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**The European Parliament and
the Investiture of the Commission
A first-mover in European Integration?**

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Abstract

In numerous areas of European Union (EU) policy-making, the European Parliament (EP) managed to expand its informal institutional rights through the use of bargaining strategies. We put forward a crucial, but largely overlooked bargaining strategy that the EP uses for its self-empowerment: By “moving first”, the EP unilaterally interprets its formal powers by inventing a new informal institutional rule, which it then tries to impose on other actors. We propose that this strategy is successful when it incurs high costs for other actors to return to the *status quo ante*. In this article, we conceptualize the first mover strategy, embed it in the literature on informal institutional change in the EU, and theoretically deduce the conditions under which the EP gains institutional rights when applying it. Empirically, we demonstrate the significance of moving first in the investiture of the European Commission in five case studies, including the strategy’s failure in the 2019 appointment of Ursula von der Leyen as a negative case study. We thus trace how the EP was able to achieve a considerable institutional empowerment in appointing the executive – starting from a mere right of censure in 1957 to ‘electing’ the European Commission President in 2014 – by making use of a first-mover strategy. In 2019, however, the EP failed with its first-mover strategy due to countervailing dynamics of distributive consequences, timing and a lack of internal consensus.

Key words

Commission President, European Parliament, First Mover, Institutional Change, Spitzenkandidaten

General note: Opinions expressed in this paper are those of the author(s) and not necessarily those of the EIF.

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Introduction

The European Parliament's (EP) institutional powers in appointing the European Union's (EU) executive are by no means natural, given that a number of strong Member states have always been opposed to conceding the full right of investiture of the European Commission to the EP. *How, then, was the EP able to achieve its empowerment of 'electing' the Commission President in 2014 despite the persisting resistance of Member states? And, why did it fail with the same attempt of linking the EP election results to the appointment of a so-called Spitzenkandidat as Commission President in 2019?* Unlike the burgeoning literature on the electoral salience or the effects of the *Spitzenkandidaten* procedure (e.g. Braun and Popa, 2018; Braun and Schwarzbözl, 2019), we are interested in how the EP managed to set up this procedure in the first place, given that it started out with a mere right of censure vis-à-vis the Commission in 1957 (see Hamřík and Kaniok, 2019; Heidbreder and Schade, 2020; Moury, 2007; Shackleton, 2017).

Theoretically, we embed our argument in the literature on informal institutional change in the EU (e.g. Farrell and Héritier, 2003, 2007; Héritier et al., 2019; Stacey and Rittberger, 2003). This literature shows that the EP, over time, has successfully managed to expand its informal institutional role in the EU through the skillful use of bargaining strategies (Héritier et al., 2019; Meissner and Schoeller, 2019; Moury, 2007). We add to this body of research and argue that, in the area of the investiture of the Commission, the EP made use of a crucial, but largely overlooked strategy. By "moving first", the EP unilaterally interprets its formal powers by inventing a new informal institutional rule that it tries to impose on other actors. We propose that this strategy is successful when it incurs high costs for other actors to return to the *status quo ante*. More specifically, we theoretically deduce conditions under which the first-mover strategy is likely to be successful to the benefit of the EP's institutional empowerment: timing,

consensus dynamics within the EP, and public awareness all can incur costs on the other actors if they want to prevent the EP from ‘moving first’.

Empirically, we investigate and demonstrate the significance of the first-mover strategy in the investiture of the Commission. The EP started out with a mere right of censure in 1957, but managed to incrementally expand its institutional role to ‘electing’ the Juncker Commission in 2014. Despite this apparently relentless empowerment in investing the EU’s executive, the EP failed to repeat its 2014 success in the 2019 elections. Although we conclude that the first-mover strategy does not work under all circumstances, we show in this article how it facilitated the EP’s considerable empowerment in the investiture of the Commission, and we shed light on the conditions of its success. In empirically assessing the first-mover strategy in appointing the Commission President, we rely on information from interviews with EU officials and more than 100 archival documents from the Historical Archives of the EU.

Hence, we add to scholarly literature on the EP’s role in EU politics in two ways. First, while scholars have examined the EP’s institutional power grab in the investiture of the Commission, their analyses are restricted to treaty changes (Hix, 1997) or to one single round of elections (Christiansen, 2016; Hobolt, 2014). We take a broader perspective and provide a systematic analysis of how the EP got more powers in appointing the Commission over a period of more than 30 years during and *between* treaty changes (see also Westlake, 2016). Second, we know from the literature that the EP uses certain bargaining strategies in order to increase its informal institutional rights – such as linking arenas or delaying its decision (Farrell and Héritier, 2003, 2007; Héritier et al., 2019; Meissner and Schoeller, 2019; Rittberger, 2005). Yet, a crucial strategy that has long time been overlooked is ‘moving first’.¹ By theorizing this strategy, we

¹ While we made a first attempt to analytically grasp this strategy in earlier work, we had to leave its full conceptualization and systematic assessment to future research. We are grateful to Adrienne Héritier, who first pointed to the fact that the EP could invent an institutional rule and impose it on other actors.

add to the literature on informal institutional change and provide an analytical tool that can be used to study the EP's unilateral action in a wide variety of EU policies.

We proceed as follows. In the first section, we provide an overview of formal EU treaty changes that enhanced the EP's role in the investiture of the Commission. Second, we conceptualize and theorize the strategy of 'moving first' with which the EP can bargain for an increase of informal institutional rights. Third, we empirically assess our propositions and demonstrate the importance of this specific, but overlooked strategy in four case studies of the investiture of the Commission. In an attempt to show the significance of timing, consensus dynamics, and public awareness for the success of moving first, we investigate in the fourth section the negative case of the 2019 elections when the EP failed with its *Spitzenkandidaten* procedure. Finally, we summarize our findings and reflect on the strategy's broader significance in other areas of EU policy-making.

Treaty changes and Parliament's empowerment in investing the Commission

In its initial form, the Treaty of Rome did not grant any rights to the EP (then Assembly) in the appointment of the Commission. Instead, this right was reserved to Member states by common agreement. Members of Parliament (MEPs) considered this unsatisfactory from the onset (Jacobs, 1995).

Still, only in the Maastricht Treaty (1992) the EP won formal rights in appointing the executive, whereby it was laid down that Member state governments had to consult the EP before nominating the Commission President. In addition, the entire Commission would be subject to a parliamentary vote of approval (Hix, 1997). Later, the EP managed to acquire a new formal right according to which the nomination of the Commission President by Member states' governments shall be approved by Parliament (Hix, 1997; Treaty of Amsterdam).

