candidate system and a reform of EU electoral law than others. In particular, the Social-democrats, the Greens and the Liberals committed themselves quite early to nominate EU lead-candidates ahead of the European elections in 2014. In contrast, initially there were distinctive doubts among the Christian-democrats. The lost majorities of the EPP and S&D after the European elections of 2019 as well as the fact that a substantial renewal of the MEPs (approximately 60%) had taken place, played a significant role in the dynamics of the nomination of the President of the European Commission thereafter.<sup>30</sup>

At the level of the EU's heads of state and government, there are various approaches towards the lead-candidate procedure. These different views crystallise in the debate about the introduction of transnational electoral lists, which are seen by many as a necessary complement to the lead-candidate system. So far, the lead-candidates nominated by their European party families could only be elected in their country of origin, if they happened to be included in the respective electoral lists, but not EU-wide. With the introduction of transnational electoral lists, each European party family would have automatically one lead-candidate eligible for selection by all Europeans. <sup>31</sup> Therefore, voters would be able to cast two votes: one for a candidate nominated by a

<sup>&</sup>lt;sup>27</sup> Frank Decker (2019), 'Für eine Direktwahl des Kommissionspräsidenten und ein neues Europawahlrecht: Wege und Irrwege der Demokratie in der EU', in *Der Europäische Föderalist*.

<sup>&</sup>lt;sup>28</sup> Hrbek (2019), op. cit.

<sup>&</sup>lt;sup>29</sup> https://www.europarl.europa.eu/news/de/press-room/20180202IPR97026/europawahl-2019-parlament-wird-am-prinzip-des-spitzenkandidaten-festhalten.

<sup>&</sup>lt;sup>30</sup> Members of the European Parliament from February 2020 | European Parliamentary Research Service Blog (epthinktank.eu).

<sup>&</sup>lt;sup>31</sup> Julian Rappold (2019), 'Noch nicht ausgemustert: Gezielte Reformen können das Spitzenkandidaten-Verfahren wieder erfolgreich machen', *Der (europäische) Föderalist*.

national party in the respective EU member state and one for a candidate nominated by a European party.<sup>32</sup>

In 2017 the French President Emmanuel Macron clearly advocated the introduction of transnational electoral lists. With Brexit in mind, he demanded their introduction in his speech at the Sorbonne in September. The idea was to make use of part of the 73 seats –vacant in the European Parliament due to Brexit– to fill these new transnational electoral lists. <sup>33</sup> After the EPP prevented such a step in February 2018, <sup>34</sup> relations between Conservatives and Liberals further hardened. Although the Conservatives were in favour of the lead-candidate procedure, they rejected transnational electoral lists. Without transnational lists, though –and with a view to merging with Macron's movement *La République en Marche* in the European Parliament–, the Liberals no longer felt obliged to continue supporting the lead-candidate procedure. <sup>35</sup>

Macron thus clearly expressed his opposition to the lead-candidate procedure: 'It is not the right way and only makes sense, if transnational electoral lists for the European elections are introduced'. <sup>36</sup> The four 'Visegrád states' –Poland, Hungary, the Czech Republic and Slovakia– counted among the most prominent opponents of the lead-candidates. Whereas Macron seemed to be mainly concerned with increasing his own level of influence as well as with tactical political considerations, <sup>37</sup> the Visegrád Four generally rejected further steps towards democratisation and a stronger communitisation of the EU.<sup>38</sup>

The German Chancellor, Angela Merkel, always underlined, that the European Council needs to retain the power of decision in the election process of the President of the European Commission.<sup>39</sup> Nevertheless, it seemed that Merkel did not want to commit herself. Although she challenged the idea of the lead-candidate procedure, at the same time she emphasised her loyalty towards Manfred Weber, the lead-candidate of the EPP for the elections in 2019. Should the EPP become the strongest political force in the EU Parliament, she assured him of her backing.<sup>40</sup>

 $<sup>^{32}\</sup> https://www.deutschlandfunk.de/umstrittener-vorschlag-laenderuebergreifende-listenfuer.795.de.html?dram:article_id=409291.$ 

<sup>&</sup>lt;sup>33</sup> https://www.deutschlandfunk.de/transnationale-listen-wenn-die-kanzlerinorakelt.795.de.html?dram:article id=419578.

