

# European Parliament: Nine Reforms for a Modern Democratic Legislature

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## Summary

The increasing centrality of the European Parliament in the EU political system requires the institution not only to engage in a constant process of updating and improving its internal procedures and practices, but to present itself more confidently and clearly as a modern democratic legislature. In such a spirit, this paper recommends reforms in three areas. First, it advocates changes to increase the clarity and visibility of the Parliament and European elections to it through the codification of the *Spitzenkandidat* process, the introduction of transnational lists and the holding of an inauguration ceremony for the incoming Commission president. Second, it proposes to update the EU legislative process, by involving the Parliament in decisions on ‘Emergency Europe’, increasing the openness of trilogues and allowing the Parliament greater opportunities for legislative initiative. Third, it favours giving greater weight to the policy cycle and policy context in European Parliament committee work—notably in relation to *ex ante* and *ex post* evaluation; assessment of risk, capabilities and resilience; and strategic foresight—to help promote more coherent and forward-looking law-making within the Union.

**Keywords** *Spitzenkandidat* – Transnational lists – Legislative initiative

## Introduction

The European Parliament (EP) is a unique political institution, it being the only directly elected transnational legislative body in the world. Chosen by the public every 5 years in direct elections held simultaneously in all 27 member states of the EU, and encompassing an electorate of some 360 million citizens, the Parliament is currently made up of 720 individual Members, who come from over 200 national political parties and sit together in (currently) 8 political groups of differing ideological persuasions.

The Parliament has seen its formal powers and its broader political role grow rapidly in recent decades. At the time of the first direct elections, now 45 years ago, in 1979, the Parliament’s powers were essentially limited to recommending amendments to draft Union (then Community) legislative proposals tabled by the European Commission (under the ‘consultation’ procedure). Although it had the formal power (by supermajority) to dismiss the European Commission, the lead executive body of the Union, this ‘nuclear option’, as many called it, was never used, and the Parliament had difficulty in leveraging the possibility of dismissing the Commission into more effective day-to-day influence over policy.

However, through successive EU treaty changes—introduced mainly in the 22 years between the 1987 Single European Act and the 2009 Lisbon Treaty—the Parliament has progressively become a joint legislature with the Council of Ministers in most areas of European-level policy, with the notable exceptions of taxation and foreign policy, security and defence. The Parliament is now also the Union’s co-equal ‘joint budgetary authority’ in most fields, as well as asserting itself much more actively as the central forum through which the Commission is held to political account. The president of the Commission and his or her ‘college’ of 26 other commissioners, although still nominated by the member state governments collectively, can now only enter office with the approval of the Parliament. As each of the five-yearly nomination processes since 2014 has confirmed, the choice of Commission president is being increasingly influenced by the political balance in the Parliament that emerges at each European election.

The increasing centrality of the Parliament within the EU political system and policy process brings with it responsibilities, as well as opportunities or rights. It requires the Parliament to engage in a constant process of internal updating and improvement of its procedures and practices, with a view to exercising its powers and broader influence in a mature and responsible manner that seeks to enhance the overall coherence and credibility of the system, rather than fragment or gridlock it, as could easily be the case. The Parliament has largely risen to this challenge in recent years, with a positive internal culture of wanting a strong Europe to address big issues and to realise its full potential as a source of collective public goods that could not be produced by individual member states simply acting on their own.

There has already been significant progress in improving the internal operation of the EP in recent years, at both political and administrative levels. The political reforms are mainly embodied in successive changes to the Rules of Procedure of the Parliament that have tried to create a more ‘joined-up’ institution, which might otherwise be prone to centrifugal forces, in which the roles of its plenary, committees, political groups, president and permanent administration are dovetailed more effectively than before. They have been paralleled by administrative reforms that have aimed to focus resources more on policymaking and analytical support to give the Parliament the practical means to be a self-respecting institution capable of identifying and acting on its own priorities and choices, without being overly reliant on the (often) superior resources and firepower of its institutional partners.

Building on such changes, nine further reforms, grouped here into three broad categories, recommend themselves and are set out in detail below. They are captured in synoptic form in the table at the end of this paper.

