



... information report

TRANSNATIONAL LISTS AND *SPITZENKANDIDATEN*: NOT-SO-BRIGHT IDEAS

On Thursday 1st July 2021, the European Affairs Committee adopted the information report by Senators Mr. Jean-François Rapin and Mrs Laurence Harribey on transnational lists and lead candidates in European Parliament elections (Report No 735, 2020-2021).

The Conference on the Future of Europe, launched on 9 May 2021, brings together citizens of the European Union and representatives of European institutions, national parliaments and governments. It aims, before spring 2022, at identifying the best way to meet European citizens' aspirations. It will pay particular attention to two institutional developments regarding the European elections and their consequences: "transnational lists" and the "*Spitzenkandidaten*" system, which are intended to provide a partial response to the Union's "democratic deficit" by "Europeanising" the ballot and giving more power to voters.

1. THE CURRENT SYSTEM DEPRIVES EUROPEAN CITIZENS OF SUFFICIENT OPPORTUNITY TO MAKE THEIR VOICES HEARD

European citizens can make their voices heard in the European Union, especially by voting in European elections, which in turn have an impact on the appointment of the President of the European Commission. In France, the 79 Members of the European Parliament are elected according to a list-based system of proportional representation within a single national constituency. Community law lays down general rules and provides for the opportunity – albeit little used – to "Europeanise" the ballot paper (by including the logo of the European political party or the name of the candidate for the Presidency of the European Commission supported by the list). Following the elections, **the European Council, which brings together the Heads of State or Government, nominates a candidate for the Presidency of the Commission, "taking into account the result of the European elections"**, as provided for in the Treaties, who must be confirmed by the European Parliament. The Council then appoints the other Commissioners, in agreement with the elected President, on the basis of proposals from the Member States. The college must be approved by the European Parliament.

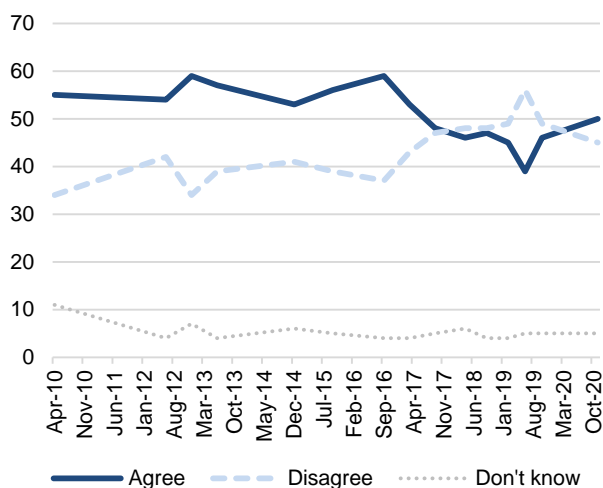
European political parties play a significant role in the European election campaign and in the appointment of the President of the Commission. They adopt a political manifesto at the Union-wide level and nominate their candidate for the Presidency of the Commission. Their internal functioning is based on a "congress" in which the importance of a national party depends largely on its performance in the European elections. It should be pointed out that **France is rarely among the leading national delegations of the two main political groups in the European Parliament** (European People's Party and Socialist groups).

However, European elections are seen as being "second-class elections", which deprive European citizens of sufficient opportunity to make their voices heard: turnout is often lower than in national elections, their effect on the choice of leaders is limited because of the