After the signature of the Amsterdam Treaty, the EP voiced the request to not only have a vote of approval but to ‘elect’ the Commission President. In order to push for this proposal, the EP, during the European Convention, built alliances with national parliamentarians and governmental representatives in order to gain more rights in the investiture procedure (Norman, 2003). EP representatives were able to convince the President of the European Convention Giscard d’Estaing (Norman, 2003), leading to a Praesidium draft proposing that the European Council shall ‘take into account’ the elections of the EP when nominating a candidate. The EP in turn, would elect this candidate by majority. After the failure of the Constitutional Treaty, the Lisbon Treaty kept the constitutional provision, stating that

the European Council “taking into account the elections to the European Parliament”, “propose to the EP a candidate for President of the Commission [...] [who] shall be elected by the European Parliament by a majority of its component members” (Article 17(7) Treaty on European Union).

While these treaty changes are critical junctures, they cannot fully explain the EP’s empowerment in the investiture of the Commission. In order to get a full understanding of the EP’s institutional empowerment, one also has to consider the significant *informal* steps that were taken *between* the grand bargains, as we will argue in the empirical section of this working paper.

Informal institutional change through moving first

A crucial component in understanding why the EP’s powers in appointing the Commission have developed from zero at the outset of European integration to encompass the investiture of the Commission (Maastricht Treaty) and the ‘election’ of the Commission President in 2014 (based on the Lisbon Treaty) despite opposition from a considerable number of EU Member states, is Parliament’s *informal* involvement between treaty changes (Héritier et al. 2019; Moury, 2007;

Roos, 2017; Stacey and Rittberger 2003; Wiesner, 2018). While the EP's strategies to obtain an informal empowerment are well understood (Héritier et al., 2019; Meissner and Schoeller, 2019; Rittberger, 2005), this section focuses on 'moving first' as a particular strategy that has been overlooked so far.

Empowering the EP through inter-institutional bargaining

In developing our argument, we rely on established theorization of the EP's empowerment through inter-institutional bargaining (Héritier, 2007, p. 40-66) which we marry to economics literature on first-mover advantages (Lieberman and Montgomery, 1988). We assume that EU treaties – formal rules – are incomplete contracts which actors renegotiate in the course of their application. This takes the form of a bargaining process between EU institutions, in which actors use ambiguities in the legal texts to their advantage in order to obtain informal institutional change to their benefit (Farrell and Héritier, 2003, 2007). Among the EU institutions, the EP is considered a driving force of informal institutional change as it is keen to expand its limited powers informally (Schoeller and Héritier 2019). By contrast, the Member states that are the 'masters of the treaties' benefit from the formal rules and therefore tend to defend the status quo (Crum, 2012; Stacey, 2012).

It is therefore not self-evident that the European Council, the Council, or even the Commission accept the EP's interpretation of its role as stipulated in the treaties and its concomitant attempt to expand these powers informally. Rather, their consent is most likely in situations where an interpretation of formal rules leads to collective efficiency gains *without* re-distributional consequences in the balance of institutional power between EU institutions (Hix, 2002, p. 272). Where the EP's interpretation of formal rules would incur distributional consequences, by contrast, it can make use of certain strategies in order to improve its informal institutional powers against the wishes of other EU institutions. In that context, scholars have identified a

series of strategies used by the EP to win institutional battles. An important strategy is the withholding or delaying of its consent to legislation (Hix, 2002; Héritier, 2007; Farrell and Héritier, 2003; Moury, 2007) or the budget (Héritier, 2007; Lindner, 2006), for example. Another successful strategy is that of ‘linking arenas’ (Héritier, 2007; Héritier et al., 2019), in which the EP gives its approval to a policy in one arena only under the condition that it obtains more institutional powers in another arena.

However, with regard to the investiture of the Commission, we find that these strategies only partially explain the EP’s empowerment and they do not apply to certain instances where the EP gained informal institutional powers such as the 2014 ‘election’ of the Commission President. Firstly, as Hobolt (2014, p. 1528) has stated, the *Spitzenkandidaten* procedure did have implications for the inter-institutional balance of powers to the benefit of the EP vis-à-vis EU Member states (see also Shackleton, 2017; Westlake, 2016). Secondly, in the case of the Commission’s investiture, the EP, based on the Treaty of Rome, started with no formal powers and hence no possibility to leverage strategies such as arena-linking or delaying. Nevertheless, the EP managed to obtain further informal rights in the investiture of the Commission even before its formal empowerment through the Treaty of Maastricht (see previous section).

EP self-empowerment by ‘moving first’

We argue that in case of limited formal decision-making powers to link arenas or delay, the EP can impose its interpretation of the treaties by acting as a first-mover. Thus, we think of the first-mover strategy as a complementary tool in the EP’s repertoire of bargaining strategies (see Farrell and Héritier, 2003; 2007; Hix 2002). By moving first, the EP acts unilaterally vis-à-vis other EU institutions, comes up with an informal institutional rule, and thereby reduces their “range of behavioral options” (Delreux and Kerremans, 2010, p. 357). We borrow the term ‘first-mover’ from economics literature (Lieberman and Montgomery, 1988, 1989) since we

consider the actor adopting this strategy (here: the EP) as a ‘pioneer’ that enters the stage first with an informal institutional rule and thus determines the strategic setting for the possible reactions of the other actors. In the context of our article, and in line with the literature on informal institutional change (e.g. Crum, 2012; Stacey, 2012), we assume that the EP makes use of a first-mover strategy and thereby challenges formal rules while other actors like the Member states benefit from the existing treaty basis.

The most essential advantage of moving first lies in the ability to shape institutional rules in such a way as to increase one’s own institutional powers (Keohane, 2001, p. 5). Thus, the first mover acts as an agenda-setter in the sense that it selects new policy problems, defines the scope of a problem, and creates new ‘solutions’ by inventing new institutional rules (Delreux and Kerremans, 2010, p. 371; Dostal, 2004, p. 453; Héri-tier, 1996, p. 150; Hix 2002). In the 2014 EP elections, the EP followed exactly this pattern by inventing the practice of nominating own candidates (*Spitzenkandidaten*) and, upon the formal proposal of member states, electing one of them as Commission President based on the electoral results (Heidbreder and Schade, 2020; see empirical section). Being the “frontrunner” (Lieberman and Andersen, 1998, p. 256) in determining the path towards a new procedural rule brings the first mover into a positional advantage. Once the first mover interprets the formal rule by having invented and applied a new informal institutional practice, the first mover reduces the options for other actors to react (Delreux and Kerremans, 2010, p. 357; Héri-tier, 1996, p. 153). In other words, the first-mover creates an asymmetry in its favor by getting a head start over other actors (Lieberman and Montgomery, 1988, p. 41).

