

RENEWING EU INSTITUTIONS

TIMELINE – PLAYERS – PLAY

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Timeline

2014 will be a year of renewal for EU institutions starting with elections to the eighth directly elected European Parliament. These are due to be held between 22 and 25 May in the 28 Member States of the Union.

The Parliament will reconstitute its political groups in June, which will be a month of political arbitrage within and between the parliamentary political groups that are renewed or newly formed after the election. This process will see the election of the group presidents and leaderships within groups and the agreement in principle between groups on the distribution of posts from President, Vice Presidents and Quaestors to committee and delegation chairs within the Parliament.

The key institutional positions will be voted during the constituent part-session to be held in Strasbourg between 1 and 3 July, with the committees all formed and their Bureaux elected on 7 July, assuming all goes well in terms of logistics and administration. Failing that, the alternative date scheduled is 10 July. The formation of delegations is set to happen later.

The plenary session scheduled for 14-17 July will be dominated by the debate and possible vote on the approval of the next European Commission President or, failing such an endorsement, at the next part session foreseen for 15-18 September in Strasbourg.

The rest of September and October should be taken up with the hearings of the nominee Commissioners by the relevant parliamentary committees. Following a vote of approval, the new Commission should be sworn in during the month of November.

Finally, the European Council, under Article 15 of the Treaty on European Union, is scheduled to replace President van Rompuy on the expiry of his mandate in December. Article 15.5 reads: 'The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once'. The Article also specifies that: 'The President of the European Council shall not hold a national office'.

Reduction in Size of the European Parliament

The European Parliament was last elected in 2009 with 736 deputies under the Treaty of Nice. The Lisbon Treaty at that point was blocked, pending the outcome of Ireland's second referendum and awaiting ratification signatures by the Polish and Czech Presidents. The Lisbon Treaty foresaw a total of 751 MEPs. In December 2008, the European Council declared that should the Lisbon Treaty be ratified the twelve Member States due to gain extra MEPs allotted under the Treaty could do so during the current legislature, namely the seventh mandate of the European Parliament 2009-2014, without having to wait for the 2014 elections. Consequently, 18 MEPs were added, initially with observer status, without withdrawing the 3 extra German seats. (The number of German deputies under the Lisbon Treaty was due to decline from 99 to 96). In short, the number of MEPs grew from 736 under Nice, temporarily, to 754 with the ratification of the Lisbon Treaty.

The EU accession, on 1 July 2013, of Croatia, which was then entitled to elect 12 MEPs, brought the total number of MEPs to 766, exceeding the ceiling of 751 seats laid down by article 14 of the Treaty on the European Union. The upcoming elections will be the first to apply a distribution of seats by Member State consistent with the Treaty ceiling of 751 seats and will elect 15 less deputies than the outgoing Parliament. The decision was adopted unanimously by the European Council on 28 June 2013.

The European Parliament will present its own initiative on the future apportionment of seats by Member State before the end of 2016 to be adopted by the European Council in advance of the 2019 European Parliament elections.

The Balance of Power in the next European Parliament

It should be recalled that all political groups in the European Parliament, from the largest to the smallest, are minorities. No group has ever succeeded in winning a simple majority. Typically, for the purposes of constitutive sessions, at a minimum, the two largest political groups, the EPP and the S&D, have dominated proceedings. For example, for the past 25 years, since 1989, there have been ten Presidents of the European Parliament; five from the EPP (two German, one Spanish, one French and one Polish), four from the S&D, or its predecessor group the PSE, (two Spanish and two German). The only exception to this bipolar power-sharing model in the last quarter of a century was the election of a President from the Liberal Group for the second period of the Parliament's fifth mandate 1999-2004.

A second wheel within a wheel over this period, evident within both of the largest groups, has been a preponderance of German and Spanish Presidents, who between them account for seven of the past ten top European Parliament office holders. What is clear is that, both to elect its own President and then to deal with the vote approving the next president designate of the European Commission, the Parliament will need to engage in intensive cross party consultation and collaboration, if not actual coalition building, post the elections.

With just over two months to go to the elections the results remain tight and difficult to predict with precision but some general trends can be delineated. Forecasters rely on published opinion polls at Member State rather than pan-European level, adjusted for political insights and, in the case of the better methodologies, on tested and, in the past, reasonably accurate statistical models. The figures commented on in this paper are taken from PollWatch 2014 (<http://www.pollwatch2014.eu>) whose latest analysis was published 19 March 2014.

In the outgoing Parliament of 766 deputies there are seven political groups. The current (2009-2014) and forecast (2014-2019) number of MEPs and percentage share of seats by current European Parliament political groups is shown in the table below.