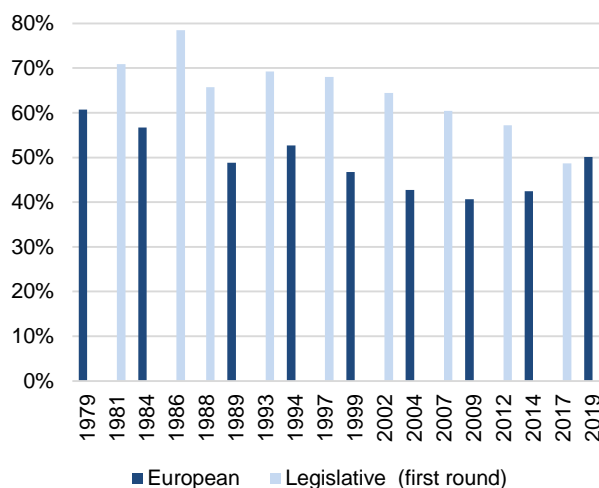
States' prerogatives, and national issues tend to predominate, making this election a juxtaposition of 27 national elections. This can be partly explained by the difficulty of "embodying the Union" and by the limited media coverage of its latest developments. Whatever the case, European leaders remain little known to our compatriots. Ultimately, **less than half of all European citizens feel that their vote matters in the Union.**

"My voice counts in the European Union"
(response from all citizens of the Union)

(in percent)



European and legislative elections turnout in France



2. TRANSNATIONAL LISTS RAISE SEVERAL CONCERNS

The proposal for transnational lists entails **the election of a percentage of MEPs by proportional representation, within a single constituency corresponding to the entire European Union.** In concrete terms, this would require European voters to vote twice: first, according to the system currently in force in their own state, i.e. in France choosing, from several lists presented at the national level, and second, choosing from several transnational lists, valid throughout the Union. As many as 46 MEPs could be elected in this way, leading to a European Parliament of 751 members, corresponding to the maximum number laid down in the treaties.

According to the promoters of this proposal, this would facilitate a "Europeanisation" of the ballot: on the one hand, transnational lists could draw voters' attention to European rather than national issues, emphasise the "general European interest" and raise the profile of European leaders; on the other hand, European political parties could acquire a more important role vis-à-vis their member parties by nominating the candidates on these lists and contributing more actively to the electoral campaign.

The European Parliament elected as a result of the 2019 elections could define its position on this issue by spring 2022 and is already addressing the matter on the basis of proposals by MEP Domènec Ruiz Devesa (S&D, Spain). While introducing a single constituency does not appear to require amendments to the Treaties, it would call for a change in the European Electoral Act and therefore unanimity in the Council, approval by the European Parliament and ratification by each Member State. **Obtaining unanimity in the Council would be politically difficult, as some states have already expressed their opposition to this proposal.**

In this respect, the question of striking a balance between states in the composition of the list will be paramount. This will be a matter of allaying the least populated states' concerns about the risk of allocation of the eligible positions to the most highly populated States without increasing the representation imbalance, which has already given a Maltese citizen ten times more voting power than a German. However, **the rapporteurs consider that the European Parliament's proposal, as**

it stands, would exacerbate this imbalance: according to their projections, there would be one MEP for every 25 million inhabitants in the five most populous states, compared to one MEP for every 1 million inhabitants in the six least populous states. Moreover, **this “distribution” of candidates between Member States seems to contradict the very principle of transnational lists, based on the idea that MEPs, irrespective of their nationality, represent all citizens of the Union. It would also reduce the role of European political parties in the constitution of the lists and, in so doing, diminish the Europeanisation of the ballot.**

The rapporteurs are also concerned that the MEPs elected on these lists would be “rootless MEPs”, disconnected from grassroots concerns, which would further widen the gap between MEPs and citizens. Appointed by the parties, they would be more accountable to them than to the citizens, and yet they could be called upon to play leading roles: a pan-European election would give them considerable European legitimacy, the transnational campaign would raise their profile and their nomination by European parties would ensure their immediate positioning centre stage.

This proposal could lead France to introduce postal and advance voting and to change the rules on campaign financing, audio-visual regulation, authorisation of commercial advertisements, dissemination of election polls, design of ballot papers, etc.