As other actors have to react to the first-mover’s ‘invention’, the first-mover can restrict the availability of alternative courses of action and thus increase the costs for other actors involved (Suarez and Lanzolla, 2007, p. 379). This is because other actors have to decide whether to accept the first-mover’s interpretation and application and follow suit or to counteract it by

either proposing their own (interpretation of a) rule or returning to the *status quo ante*. Hence, in EU politics, the Council or the Commission have to decide between two alternative options when reacting to the EP's 'first move': either they counteract the new informal institutional practice, or they adjust their behavior to it and thereby concede institutional powers to the EP (see also König and Slapin, 2004, p. 371). As counteracting can become very costly (see below), they may have to accept the new rule to the benefit of the EP.

However, when does the first-mover strategy succeed? In other words, when do actors comply with the new institutional rule designed by the first mover? We argue that the key to success is to increase the costs of ignoring or rejecting the proposed institutional rule to such an extent that non-compliance "de facto becomes out of the question" (Delreux and Kerremans, 2010, p. 363). In other words, returning to the *status quo ante* must become too costly for the other actors. With regard to EP self-empowerment, this means that the more the EP increases the costs of non-compliance for Council and Commission, the smaller their chances of reversing the informal institutional rule. Drawing on existing literature on the EP (Closa, 2020; Heidbreder and Schade, 2020; Rittberger and Schimmelfennig, 2006; Tsebelis, 1994) and the first-mover advantage (Lieberman and Montgomery, 1988), we identify three sources which may serve the EP as a basis to increase these costs: timing (Heidbreder and Schade, 2020; Lieberman and Montgomery, 1988), consensual dynamics (Closa, 2020; Tsebelis, 1994), and public visibility (Rittberger and Schimmelfennig, 2006).

First, according to the first-mover model in economics literature (Lieberman and Montgomery, 1998, p. 1113), the timing of inventing and circulating an issue or an idea is essential. In order to reap the first-mover advantage, an actor like the EP has to move quickly and present the new informal institutional rule immediately when an opportunity opens up. This is also related to how well prepared a first-mover is to do so compared to other actors. In a recent study on the EP in the investiture of the Commission, Heidbreder and Schade (2020, p. 4) show how the

timing of immediately backing the Conservative candidate Juncker as the legitimate Commission President after the electoral voting result was crucial for the EP's success in imposing its *Spitzenkandidaten* procedure. Hence, in order to effectively restrict the other actors' behavioral options, an immediate presentation of one's own interpretation of the formal rules and the newly invented informal institutional practice is essential.

Second, recent research has identified the consensus within the EP as a resource in inter-institutional bargaining (Closa, 2020; Heidbreder and Schade, 2020). Closa (2020, p. 634) argues – and shows in the case of the Brexit negotiations – that the EP's internal unity is decisive for its bargaining weight vis-à-vis the Commission and the Council. This resonates with earlier studies on EU politics which find internal unity a powerful tool in bargains (Di Paola, 2003). Translating this insight into the context of a first-mover strategy, the actor who employs such a strategy must be internally cohesive with a view to the envisaged objective in order to make its commitment to the invented rule credible. For the actors who respond to the first-mover, internal unity matters, too. In situations where it is difficult to find a consensus within a collective actor such as the European Council, this creates a hindrance for actors like Member states to coordinate action and to effectively counteract the first move (König and Slapin, 2004, p. 373; Tsebelis, 1994).

A third way for the EP to increase the costs for EU Member states is to increase public awareness on issues of European integration and democratic legitimacy (Rittberger and Schimmelfennig, 2006). As the EP is democratically elected, it can attempt to publicly invoke the democratic chain from elections to the investiture of the Commission, for instance. Christiansen (2002, p. 43-44) argues that the EP draws on its appeal to citizens with a view to enhancing the EU's democratic accountability. Indeed, in the context of the investiture of the Commission, the Commission often supports the EP's request for a stronger role due to democratic legitimacy concerns (Moury, 2007, p. 389). The EP can therefore try to shame

reluctant Member states into complying with its proposed rule, which not only expands its informal powers, but thereby also improves democratic accountability in the EU. However, effective shaming requires an audience. Therefore, the EP can underline the legitimacy of its requests only if there is a high public attention or saliency of the issue and if the public is in favor of an enhanced parliamentary role (Braun and Popa, 2018; Braun and Schwarzbözl, 2019; Rittberger and Schimmelfennig, 2006). If the EP manages to create such public attention, a reversal of an institutional rule interpreted and applied by the EP and linked to its democratic legitimation will cause electoral costs for national governments (Héritier et al., 2019; Rittberger and Schimmelfennig, 2006). According to this argument, if made aware, voters may sanction their national governments for violating democratic standards at the European level. High political salience can therefore lead to other actors being ‘entrapped’ by the EP’s invented informal institutional rule (see also Falkner, 2011, p. 8).

'Moving first' in action	Path to success	Path to failure
EP interprets formal rule by 'inventing' new informal institutional rule (= first move)	Invention of new institutional rule per unilateral action, debate, internal change of rules of procedure, resolution, report, or press release	No coordinated EP action to suggest or design informal institutional change
EP reduces behavioral options and forecloses institutional options for other actors (= reactions of Member states)	Presentation of invented institutional rule as a take-it-or-leave-it option	Presentation of invented institutional rule as one possibility among concrete alternative options
High costs for other actors to return to the <i>status quo ante</i> (= reactions of Member states)	(a) timing (b) consensus dynamics (c) public awareness	(a) hesitation to act (b) lack of internal unity (c) absent public awareness
Institutional change to EP's benefit (= institutional empowerment)	Compliance by Commission and Council with EP's invented institutional rule	Non-compliance by Commission and Council with EP's invented institutional rule

Table 1: Path to success of 'moving first'

Methodological approach, cases, and data

In order to assess our ‘first mover’ argument empirically, we proceed in three steps. First, we probe the plausibility of our argument in four positive cases where the EP successfully moved first: (1) a first informal vote on the Thorn Commission (1980); (2) the *de facto* vote of confirmation on the Santer Commission (1995); (3) the investiture of individual Commissioners in the Barroso Commission (2004); and (4) the vote of election of the Juncker Commission Presidency (2014). The aim of the plausibility probe is to increase confidence in the theoretical conceptualization of the first mover strategy (Eckstein, 2000, p. 141). Through illustrative case studies, we provide the reader with empirical examples of the strategy’s application in the area of the Commission’s investiture (Levy, 2008, p. 6f.).