	Current share of votes and seats		PollWatch 2014 forecast	
	MEPs	% of Seats	MEPs	% of Seats
EPP	274	35.7%	213	28.4%
S&D	195	25.5%	214	28.5%
ALDE	85	11.1%	66	8.8%
G-EFA	58	7.6%	38	5.1%
ECR	56	7.3%	40	5.3%
GUE-NGL	35	4.6%	57	7.6%
EFD	33	4.3%	33	4.4%
NI	30	3.9%	90	12.0%
Total	766	100%	751	100%

Fig 1:
please see
endnote on
page 8

Three of the four largest groups in the current Parliament, the EPP, ALDE and the Greens-EFA, are all set to lose seats while the S&D is forecast to make gains. The combined seat share forecast of the four largest groups is predicted to fall, in round terms, from 80% to 70%.

Support for the radical left, Eurosceptics and populist and fringe parties, both of the far left and the far right, is set to grow. Most likely, in addition to fortifying the more radical or sceptical wings of the current parliament these new political forces will be capable of forming an additional group, or groups, within the new parliament.

On current predictions the S&D is leading the EPP by the narrowest of margins of just one vote, 214 seats (up by 19) to 213 seats (down by 61). This, of course, is well within the margin of error of polling and should be interpreted with caution. ALDE is currently forecast to remain the third group but on a lesser number of seats (down by 19) while the radical left, the GUE-NGL Group (up by 22 seats), is set to displace the Greens (down by 20 seats) as the fourth largest group in the Parliament.

The greatest proportionate change predicted is among the non-attached group which is set to triple its size from 30 to 90 deputies. A new far right group, composed primarily of the Le Pen and Wilders factions, is almost certain to be established.

The existing conservative group (ECR) is predicted to lose up to 16 seats, with the UKIP-dominated group (EFD) forecast to hold its own. The predictions reflect considerable diversity of outcomes by party in individual Member States and are not commented on in detail in this paper.

Remarkably, the main groups in the European Parliament have shown consistently high levels of group voting cohesion, which has grown and not diminished in recent years. This is in spite of their greater diversity of geographical, socio-economic and historical backgrounds and interests, and potential policy cleavages, such as the divisions between new/old Member States, creditor/debtor states, northern/southern states.

That said, greater fragmentation, more radicals of the left and right and more Eurosceptics are set to squeeze the middle in the next parliamentary mandate. That middle, though reliably pro-European in broad terms, will be smaller and will have to generate qualified majorities in a more contested political environment. It is a middle ground which is not homogenous and shows consistent evidence of fault lines on key votes in both ideological terms of a left/right nature and as between federalists and intergovernmentalists (www.votewatch.eu).

These are the political tectonic plates that will be tested when the Parliament assembles in Strasbourg for its constitutive session at the beginning of July.

Will it be a case of coalition building of the old reliables or of new departures?

New Scenario

For the first time most of the European political parties have nominated lead candidates for Commission President. This initiative has its foundations in law, custom and practice and in politics itself.

The Law

The Lisbon Treaty entered into force on 1 December 2009 after the last election cycle to the European Parliament. Article 17.7 of the Treaty on European Union, which will be applicable for the first time this year, sets out the ground rules.

The part of the Article dealing with the Commission President reads:

‘Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting

by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure’.

Consequently, the European Council retains the right to propose the nominee President of the Commission but is constrained to take account of the elections to the European Parliament and to hold appropriate consultations. Contrary to some misreporting, the designation of a candidate was and is by qualified majority and not unanimity at Council level.

The Treaty is not silent on the matter of ‘appropriate consultations’. The Intergovernmental Conference on the Lisbon Treaty also adopted a Declaration, number 11, on Article 17.7, which is less known and commented on but which sheds additional light on the procedures to be followed. It reads:

‘The Conference considers that, in accordance with the provisions of the Treaties, the European Parliament and the European Council are jointly responsible for the smooth running of the process leading to the election of the President of the European Commission. Prior to the decision of the European Council, representatives of the European Parliament and of the European Council will thus conduct the necessary consultations in the framework deemed the most appropriate. These consultations will focus on the backgrounds of the candidates for President of the Commission, taking account of the elections to the European Parliament, in accordance with the first subparagraph of Article 17(7). The arrangements for such consultations may be determined, in due course, by common accord between the European Parliament and the European Council’.

In fact, the dialogue on this procedure is set to commence between the European Parliament Conference of Presidents and President van Rompuy at an extraordinary meeting on 10 April 2014.