Finally, the introduction of a single constituency would have **major consequences for our national electoral law**, due to the need to harmonise the electoral rights of the Member States. For example, several countries use postal voting and advance voting; France should probably consider introducing these voting methods, which are not part of its "electoral traditions". Finally, it may prove necessary to harmonise the rules on election campaigns in order to ensure equality between lists, which could **impact funding rules, audio-visual regulation, authorisation of commercial advertising, dissemination of election polls, design of ballot papers, etc.**

3. THE *SPITZENKANDIDATEN* SYSTEM WOULD GIVE EUROPEAN POLITICAL PARTIES A FUNDAMENTAL ROLE WITHOUT GUARANTEEING THE EUROPEANISATION OF THE BALLOT

The *Spitzenkandidaten*, or “lead candidates”, system consists in the European political parties nominating – as they do today – their candidate for the Presidency of the European Commission prior to the election. **The European Council would then have to designate the candidate nominated by the leading party in the European elections as its candidate for the Presidency of the Commission**, who would then be likely to obtain a majority in the European Parliament, as it is the case today. According to its advocates, this system may “Europeanise” the ballot by enabling candidates to “embody” the European Union, which would attract greater media coverage while giving European political parties a more prominent role.

Strictly speaking, this is not a question of adopting a legal text, which could actually be contrary to the treaties, but rather of the European Council, the European Parliament and the European political parties reaching a political agreement on this process. It should be noted that these same political parties have tried to impose this system in the last two European elections. In 2014, for example, five European political parties nominated their leading candidate and the European Council was asked to nominate Jean-Claude Juncker, the candidate of the European People's Party (EPP), which came out on top in the elections. This did indeed happen, although the European Council did not formally endorse the “lead candidates” system. In 2019, however, the European Council refused to nominate Manfred Weber, the candidate of the EPP, which emerged victorious from the elections.

The rapporteurs are not convinced by the benefits of this system. A study of the 2014 and 2019 precedents shows that its effects on turnout, “if any, appear to be minimal, asymmetric and fleeting”. **As for the Europeanisation of the ballot, it will depend primarily on the will of the national political parties** and whether or not they choose to put forward their lead candidates who, incidentally, remain little known: in 2014 and 2019, less than 15 % of voters could correctly identify the lead candidates' European political party.

The effects of Spitzenkandidaten on turnout, "if any, appear to be minimal, asymmetric and fleeting".

Furthermore, this system would not necessarily make the choice of the President of the European Commission more transparent; **it would merely transfer the power to choose the President from the European Council to European political parties, to the benefit of their most powerful actors.** Of course, a system of primaries could give genuine legitimacy to the nominated candidates, but it should be noted that the primary organised by the Greens in 2014 by electronic vote and open to all residents of the Union over the age of 16 only attracted 24,000 voters.

In addition, this system is fraught with difficulties. There is no reason why the leading party's candidate should necessarily have a majority in the European Parliament. Many observers consider that Manfred Weber would not have obtained such a majority in 2019. Moreover, **the lead candidate system could create genuine disappointment among European citizens by giving them the false impression that they will be "appointing the Commission",** in the same way as they appoint their own Government in national elections, whereas the choice of the other Commissioners would in fact remain a prerogative of the Council, following a proposal from the Member States, according to their own political balance. **Neither the political orientation of the Commission nor the line of its public policy would therefore be changed.**

CONCLUSION

These two proposals are therefore not a miracle cure likely to erase the "democratic deficit" in the Union, and they are accompanied by risks that cannot be ignored.

Introducing transnational lists and *Spitzenkandidaten* would ultimately amount to putting European democracy in the hands of European political parties that do not yet truly exist.

The advocates of these reforms will argue that this is precisely how to afford them recognition. Most certainly, but the risk of seeing European democracy confiscated by members of the "Brussels bubble" is not inconsequential. The challenge is to Europeanise the ballot independently of these reforms, and the 2024 elections will provide an opportunity to see whether the national and European parties will play the game.



Jean-François Rapin
Chair of the European
Affairs Committee

Republicans

Pas-de-Calais



Laurence Harribey
Co-rapporteur

Socialist, Ecologist and
Republican

Gironde

European Affairs Committee

<http://www.senat.fr/europe/broch.html>

Phone : +33 (0)1 42 34 24 80

Link to the report online:

<http://www.senat.fr/notice-rapport/2020/r20-735-notice.html>