## Greater clarity and visibility for the EP and European elections

Action could and should be taken to increase the clarity and visibility of both the EP and the five-yearly direct elections to it, with a view to reflecting and underlining their importance as central vehicles for democratic expression and choice in Europe. Three specific reforms would help in this process, outlined below.

### **Clarify and codify the *Spitzenkandidat* or ‘lead candidate’ process, by which the outcome of EP elections influences the choice of Commission president**

The *Spitzenkandidat* or ‘lead candidate’ process emerged in the slipstream of the 2009 Lisbon Treaty, which envisaged for the first time that the outcome of the EP elections should have a bearing on the choice of Commission president. Article 17(7) of the Treaty on European Union states (somewhat ambiguously) that, ‘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’. That candidate for Commission president now also needs to be ‘elected by the European Parliament by a majority of its component members’, before being able to take office. The implication is that he or she will be proposed on the basis of a calculation by the European Council as to who will be best placed to command an absolute majority of votes in the Parliament.

In identifying which potential candidate to nominate, the most obvious first port of call would—as in many (but not all) national political contexts—be to look to the leader of each major political force, starting with the largest political party or group elected to the parliamentary body that has to confirm or reject the choice of head of the government. Since most political parties in most national parliamentary elections designate a defined individual (often, but not always, their party leader) to run as the aspirant head of government in the elections, that pattern has been increasingly replicated at EU level, with the various European political parties

designating a lead candidate for this purpose during the European elections. This practice started in 2014 and was repeated in 2019 and 2024, although with varying degrees of consistency.

There is a strong argument for giving the lead candidate process a stronger and more coherent basis on which to develop in the years ahead. Assuming the likely absence of EU treaty reform in the foreseeable future, the easiest way to do this would be to encourage the European political parties to agree among themselves a set of common basic principles and modes of practice that should apply for the next contest in 2029 and thereafter. In theory, it would also be desirable to have a parallel understanding between the EU institutions about how the system should operate, to maximise the chances of agreement between the European Council and European Parliament on the process, but this might be more difficult to achieve in practice.

The principal European political parties—namely those which correspond to the various political groups in the EP—should be invited to decide among themselves:

- whether the willingness to run a lead candidate should be an automatic precondition and feature of registration as a European political party;
- whether the concept of lead candidates should apply only to the pursuit of the Commission presidency (as the European People’s Party and Party of European Socialists have done so far) or also be extended to availability for other top jobs within the EU, such as president of the European Council or high representative for Common Foreign and Security Policy (as the Alliance of Liberals and Democrats for Europe and Greens have done);
- whether ‘co-lead’ candidates are admissible, and if so, on what basis; and
- whether lead candidates should be obliged to run at the head of the corresponding transnational lists for the EP elections (if and when such lists are introduced—see below).

This agreement could be underpinned by financial or other incentives: for example, any European political party that did not run a lead candidate could have its public funding either discontinued or cut significantly during a European election year.

## **Introduce transnational lists for European elections, in parallel to the existing 27 national electoral processes**

Transnational lists are conventionally understood to mean lists comprising a relatively limited number of candidates—the figure of 27 or 28 such candidates on each list has most often been mentioned—who would run for election to the EP in one large, pan-EU constituency, in addition to all other candidates, who would continue be elected in the 27 individual member states. The purpose would be to promote a stronger sense that the European elections serve as a forum for a continent-wide political choice. The lead candidate of each European political party would head up each transnational list (see above). Each *Spitzenkandidat* would in effect be the head of a *Spitzenlist*. Other candidates on the lists could be drawn upon as natural potential choices as members of the college of commissioners.

The institution of transnational lists, which could be enacted by changes to the European Elections Act, should ideally be complemented by a number of other reforms designed to promote the authentically European character of the EP elections, notably the introduction of European party logos alongside national ones on ballot papers and the adoption of a single common day for voting across the EU.