Second, we explore a negative case where the EP sought to employ a first-mover strategy but failed with its demands. When appointing the von der Leyen Commission after the 2019 elections, the EP failed in moving first with the *Spitzenkandidaten* procedure. In this negative case, we assess the conditions for why the strategy failed based on our theoretical conceptualization of the imposed costs to return to the *status quo ante*, i.e. timing, consensus dynamics, and public awareness. The consideration of positive and negative cases helps us refine the conditions for the success or failure of the first-mover strategy.

Akin to process-tracing, we assess in each of our illustrative cases, positive as well as negative, the path of how the EP used the first mover strategy (un)successfully. In so doing, we utilize in each case study several empirical instances to illustrate how the EP, in a purposeful and direct manner, invented a new informal institutional rule as set out in table 1. Moreover, we show how the EP increased or failed to increase the costs for EU Member states to return to the *status quo ante*, resulting in an (un)successful EP empowerment (table 2).

Regarding data collection, we draw primarily on official documents, information from semi-structured interviews with EU officials and archival documents from the Historical Archives of

the EU. More precisely, we rely on semi-structured interviews with EU officials who were involved in the cases of parliamentary investiture of the Commission under scrutiny in this paper. These were officials working in the Commission and the EP, including Members of the EP. In addition, our empirical case studies are based on archival documents from the Historical Archives of the EU, both online and in Brussels. We consulted more than 100 documents, including confidential ones in the Commission's archives in Brussels. This provides us with rich empirical information about our cases, stretching over more than 30 years of European integration.

The European Parliament as a first mover in the investiture of the Commission

The EP has been extremely successful in empowering itself in the investiture of the Commission (and beyond) by skillfully applying bargaining strategies. One of these strategies is moving first. The empirical relevance of this strategy will be assessed empirically in the following illustrative cases.

A first informal vote on the Thorn Commission (1980)

A first instance of moving first in the investiture of the Commission happened in 1980 when the EP organized confirmation hearings and an informal vote on the Thorn Commission. The EP had come up with these two mechanisms with no corresponding legal basis as the Treaty of Rome did not grant any rights to the EP in the process of appointing the Commission. Since MEPs considered this unsatisfactory (Jacobs, 1995), they laid down their proposal for a dual investiture system for the President of the Commission by governments and the EP already in the 1972 Vedel report and the 1975 Tindemans report. In April 1980, when the EP's legitimacy had been enhanced by its newly implemented direct election, it adopted a resolution where it

set the groundwork for the new informal institutional rule of holding a right to debate and an ensuing vote on the candidate for President of the Commission proposed by the Member states.

The EP stated that it

“should hold a public debate in the presence of the President designate ending with a vote of confidence ratifying his appointment (and the EP) hopes that its Political Affairs Committee will have the opportunity of holding a general exchange of views with the President-designate of the Commission on the programme envisaged, before the Commissioners are appointed” (EP Resolution on the relations between the European Parliament and the Commission of the Community with a view to the forthcoming appointment of a new Commission, 1980).

A few months after this resolution, the EP put its new institutional rule into concrete action by unilaterally organizing a hearing and vote on the incoming Commission President (Magnet, 2001). After his appointment to President of the Commission, Gaston Thorn came to the EP to take part in a debate that the Parliament described as ‘confirmation hearings’ (Westlake, 1998). Once the Commission was formed, the EP unilaterally held a debate and a vote on the incoming Thorn Commission, “recalling its determination to express confidence or non-confidence in the Commission” (EP Motion for a Resolution, 1981, see also Westlake, 1998). In so doing, the EP ‘moved first’.

By unilaterally deciding to hold a debate and a vote on the incoming Thorn Commission, the EP presented its proposed institutional practice as a take-it-or-leave-it option and left the Commission and Member states no options other than either conceding to its move and acknowledging the EP’s vote on the Commission or counteracting a presentation by the Commission President to the EP. The voting patterns with 155 out of 207 total votes in favor (31 against, 21 abstentions) suggest that the EP stood united behind the idea of organizing a vote on the incoming Commission President (Commission of the European Communities

1981). In order to raise the costs for the Commission and the Member states to counteract this move, the EP could draw on its newly won legitimacy as a directly elected parliament. The new President of the Commission Gaston Thorn presented himself in front of Parliament since this was a way of enhancing the Commission's very own legitimacy and thereby increasing its weight in the inter-institutional balance (Moury, 2007; Héritier et al., 2019). For Member states, returning to the *status quo ante* by preventing a Commission President-EP debate coupled with a unilateral vote by Parliament was close to impossible: not only would it have been difficult in practice to keep the Commission President from appearing before Parliament and prevent the latter from voting, but such a reaction would also have entailed dramatic legitimacy costs at the domestic levels (Moury, 2007; Héritier et al., 2019).

The outcome was an institutional change to the benefit of the EP. It successfully organized a hearing and a confirmation vote on the incoming Commission President. Since the Thorn Commission, this has become a regular practice which has not been overturned. Hence, the organization of hearing and vote presents a first informal institutional change in favor of the EP thanks to its first mover strategy.

A de facto vote of confirmation on the Santer Commission (1995)

Following the Maastricht Treaty, the EP, again, pursued a first-mover strategy by turning its 'consultative' vote into a *de facto* vote of confirmation. The Maastricht Treaty had ushered in a new procedure according to which Member states first agree on a candidate following consultations with Parliament, after which the Commission as a whole is subject to a vote by the EP (Crombez and Hix, 2011, p. 295). Pushing these provisions to their limits through a bold interpretation (Hix, 2002), the EP in a unilateral move adopted two amendments to its internal rules in 1993 (EP, rules of procedure, 1993). First, the new informal institutional practice foresaw for the nominee of Commission President to make a statement to Parliament followed

by a debate. Only thereafter would the EP approve or reject the nomination. Second, the EP's opinion was deemed substantially 'binding' meaning that if the EP submitted a negative opinion on the nominee, the Council could not successfully proceed with the approval of the Commission as a whole. Finally, when choosing the Commission President in 1994, the EP reminded the Council that it ought to consult the EP's bureau on the person it was going to present to the EP prior to holding a vote on the candidate presented by the Council (Commission Services, internal note, 1992).