In summary, Declaration 11 designates the European Parliament and the European Council as being ‘jointly responsible for the smooth running of the process leading to the election of the President of the Commission’, obliges their representatives to ‘conduct the necessary consultations’, requires them to ‘focus on the backgrounds of the candidates’, ‘taking account of the elections to the European Parliament.’ The interpretative influence of this Declaration confers a substantial authority of joint responsibility for the smooth running of the process on the European Parliament and adds considerable perspective to the more ambiguous phrase ‘taking into account the elections to the European Parliament’.

Custom and Practice

Before considering what the coming months may hold in the filling of key EU posts, it may be instructive to recall what insights can be gleaned from the past. The last occasion on which the European Council vigorously debated the nomination of a President of the European Commission was in 2004 following elections to the sixth directly elected European Parliament. The French President, Jacques Chirac, and the German Chancellor, Gerhard Schroeder, strongly supported and promoted the candidacy of then Belgian Prime Minister, Guy Verhofstadt. Lingering divisions over the war in Iraq, which had bitterly divided the Council, reasserted themselves. The United Kingdom, Italy, Spain and Poland opposed the nomination of Verhofstadt not just in relation to his stance on Iraq but also due to their shared perception that in EU terms he was too federalist for their liking. While no specific reference then existed in the Treaties to linking the nominee candidate to the outcome of the European Parliament elections, the European People’s Party (EPP), confirmed by the elections as the largest group in the Parliament, sought to reflect this reality by nominating one of their number to the post of Commission President. Jean-Claude Juncker, the Luxembourg Prime Minister, reportedly was not interested in taking up the post at that time, while Wolfgang Schüssel, Austria’s Chancellor, who was in coalition with the far right Freedom Party, was not best placed to garner the necessary consensus.

In the end, in the final days of the Irish Presidency, led by Taoiseach Bertie Ahern, José Manuel Barroso was nominated president designate of the Commission on 29 June 2004 and duly approved by the European Parliament on 22 July with 413 votes in favour, 251 against and 44 abstentions. This confirms that candidates who emerge late in the process, after all other options have been ruled out, are often successful.

His reappointment five years later was not as smooth. The parliamentary vote foreseen for July 2009 was postponed pending a formal presentation of policy guidelines for his next term by Barroso at the September plenary session and some informal understanding on the distribution of key posts in the Commission. Eventually the confirmation for a second term as Commission President was approved on 16 September 2009 by 382 in favour, 219 against and 117 abstentions.

De facto, linking the designation of a nominee Commission President to the comparative electoral success of his or her European political party of origin already is an established practice since 2004. While no state has a veto, practice at the level of the European Council to date has been to designate nominee Commission Presidents by consensus. Additionally, 2009 created a precedent for that nominee presenting broad policy guidelines to the European Parliament prior to a vote of approval. This is the background against which the coming period should be evaluated.

Parliamentary Politics

To date, five European political parties have nominated lead candidates as designate presidents of the European Commission. This is a response to the Treaty changes mentioned above, an attempt to make the European elections more European in focus, to associate indirectly a leading executive appointment with the electoral outcome and to stimulate debate on policy choices especially through the medium of televised leader debates. One could also add the wish to halt or reverse the secular decline in voter turnout in European elections from a high of 62% in 1979 to a low of 43% in 2009.

The candidates are:

- Jean-Claude Juncker (EPP)
- Martin Schulz (S&D)
- Guy Verhofstadt (ALDE)
- Ska Keller and José Bové (G-EFA)
- Alexis Tsipras (GUE-NGL)

The European Conservatives and Reformists (ECR) group, led by the British Conservatives, will not make any nomination, arguing that this is the prerogative of the European Council. Mr. Cameron is reported (FT, 25 February 2014) to have suggested to Mrs. Merkel at a recent summit in London that neither of the leading candidates, Juncker or Schulz, could be supported by London.

Yet it is precisely these two candidates who in the end will seek to build the necessary support within the European Parliament as it prepares to conduct its consultations with the European Council. Not only do the two largest political groups appear to be running neck and neck according to the forecasts but in a straight ideological left/right post-election fight in the Parliament their respective champions are also hard to separate in second guessing the numbers game. If Jean-Claude Juncker won the full support of the EPP, ALDE and the ECR he would, on current forecasts, be modestly ahead of Martin Schulz if, in his turn, he garnered all the votes of the S&D, GUE and G-EFA.

This takes no account of the voting intentions of the one in six deputies who are allocated in the current forecasts to the non-attached deputies or to the Europe of Freedom and Democracy (EFD) group of Mr. Farrage. On balance these deputies will be more far right than far left. Will they take sides or will they abstain? Would their abstention, by default, favour a candidate of the left, or would their support for a centre right candidate prove to be a poison chalice for later consensus building necessary to secure qualified majorities for legislation? Additionally, in the light of Mr. Cameron's reported remarks and the ECR's decision not to nominate a president designate for the Commission, it may be wrong to assume that, at the limit, the British Conservative ECR group would support Mr. Juncker's nomination in the European Parliament.