## **Hold a formal inauguration ceremony for the incoming president and college of European commissioners outside the EP building every fifth year**

The EU lacks striking public events that embody and project its character and coherence as a free-standing political system. The Union lacks a powerful ceremony (and associated imagery) that brings together its executive, legislature and judiciary at one critical moment that marks the formal passage of power or ‘changing of the guard’ in Brussels. The US achieves this through its four-yearly inauguration of the president on the west front of the Capitol Building in Washington, DC. The Union should do the same with a five-yearly ceremony to inaugurate the new president of the European Commission and his or her college of commissioners. This should be administered by the president of the European Court of Justice and be held on the Agora Simone Veil, located on the western side of the EP’s Altiero Spinelli building in Brussels.

## **Updating the EU legislative process**

Action could be taken to update the EU legislative process through reforms designed to make the EP’s role in law-making more relevant, more open and more responsible. Three such changes are outlined below.

### **Involve the EP in decisions and spending on ‘Emergency Europe’**

The successive crises that have buffeted the EU in recent years—from the economic and financial crisis and eurozone debt crisis through to the coronavirus pandemic and the Russian invasion of Ukraine—have seen the adoption of new forms of intergovernmental cooperation and/or inventive, ad hoc Union ‘instruments’ and spending of an unorthodox kind. However important and useful, many of these initiatives either operate outside the treaties or, where they are within the treaties, inadvertently or deliberately marginalise the EP. So-called secondary budgets—such as the new European Peace Facility, funded from national contributions outside the regular EU budget—have no meaningful EP involvement at all. Elastic provisions in the treaties—such as Article 122 of the Treaty on the Functioning of the European Union (TFEU), the so-called solidarity or emergency clause—minimise accountability and reporting requirements, and also allow a complex and confusing intermingling of European and national jurisdiction. The growth of joint purchasing by the Commission (acting in effect as a service provider to the member states)—whether of vaccines, gas, ammunition or arms—involves a significant expansion of executive discretion, with a corresponding lack of parliamentary oversight, at either European or national level. The bottom line is that the advent of ‘Emergency Europe’ is generating a new and very particular form of ‘democratic deficit’ within the Union.

Although the Parliament has recently attempted to force the European Commission (at least in those areas where it is the responsible authority) to keep it more closely informed about such initiatives, introducing new provisions in its Rules of Procedure to that effect, the EP needs to insist that it be given serious and meaningful standing in decision-making on ‘Emergency Europe’ initiatives which create policy obligations for the future and risk promoting the development of a parallel EU outside normal disciplines and oversight. In the absence of treaty reform, the Parliament should negotiate with the Commission—notably in the context of the forthcoming updating of the framework agreement between the two institutions—for its more formal and systematic consultation on the passage of crisis legislation under the Article 122 TFEU ‘emergency clause’ or any other article where it is effectively powerless at the moment. In parallel, the Parliament should develop new scrutiny structures and mechanisms, including subgroups or subcommittees, to oversee specific ‘emergency’ instruments or spending. It should also make it clear that its assent to any future Multiannual Financial Framework for the years 2028–34 is contingent, in particular, on the ‘budgetisation’ of these emergency instruments—so that they form part of the normal EU annual budget—and that the Parliament would express ‘no confidence’ in the sitting budget commissioner if he or she failed to propose such budgetisation in the next Framework.

## **Increase the openness of trilogues in EU law-making**

The standard practice by which the key compromises on the content of EU law are brokered in closed-door ‘trilogue’ meetings between the Council of Ministers and the EP, with the European Commission present as a facilitator (if not honest broker), has long occasioned criticism from many observers and analysts of EU decision-making. Although highly efficient in securing agreement—often under artificial deadlines imposed by the various institutional players, reducing the duration of law-making on average by about half—the practice ironically imports into the operation of the ‘ordinary legislative procedure’ (co-decision) many of the highly secretive features for which the Parliament once routinely lambasted the Council when the latter enjoyed a monopoly of legislative power. These meetings are adored by rotating Council presidencies—because they increase their power vis-à-vis individual member states—and are highly attractive to EP committee chairs and rapporteurs—because they reduce the potential leverage of Members of the European Parliament (MEPs) outside of the individual committee concerned, in effect diluting the roles of political group meetings and the plenary. However, trilogues limit public access to the detail of law-making, fuel general scepticism of the EU system as a complex and impenetrable ‘black box’ for technocrats and the cognoscenti, and blur the question of which institution has been most influential in shaping the outcome of the legislative process.