After having moved first in designing and applying a *de facto* 'vote of confirmation', the EP framed this as a take-it-or-leave-it option to the Commission and the Member states. More specifically, Parliament made it clear that if it delivered a negative opinion, it would reject the investiture of the Commission should the Member states present the same candidate again (EP Resolution, 1994). In other words, the EP threatened the Council to vote down the Commission in its entirety if its opinion on the President was not taken into account. As a consequence, counteracting the EP's request could have become very costly for Member states, as the EP was in a position to block the appointment of the Commission and hence a frictionless functioning of the EU. Moreover, finding a new President and new individual Commissioners on the basis of the prevailing unanimity requirement after a negative vote would have resulted in considerable transaction costs and delays.

The outcome was an institutional change to the benefit of the EP. During the process of nominating and approving the Santer Commission, Santer himself confirmed that a negative vote in the Parliament would mean that the Council would have to find another candidate (Corbett, 1998, p. 349). The incoming Commission Presidency thereby confirmed the newly proposed informal institutional rule. Eventually, the EP approved this appointment, albeit only by 260 votes to 238 (Hix and Lord, 1996). Here, the EP was not internally united, suggesting that a fully cohesive Parliament alone is not a necessary condition for the first-mover strategy

to be successful. In overall terms, however, the eventual process of appointing the Santer Commission, given the accommodating reactions by the Commission and Member states, confirms that the Parliament succeeded in turning a ‘consultative’ vote as specified in the Maastricht Treaty into a *de facto* vote of confirmation by adopting a first-mover strategy.

The investiture of individual Commissioners in the Barroso Commission (2004)

In the follow-up of the Maastricht Treaty, the EP adopted the first-mover strategy again by coming up with two further institutional rules. Firstly, it unilaterally amended its rules of procedure on how to vote on the Commission as a collective body: the EP envisaged an innovation by which it would hold confirmation hearings for all Commission nominees rather than just the President. According to this rule, individual nominees would need to appear in front of the EP’s responsible committees for a Q&A session. The amended rules of procedure hence specified the newly invented informal institutional rule of individual hearings.

Secondly, during the process of these hearings, the EP embarked on a bold unilateral action by reserving a right to ask the Commission President for a reshuffling or replacement of its Commissioners. Following Parliament’s hearings with individual Commissioners of the Santer Commission, MEPs pressed for a reallocation of responsibilities (Commission Service, internal note, 1994). Subsequent to Santer’s resignation and prior to the vote on his successor, the EP consolidated this unilaterally proposed and applied rule by asking each Commissioner in their confirmation hearings if they were willing to resign at the President’s request (Judge and Earnshaw, 2002).

The EP’s demand proved highly controversial among the Commission and Member states, but eventually they gave in to both requests. The Santer Commission expressed strong reluctance to the idea of hearings with individual Commissioners (interviews 1, 2). Nonetheless, the EP left the Commission no other option than to comply by making it explicit that it would not

schedule a vote on the new Commission until the latter had complied with Parliament's requirement (Commission Service, internal note, 1994). Eventually, Santer and his colleagues agreed to go through the procedure as suggested by the EP. The rule remained intact and accordingly, in 2004, the EP again conducted public hearings with individual nominees of the incoming Barroso Commission.

Despite objections from the Commission and Member states, the EP was also successful in pushing through its right to ask the Commission President for a reshuffling of its team. Again, it presented this request as a take-it-or-leave-it option by threatening not to vote in favor of the Commission if the incoming President Barroso was not going to replace some of his Commissioner nominees. MEPs put this demand into action when the civil liberties committee voted to oppose Italian Rocco Buttiglione as the EU's next Justice Commissioner. Barroso initially resisted replacing him, but the Socialists, Communists and Greens in Parliament insisted. Thereby, the EP made use of its internal unity on this matter. Finally, Barroso succumbed to the pressure: he used the signing ceremony for the EU Constitutional Treaty in Rome to ask some government leaders to withdraw their nominees and submit new candidates. The outcome reflects the EP's proposed informal institutional rule. The EP obtained the concession from the Commission President that he would consider asking for the resignation of any Commissioner in whom the EP expressed a lack of confidence (Nugent, 2001, p. 86). Member states accepted the demands as well, so that two Commissioners were replaced and one was reallocated. Hence, the EP was successful with its unilateral action of holding hearings with individual Commissioners and (dis)approving their candidacy. Its threat to turn down the entire Commission was too costly for both the Commission and Member states not to comply with the EP's applied informal institutional practice.

These two rules of individual censorship and influence on the composition of the Commission were used not only in the Santer and Barroso Commission, but persisted. This is remarkable as

the EP's informal right to request a reshuffling or replacement of Commissioners within the President's team incurs distributional consequences and a changed inter-institutional balance to the benefit of *Parliament* but to the disadvantage of the Commission. Nevertheless, hearings of individual Commissioners were included in an inter-institutional agreement in November 2010 (EP and EC, framework agreement, 2010). Scenarios similar to the reshuffling of the Barroso Commission took place again in February 2010 when MEPs requested that Commissioner candidates Jeleva and Bratusek should be replaced. Therefore, the EP successfully created two new informal institutional rules to its advantage by moving first: holding individual hearings with would-be Commissioners and reserving the right to ask the Commission President to reshuffle or replace some members of his/her team.

The EP's success with moving first in the investiture of the Commission in the three cases so far discussed, i.e. Thorn (1980), Santer (1995), and Barroso (2004), might also be explained by the low magnitude of distributional consequences involved for the Council. In the case of the Barroso Commission (2004), the reshuffling of the Commission team does incur distributional consequences to the disadvantage of the Commission President, yet not to the disadvantage of the Council. Hence, this informal right obtained by the EP left the Council relatively unaffected. Regarding the debate and vote on the Commission President (Thorn 1980), the confirmation vote (Santer 1995), and the hearing of individual Commissioners (Barroso 2004), one may argue that these informal powers constitute additional rights for the EP rather than affecting the EU's inter-institutional balance between the Council and the EP. The magnitude of distributional consequences is certainly higher in the cases of the Juncker (2014) and the von der Leyen (2019) Commission. As will be discussed in the next sub-sections, here the EP requested an informal right upon the nomination of the Commission President bound to the election results, potentially incurring major distributional consequences to *Parliament's* benefit and to the disadvantage of the Council.