The 'cuisine interne' of the European Parliament may produce alternative combinations as deals are made on the allocation of key posts, including the Presidency of the Parliament itself. Two potentially stable parliamentary alternatives suggest themselves – an EPP and S&D grand coalition – or a so-called progressive coalition involving the left, the Greens and the Liberals. Going on past form, in particular the Barroso precedent of September 2009, the lead candidate(s) may be expected to produce and to present to Parliament the broad policy guidelines for his/their term of office.

Whether all of this will materialise in time for the mid-July plenary session of the European Parliament remains to be seen. On the last occasion in 2009, the vote of approval for the Commission President only took place in September. Given the additional complexities of interinstitutional consultation foreseen between the Parliament and the European Council on this occasion a mid-July deadline is ambitious.

Consultations with the European Council

Declaration 11 states: 'the European Parliament and the European Council are jointly responsible for the smooth running of the process leading to the election of the President of the European Commission'. The Council too will have its political desiderata; will be conscious of setting precedents and of safeguarding its prerogatives. It too will need to strike its own internal political balances.

As indicated above, Article 17.7 of the Treaty on European Union anticipates the possibility of failure by Parliament to agree on the European Council's first round proposal for Commission President when it states that: 'if he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure'.

Self evidently, the Parliament will need to get its act together and quickly or risk handing the initiative almost entirely back to the Council. Since the Treaty refers to a potential two-stage process, it is only at the end of an unresolved second stage in approving a new Commission President that a standoff between Parliament and Council could be characterised as an institutional impasse. Would the Parliament and the Council have any appetite to sustain disagreement to a third round in the context of a fragile European economy and the unfolding crisis on the EU's eastern borders?

The interinstitutional consultations will have regard to the broad balances to be struck between Member States, new and old, large and small, and between the political parties and families represented at the Council table and in Parliament, in particular as the Council contemplates the nomination of other senior office holders, such as the High Representative of the Union for Foreign Affairs and Security Policy and, later in the year, the next President of the European Council.

Arbitrage, which agrees in principle on nominations for the position of Secretary General of key EU institutions, the distribution of leading posts in the European political parties or even in NATO, the UN or other international organisations, can be influential in closing cross party and cross country deals, even though strictly speaking many of these have nothing formal to do with the business in hand. An additional consideration to be taken into account will be the gender balance of senior office holders. Women are not well represented among the political parties' leading candidates for Commission President. Ska Keller, the co-candidate of the Greens-EFA, is the only female nominee to date and, given her party base and its electoral prospects, unlikely to be an end game contender.

Conclusion

Whether a political Rubicon has been crossed by the act of European political parties nominating lead candidates for the post of Commission President has yet to be established. In substance, the point of departure awaits the results of the European Parliament elections. Forecasts, though helpful, are not outcomes. Such as it is, the available evidence renders any judgement highly conjectural.

The effects, if any, in the coming weeks on voter turnout and voter preference of the election campaign and televised debates between lead candidates are unknowable and, at best, speculative at this stage. Will any campaign momentum emerge that, for example, causes the turnout to rise or drives voters more towards fiscal prudence or anti-austerity, more towards a Europe of nations or a federal preference, more towards supporters of European integration or sceptics?

The impact of the German Constitutional Court's decision (26 February 2014) on abolishing minimum voter thresholds in Germany for the European Parliament elections, in terms of fragmentation of representation of that country's 96 MEPs, could be an important factor in a tight post-election voting scenario in the European Parliament. What role will be played by the predicted stronger representation of the far left and the far right during the constitutive sessions in the early months of the next European Parliament?

These questions confirm that how the election outcome finally will be connected to the designation of the next Commission President has yet to be seen. However, the extent to which it will be seen or unseen in public critically depends on the European Parliament's capacity as a tribune of the people to mobilise a clear majority behind a chosen candidate. To do so would greatly constrain the Council's margin for manoeuvre; to fail to do so would be to yield the ground to the status quo.

Endnote:

Fig 1:

The European People's Party (EPP)

The Progressive Alliance of Socialists and Democrats (S&D)

The Alliance of Liberals and Democrats for Europe (ALDE)

The Greens–European Free Alliance (Greens–EFA)

The European Conservatives and Reformists (ECR)

The European United Left–Nordic Green Left (GUE-NGL)

The Europe of Freedom and Democracy (EFD)

The Non-Inscrits (NI) (Unregistered or non-attached)



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