The Parliament has made some limited progress in constraining the ability of individual committees to pre-empt the position of the plenary in legislation, by forcing the formal communication to the plenary of each committee’s intended negotiating objectives. However, this process is largely pro forma and such positions are rarely debated in advance by MEPs as a whole. There is thus still a serious need to open up the trilogue process, which is central to determining EU law, as one would reasonably expect in any democratic legislature. One way of moving in this direction would be to give full details, on a public website, in real-time—that is as (not after) the relevant meetings are being held—of all agendas, papers, non-papers and amendments being discussed at all stages of the co-decision procedure. If the Council refused to cooperate in such openness, the Parliament, as a matter of principle, should simply revert to the multi-stage, first-, second- and third-reading ‘conciliation’ arrangements which routinely used to apply, but which have now largely fallen into disuse. Once the legislative process is concluded, EP successes in shaping final outcomes should be published quickly and in detail on the Parliament’s website.

## **Give the Parliament greater opportunities to engage in legislative initiative**

Although a very important feature of the EU system is the ‘exclusive right of legislative initiative’ that is entrusted to the European Commission, there is a strong argument that the EP, which is directly elected by European citizens, should have a more organised and structured way in which to table proposals for EU law that would at least be seriously considered by the other institutions in a routine way. In 2019, the Commission undertook to come forward with a generally positive response should the Parliament adopt, by an absolute majority of its Members, a ‘legislative initiative report’ that envisaged legislative action of some kind. Both the EP and Commission have been careful and cooperative in the way they have applied this principle, which is in effect a self-limitation by the Commission on how it exercises its right of initiative. It would be sensible now to go one stage further, giving the Parliament an even greater opportunity to exercise a measure of legislative initiative within the EU system. This could be based on the automatic tabling by the Commission of any formal EP proposal for a draft legislative text, accompanied by a formal costing and *ex ante* impact assessment, wherever that text has been adopted by a supermajority of MEPs (potentially 70%) in a roll-call vote in both committee and plenary.

## Highlighting the EU policy cycle and policy context in EP committee work

The current EU law-making process, both in the EP and the Council of Ministers, has a marked tendency to place too much emphasis on the introduction and passage of amendments to draft proposals from the European Commission, and to pay too little attention to the broader context in which that law or those amendments are being tabled. Conversely, important questions relating to the broader EU policy cycle are often downgraded, if not ignored. In both arms of the EU legislature, more reflection is needed on the rationale and justification for specific proposals, on the extent to which European action is needed (subsidiarity) or desirable (added value), and on the likely and actual impact of such legislation in practice.

Especially in the light of the successive, largely unexpected, crises which have impacted the EU in recent years, high value should also be placed on the detailed analysis of global trends and strategic foresight, to help identify and frame the big potential challenges of the future. This approach needs to be matched by closer attention to the various risks to, and the capabilities and resilience of, the Union system as a whole. Within the EP, greater weight should be given to addressing such issues, to help promote more coherent, resilient and forward-looking law-making within the EU system. Key to this would be the following initiatives.

### **Mainstream discussion in the EP of *ex ante* impact assessment, *ex post* evaluation and European added value**

Building on innovative work undertaken within its secretariat over the last decade, the EP needs to intensify and mainstream discussion of *ex ante* impact assessment, *ex post* evaluation and European added value in the routine work of its committees. Consideration and passage of all significant legislation should start with meaningful scrutiny sessions devoted to these policy cycle issues. There should be an obligation on committees to hold such sessions set down in the EP Rules of Procedure. In addition, the current, ambiguous threshold for triggering EP impact assessment work on amendments to draft legislation, as well to prepare substitute impact assessments and supplementary impact assessments (to those supplied by the Commission)—namely, the existence of broad consensus among the larger political groups in the relevant committee—should be replaced by a formal, simple provision, written into the Rules of Procedure, that an absolute majority of members of that committee is required. The existing pattern, whereby European Implementation Assessments and European Added Value Assessments are prepared automatically by the EP administration whenever a committee launches either an implementation report or a legislative initiative report, should be further codified and strengthened, with such arrangements being written into the Rules of Procedure. Given the importance of the issues involved, significantly greater administrative resources should be devoted to such work over time.