A vote of election of the Juncker Commission Presidency (2014)

The most famous institutional change in favor of the EP regarding the investiture of the Commission occurred in the aftermath of the Lisbon Treaty. According to the Lisbon Treaty, the European Council has to take into account the elections to the EP when nominating the Commission President. The EP was quick in interpreting the ambiguity introduced by that term, and moved first in coming up with the 2014 *Spitzenkandidaten* procedure. The procedural basis of the *Spitzenkandidaten* procedure has long been debated within the EP, in fact, since the 1990ies already (Hamřík and Kaniok, 2019; Peñalver García and Priestley, 2015), and, thus, *Parliament* was excellently prepared to move first and propose lead candidates. In 2012, the EP voted for a resolution on the EU elections in 2014 where it laid out a new institutional rule. It urged “the European political parties to nominate candidates for the Presidency of the Commission and expect those candidates to play a leading role in the parliamentary electoral campaign in particular by personally presenting their programme in all Member States of the Union” (as cited by Hobolt, 2014, p. 1532). A non-binding resolution of 2013 specified the proposed institutional rule further by making concrete arrangements for the elections and the nomination procedure of the Commission President (EP Report, 2013 regarding 2014 elections). Importantly, the initiative urged the European Council to consider the candidate put forward by the European political party that wins most seats in the elections. Then President of the EP, Martin Schulz, and EP Secretary-General, Klaus Welle, actively promoted the EP’s unilateral action and invoked potential legitimacy costs revolving around the *Spitzenkandidaten* procedure:

“[P]eople are now finding out – to their astonishment – that [. . .] the Lisbon Treaty has very much changed the legal basis for the process on how to get the Commission into office. First, the EP ‘elects’ – not simply ‘approves’ – the Commission

President. Second, the European Council selects its nominee for President based on the outcome of the European elections.” (Welle, 2013, cited by Dinan, 2014)

The reactions by the Commission and Member states were divided. While the Commission was supportive of the process, Member states were reluctant to cede further powers to the EP in the investiture of the Commission President. Then Commission President Barroso stated that “an important means to deepen the pan-European political debate would be the presentation by European political parties of their candidate for the post of Commission President at the European Parliament elections already in 2014” (Barroso, State of the Union Address, 2012). The proposal was also supported in a memo a few months later (EC Communication, 2013 regarding 2014 elections). This reaction was anticipated by the EP since the *Spitzenkandidaten* process would massively enhance the Commission’s democratic legitimacy derived from the election by the only EU institution that is directly elected by the citizens (Pansardi and Battezzorre, 2018).

Member states, by contrast, were much more skeptical of the EP’s informal institutional practice. However, the EP had increased saliency of the *Spitzenkandidaten* procedure in some countries like Germany where electoral campaigns attracted domestic audiences (Braun and Popa, 2018). Public awareness of the lead candidates and the democratic legitimacy they would give the Commission increased the costs of ignoring the new rule for national leaders like German chancellor Angela Merkel. She was among those who initially voiced disagreement with the EP’s interpretation of nominating its own candidates, alongside the President of the European Council Herman Van Rompuy and other national leaders like David Cameron.

After each party had selected their candidate and started their electoral campaigns, it became increasingly difficult for Member states like Germany to counteract the EP’s first move given the related legitimacy concerns (Kelemen, 2019). This is illustrated by the

coverage of the *Bild*, Germany's influential mass-circulation tabloid, for example: “Europeans want Juncker as EU president,” the paper wrote. It also stated that refusing to give him the job would “turn democracy into a farce” (Döpfner, 2014). On top of that, Merkel was pressured by MEPs from her own party and her SPD junior partner. This illustrates how the EP created public awareness for the democratic process of electing the Commission President, thereby increasing the costs of returning to the *status quo ante* for some Member states.

Still, scholars note that the overall salience of the EP elections, including those of 2014, and the *Spitzenkandidaten* is relatively low among domestic electorates (Braun and Schwarzbözl, 2019; Braun and Popa, 2018; Schulze, 2016). This low saliency is reinforced by the second order character of EP elections. Hence, public awareness was arguably not the main driver of the EP’s successful interpretation and application of the *Spitzenkandidaten* procedure.

In the case of the incoming Juncker Commission, the EP’s first-mover strategy was further facilitated by two conditions. First, while initially it was the Party of European Socialists (PES) interpreting the Lisbon Treaty by nominating a candidate for the post of Commission President, key transnational party groups followed suit and backed the idea of nominating a lead candidate. More specifically, the Conservatives, Socialists, Greens, and Liberals united behind the *Spitzenkandidaten* procedure, so that eventually five out of seven political groups promoted a lead candidate (Heidbreder and Schade, 2020, p. 3; Hobolt, 2014). Hence, the EP appeared as a united, collective actor fortifying the invented *Spitzenkandidaten* procedure. In addition, as Heidbreder and Schade (2020, p. 4) point out, the timing of moving first in 2014 was essential. Immediately after the election results were out, the EP assembled as a collective actor behind the candidate from the party with the majority of the votes, i.e. the Conservative lead candidate Juncker. At the same time,

and further putting political weight behind the EP's first-mover strategy, the rivaling lead candidate Schulz backed Juncker as the appointee for the Commission's presidency (Christiansen, 2016; Heidbreder and Schade, 2020). In fact, the EP Group Leaders had already declared their clear and firm commitment to the candidate with the majority of votes prior to the elections (EP press release, 2014).

The outcome was a major success for the EP and an informal institutional change to its benefit. After the elections in May 2014 giving the European People's Party (EPP) a plurality, the leaders of the political groups that had put forward candidates agreed to ask the European Council to invite Jean Claude Juncker as a candidate for the post of Commission President. This proposal was backed by the European Council, with finally only the United Kingdom and Hungary voting against (Peterson, 2017). On 27 June, Juncker was nominated as a candidate by the Heads of State and Government (with the exceptions of David Cameron and Viktor Orbán). On 15 July 2014, Jean-Claude Juncker was elected by the EP, supported also by the Alliance of Liberals and Democrats for Europe (ALDE) and some of the European Socialists and Greens (in exchange for Schulz subsequently being elected as President of the European Parliament).