<sup>&</sup>lt;sup>34</sup> https://www.votewatch.eu/blog/bad-news-for-macron-as-majority-of-policymakers-opposed-transnational-lists-for-ep-elections/.

<sup>35</sup> Der Europäische Föderalist (2019), op. cit.

<sup>36</sup> https://www.n-tv.de/politik/Das-Modell-der-EU-Spitzenkandidaten-wackelt-article21042970.html.

<sup>&</sup>lt;sup>37</sup> His political party, *La République en Marche*, was not affiliated to a European group before the European elections of 2019. Therefore, it would not have had a say in the nomination of the EU lead-candidates.

<sup>38</sup> https://www.foederalist.eu/2018/02/neue-debatte-spitzenkandidaten-verfahren-europawahl-2019.html.

<sup>39</sup> Der Europäische Föderalist (2019), op. cit.

<sup>&</sup>lt;sup>40</sup> https://www.sueddeutsche.de/politik/merkel-weber-europwahl-1.4448875; https://www.ntv.de/politik/Das-Modell-der-EU-Spitzenkandidaten-wackelt-article21042970.html.

The Austrian Chancellor, Sebastian Kurz, was clearly one of the advocates of the lead-candidate procedure. Ahead of the European elections of 2019, he supported it publicly and assured Manfred Weber of his backing: 'I deem it right that this model exists... We need a European level which is closer to the population'. Therefore, EU citizens should 'have as much of a say as possible'. EU citizens should not only be able to elect the EU Parliament, but also the President of the European Commission at the European elections of 2019 –'at least indirectly'–.<sup>41</sup>

Finally, the President of the EU Commission, Ursula von der Leyen, also demanded 'a new impetus for democracy in Europe' in her first speech at the European Parliament's plenary. After the institutional discord, von der Leyen sought to reconnect with the EU Parliament by explicitly arguing for a retention and improvement of the lead-candidate procedure as well as the introduction of transnational electoral lists: '... I want us to work together to improve the Spitzenkandidaten system. We need to make it more visible to the wider electorate and we need to address the issue of transnational lists at the European elections as a complementary tool of European democracy'.<sup>42</sup>

No amendment of the EU's treaties would be needed to reform the lead-candidate procedure. Neither would it be viable in the current political situation and before the upcoming European elections in 2024. With a sufficient amount of political will in the EU capitals, the existing treaties offer enough options for fundamental changes including the introduction of transnational lists. <sup>43</sup> In order to legally anchor a new appointment procedure for the President of the European Commission, an inter-institutional agreement would be sufficient. <sup>44</sup>

#### Conclusion

Although its failure to lead the way in the nomination of the President of the European Commission after the European elections of 2019, the lead-candidate procedure must not be abandoned. The main idea behind it —linking the European elections to the Presidency of the European Commission and its political agenda, therefore enhancing the democratic legitimacy of the EU as a whole— should be regarded as one of many urgently-needed and forward-looking reforms at an EU level. In particular, the EU Parliament, if not the EU as a whole, would suffer a considerable loss of confidence if the lead-candidate procedure were simply to be left aside after the fiasco at the last European elections. To put it on firm footing, the resuscitation of the procedure should go hand in hand with a broader reform of the EU's electoral law. Although still lacking the necessary majorities, the introduction of transnational electoral lists would be an important piece to complete the puzzle. Therefore, further efforts are needed to discuss and promote this reform idea and find majorities capable of compromise. They would grant European parties more visibility, enhance the loyalty of MEPs towards their

<sup>&</sup>lt;sup>41</sup> https://kurier.at/politik/ausland/sebastian-kurz-oevp-will-fuer-eu-spitzenkandidat-weber-laufen/400110317.

<sup>42</sup> https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\_19\_4230.

<sup>&</sup>lt;sup>43</sup> Julian Rappold (2019), op. cit.

<sup>&</sup>lt;sup>44</sup> Sophia Russack (2020), 'How to appoint a commission president. Deliberative democracy in the EU: countering populism with participation and debate'.

respective European parties and detach the European elections from overstretched national framings. Ultimately, a combination with transnational electoral lists would complete the lead-candidate procedure and help make it a success.<sup>45</sup>

<sup>&</sup>lt;sup>45</sup> Charles Goerens (2020), 'Wissen, wer was tun wird: Transnationale Listen können das Spitzenkandidaten-System retten', in *Der Europäische Föderalist*.