### **Mainstream discussion in the EP of the risks to, and the capabilities and resilience of, the Union as a system**

Building on innovative work undertaken within its secretariat since the coronavirus pandemic, the Parliament needs to intensify and mainstream discussion of the risks to, and the capabilities and resilience of, the Union as a system in the routine work of parliamentary committees. This could include an annual EP report, to be submitted to the plenary, on potential ‘future shocks’ to the Union, and the action needed to mitigate them, building on the internal reports regularly produced within the administration on such issues. Given the importance of the issues involved, ‘risk, resilience and preparedness sessions’, involving internal and outside experts, should be programmed into the work of parliamentary committees. Significantly greater administrative resources should be devoted to such work over time, backed potentially by the designation of an EP vice-president for EU risk, resilience and preparedness.

## **Mainstream discussion in the EP of global trends and strategic foresight**

Building on impressive work undertaken at both political and administrative levels since it instigated the inter-institutional European Strategy and Policy Analysis System (ESPAS) in 2010, the Parliament needs to intensify and mainstream discussion of global trends and strategic foresight in the routine work of parliamentary committees. This could include the drafting of an EP report, to be submitted to the plenary, on the Commission’s annual strategic foresight report, as well as giving serious consideration to the creation of an EP Committee for the Future, as was discussed among the political groups before the 2024 European elections. Given the importance of the issues involved, ‘strategic foresight’ sessions, involving internal and outside experts, should be programmed into the work of parliamentary committees. Significantly greater administrative resources should be devoted to such work over time. The EP vice-president already designated for the ESPAS process should take an active lead in promoting a ‘foresight culture’ within the Parliament as a whole.

	Programme 1	Programme 2	Programme 3
	<b>Increasing the clarity and visibility of the EP and European elections as central vehicles for democratic expression and choice within the EU system</b>	<b>Updating the EU legislative process by involving the EP in ‘Emergency Europe’ spending, increasing the openness of trilogues and giving greater opportunities for EP initiative</b>	<b>Giving greater weight in EP committee work to the policy cycle and policy context, to promote more coherent, resilient and forward-looking law-making within the EU system</b>
<b>Project 1</b>	Clarify and codify the <i>Spitzenkandidat</i> or ‘lead candidate’ process, by which the outcome of EP elections influences the choice of Commission president. Agree certain common basic principles and practices among the European political parties and potentially between the EU institutions before the 2029 contest.	Democratise ‘Emergency Europe’ through the systematic ‘budgetisation’ of new crisis-related EU spending—backed by new scrutiny structures/mechanisms within the EP, and formal EP involvement in use of the Article 122 TFEU ‘emergency clause’.	Mainstream discussion of <i>ex ante</i> impact assessment, <i>ex post</i> evaluation and European added value in the routine work of parliamentary committees. Consideration of all significant legislation should start with meaningful scrutiny sessions on these policy cycle issues.
<b>Project 2</b>	Introduce transnational lists for European elections, in parallel to the existing 27 national electoral processes, to promote a stronger sense of continent-wide political choice. Plus, add European party logos alongside national ones on ballot papers, and hold a single day of voting.	Further open up the trilogue process for negotiating EU law, by <i>inter alia</i> giving full details of all meetings and amendments at all stages of the co-decision procedure. EP successes in shaping final outcomes should be published quickly and in detail.	Mainstream discussion of the risks to, and the capabilities and resilience of, the Union as a system in the routine work of parliamentary committees. This could include an annual EP report on ‘future shocks’, building on innovative work within the EP administration on these issues.
<b>Project 3</b>	Hold a formal inauguration ceremony for the incoming president and college of European commissioners outside the EP building in November every fifth year, on the Agora Simone Veil, with the oath administered by the president of the Court of Justice of the European Union.	Give the EP greater opportunity to exercise a measure of legislative initiative within the EU system, with automatic consideration by the Council of any formal EP proposals put forward by an absolute or supermajority.	Mainstream discussion of global trends and strategic foresight in the routine work of parliamentary committees. This could include an EP report on the Commission’s annual strategic foresight report and the potential creation of an EP Committee for the Future.