The 2019 Spitzenkandidaten procedure: a negative case of moving first

With the 2019 elections, the EP attempted to repeat the 2014 *Spitzenkandidaten* procedure and was initially getting ready for an institutional battle with the European Council. The Parliament, in its resolution of 7 February 2018, stressed that it stands "ready to reject any candidate [...] who was not appointed as a Spitzenkandidat" (EP, 2018). Hence, the two largest political groups in the EP nominated Manfred Weber (EPP) and Frans Timmermans (PES) as lead candidates in addition to further *Spitzenkandidaten* by other political groups. Like in the run up to the 2014 elections, the transnational party groups

mobilized in favor of their candidates and the 2019 EP elections. They tried to create saliency through public debates and a personalization of the electoral campaign (Gattermann and de Vreese 2020; Heidbreder and Schade, 2020).

Just like in 2014, some Member states expressed their opposition to the *Spitzenkandidaten* process. However, in 2019, the opposition by Member states to the *Spitzenkandidaten* procedure was even more forceful than in 2014. This may be explained by the fact that the European Council wanted to preserve its right to nominate the Commission President and avoid any potential formalization of the EP's invented informal institutional rule set up by the *Spitzenkandidaten* process. Notably, in February 2018, after a meeting of the European Council, Council President, Donald Tusk, noted that the “The Treaty is very clear that it is the autonomous competence of the European Council to nominate the candidate” (Council, 2018). Other than in the first three cases under scrutiny, i.e. the Thorn (1980), Santer (1995), and Barroso (2004) Commission, a repeated and then de facto acknowledged *Spitzenkandidaten* procedure would incur major distributional consequences and shift the balance of powers to the EP. It was especially French President Macron who was opposed to the *Spitzenkandidaten* procedure altogether, given the absence of transnational lists, and to Manfred Weber in particular. The heads of Member states could not agree on one of the other lead candidates either, with several national leaders rejecting Frans Timmermans as well as Margrethe Vestager. Thus, in addition to the European Council's categorical opposition to the *Spitzenkandidaten* procedure, the Member states were skeptical of the concrete candidates put forward. The lead candidate from the EPP, Manfred Weber, in particular, proved to be unacceptable to the European Council due to the opposition of some heads of governments like Macron (Heidbreder and Schade, 2019; Kelemen, 2019). He was considered a too weak candidate with no experience in a state-level executive position. The Member states' reluctance to nominate

Manfred Weber as Commission President is an idiosyncratic, yet important reason for the EP's failure with its first-mover strategy in 2019.

Consequently, the European Council searched for alternative suitable candidates and eventually, upon a proposal by Macron, Merkel put forward von der Leyen as a potential Commission President. The proposal was agreeable especially for France since it was linked to French Christine Lagarde becoming President of the European Central Bank (Interview 7, 8). As it was this scenario which went into effect in 2019, the EP's strategy failed.

Three conditions were different in the aftermath of the 2019 compared to the 2014 elections. First, the saliency of the *Spitzenkandidaten* and their public awareness were even lower in 2019 compared to 2014 (Fotopoulos and Morganti, 2021). Second, more importantly, all actors within the EU, including the European Council, knew the procedure from 2014 and were well prepared. This enabled the European Council to move relatively quickly and suggest alternative candidates to Manfred Weber and Frans Timmermans. As an interviewee explained, the European Council had learned from the 2014 experience and was therefore prepared to act fast and decisive:

One has to keep in mind that, in 2014, the Council made it very clear that after accepting the *Spitzenkandidaten* from Parliament, that they would not allow this to happen in 2019. ... So the Council was well prepared and acted very fast after the European election. Parliament didn't realise that it needed to keep strong and together. I would say Parliament was de facto surprised by the quick development of events in the Council. (Interview 6)

Heidbreder and Schade (2020, p. 5), too, emphasize the strategic timing of the European Council. According to their interpretation, Macron acted as an entrepreneur by pointing out how inadequate Manfred Weber would be as a Commission President. Indeed,

Macron did not only oppose the *Spitzenkandidaten* procedure and Weber as a candidate, he also formulated transnational lists as an alternative model which ought to be pursued in future EP elections. Hence, he did not embark on the Parliament's presentation of the lead candidates as a take-it-or-leave-it option for the position as Commission President, but put forward new options himself. Thus, Macron created alternative courses of action rather than to either reject or agree to the EP's *Spitzenkandidaten* procedure, and thereby took the EP by surprise.

Third, other than in 2014, the EP did not emerge as a cohesive actor during and after the 2019 elections. Whereas in 2014, the EPP and the PES firmly backed each other's candidate in case their political group won the largest number of seats in the EP, this was no longer the case in the 2019 elections. As an interviewee from the Commission affirmed, the "major difference between 2014 and 2019 [...] was that a majority of the groups in the European Parliament and of the European political parties were united" (Interview 6). In the run-up to the 2019 elections, the EP mobilized for the electoral campaign and polarized the elections along party cleavages (Interview 5) to an extent that "socialists and liberals are not willing to vote for Weber and the EPP is also not available to vote on a candidate that is not from its party. That generates a stall and leads to a gap waiting to be filled by the Council" (Interview 8). This dissent among the political groups was accelerated by the increased diversity of the 2019 electoral results. Other than in 2014, when a 'grand coalition' of EPP and PES sufficed for the election of the Commission, in 2019 at least three groups were necessary for the vote (Heidbreder and Schade, 2020). On top of this, the liberal political group ALDE departed from the *Spitzenkandidaten* procedure in 2019 insofar as it came up with an entire team of seven candidates. Hence, the EP in 2019 was no longer as united as in 2014. In the words of an

interviewee, “the decisional environment related to the groups, their cooperation and their internal cohesion” led to conflict and incongruence (Interview 6).

The outcome was the election of Ursula von der Leyen as Commission President instead of any of the *Spitzenkandidaten*. Disunity within the Parliament was visible also in the vote for von der Leyen who received a majority by nine votes only (EP, 2019). While a cohesive EP is not a sufficient trigger for a successful first-mover strategy, the disunity displayed in 2019 is arguably a hindrance for *Parliament* to move first effectively. In summary, the EP clearly failed with its strategy of moving first and its attempt to repeat the 2014 *Spitzenkandidaten* procedure.

Moving first	Thorn Commission	Santer Commission	Barroso Commission	Juncker Commission	Von der Leyen Commission
Invention of new institutional rule per unilateral action, debate, internal change of rules of procedure, resolution, report, or press release	Institutional rule issued in resolution: debate and vote on Commission President	Amendments to internal rules of procedure: debate with designated Commission President regarding their Commission and request to change in case of a negative vote	Amendments to internal rules of procedure: confirmation hearings with individual candidates for Commissioner posts	Resolution published to nominate lead candidates for Commission President	Resolution published to reject any candidate other than a <i>Spitzenkandidat</i>
Presentation of invented institutional rule as a take-it-or-leave-it option	Unilateral organization of 'confirmation hearing' with no other options	Debate with Santer and Santer confirmed that a negative vote would lead to a new candidate	Threat not to vote on Commission in case of non-compliance and public hearings with nominees	Unilateral nomination of <i>Spitzenkandidaten</i>	Nomination of <i>Spitzenkandidaten</i>
(a) timing (b) consensus dynamics (c) public awareness	Legitimacy costs for Member states Unity in Parliament	Timing due to costly delays	Threat to turn down entire Commission and potential costly delays	Public awareness of lead candidates in some Member states United backing of <i>Spitzenkandidaten</i>	Hesitation to back a specific candidate Disunity in Parliament
Compliance by Commission and Member states with EP's invented institutional rule	Compliance by Commission and Member states: regular vote on Commission President since then	Compliance by Commission and Member states: EP votes on Commission in its entirety	Compliance by Commission and Member states: hearings with individual Commissioners and reshuffling of Commission	Compliance by Commission and Member states: Juncker elected Commission President	Non-compliance by Member states: none of the lead candidates elected as Commission President

Table 2: Five cases of moving first

Conclusion

In appointing the EU's executive, the EP has expanded its powers from zero at the outset of European integration to the 'election' of the Commission President in 2014, but it failed to cement this practice in 2019. In this article, we argue that the EP, despite the *Spitzenkandidaten* procedure's failure in 2019, has incrementally empowered itself in the investiture of the Commission through a first-mover bargaining strategy. We first provide a conceptualization of this strategy, according to which the EP interprets its formal powers by 'inventing' a new informal institutional rule and imposes it on other actors by raising the costs of returning to the *status quo ante*. Moreover, we deduce the conditions under which we expect the first-mover strategy to be successful or fail: timing, consensus dynamics, and public awareness. In five illustrative case studies that span more than 30 years of Commission appointments, we assess the extent to which and how the EP was successful with its first-mover strategy. We then investigate the negative case of the von der Leyen Commission, in which the EP was not able to cement the *Spitzenkandidaten* procedure and hence failed with its first-mover strategy.

Our empirical assessment demonstrates the significance of moving first as a crucial bargaining tool in the EP's repertoire of self-empowerment strategies (e.g. Héritier et al., 2019; Meissner and Schoeller, 2019). The EP used this strategy successfully in the investiture of the Commission, starting out with a 'confirmation hearing' of the Thorn Commission, a vote on the Santer Commission in its entirety, hearings of individual Commissioners at the start of the Barroso Commission, and electing its *Spitzenkandidat* Juncker Commission President. Our empirical assessment of these cases confirm earlier studies which find the (incoming) Commission Presidents to be favorable to the EP's empowerment in the investiture of the Commission (Hamřík and Kaniok, 2019 ; Moury, 2007). Hence, the EP had to use the first-mover strategy vis-à-vis the Council/European Council and the Member states rather than the Commission. Our empirical findings also reinforce the relevance of distributive consequences

for the EU's first-mover strategy. The EP's success with moving first and thereby gaining further institutional rights in the investiture of the Thorn (1980), Santer (1995), and Barroso (2004) Commission were less contested by Member States as these informal powers did not incur major distributional consequences for the Council. This was different in 2019 where a success of the EP's *Spitzenkandidaten* procedure would have meant a significant shift of the EU's inter-institutional balance to the benefit of the EP.

In the cases under scrutiny, the conditions that we theoretically deduced played an important role: most clearly in the 2014 *Spitzenkandidaten* procedure, the timing and unity within the EP were decisive in pushing through the first-mover strategy. Albeit to a much lower extent, also the public awareness of the electoral campaign facilitated Parliament's success in moving first in 2014. Indeed, in 2019, the EP was unsuccessful in repeating the procedure partly due to the inadequate timing compared to the development of events in the European Council and the lack of internal cohesiveness. A further idiosyncratic reason for the EP's failure to cement the *Spitzenkandidaten* process in 2019 was the lack of Manfred Weber's appeal to the Member states as possible Commission President.

Yet, while our case studies increase the plausibility that the conditions of timing, cohesiveness, and public awareness facilitate or impede the EP's institutional empowerment, we cannot confirm one of them as either necessary or sufficient for the success of the first-mover strategy. Paradoxically, public awareness in the investiture of the Commission seems to be of relatively little importance, while dynamics of timing and *Parliament's* unity mattered in the cases under scrutiny. Investigating systematically in how far these conditions (or a certain constellation of them) are necessary and/or sufficient remains an area for future research.

While our article is restricted to assessing the EP's use of moving first in the investiture of the Commission, we find empirical examples of this bargaining strategies in other areas of EU policy-making, too. First, in the context of deciding the EU budget, the EP gained an informal

right to vote on the whole budget by using a first-mover strategy. In 1970, after the signature of the budgetary treaty, the EP adopted a resolution in which it interpreted section 6 of the new article 203, stipulating that the “President of the Parliament shall declare that the budget had been adopted”, as a right “to reject the whole draft budget in order to secure fresh budgetary proposals” (European Parliament, 1970). In an action of moving first, the EP subsequently changed its rules of procedure to vote on the whole budget *before* the President could declare it finally adopted (European Parliament Rules of Procedures, 1972). Since the declaration of the EP President was necessary, the EP thus unilaterally created a new informal rule granting itself the *de facto* power to reject the budget. In another topical area of EU decision-making, the negotiation of international agreements, the EP also applied a strategy of moving first. In the EU’s negotiations with the United States on the Transatlantic Trade and Investment Partnership (TTIP), the EP came up with the practice to sit at the negotiation table with the Commission. The EP put this rule into practice by taking the first move and unilaterally setting up parliamentary sessions and hearings with guests from the American delegation. Some MEPs even organized direct meetings with American officials in Washington to discuss the negotiations (Interview 3, 4). Hence, the EP moved first by negotiating directly with the United States.

The strategy of moving first has so far been largely overlooked in studying the EP’s role in EU politics. Analyzing this strategy therefore contributes to understanding the EP’s self-empowerment in the EU and adds to already known bargaining strategies such as arena-linking or delaying. Since our article focuses primarily on the investiture of the Commission, a fruitful avenue for future research lies in a test of the first-mover argument in further cases of informal institutional change in the EU.

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