

ATTEMPTS AND OBSTACLES TO RENEW EU IN TIME OF CRISIS

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Abstract: *The article aims to illustrate the attempts and the obstacles to reform the EU. Starting with an analysis of the increasing urge of renewing the EU legal structure, this article will highlight the rising interest within the European institutions to involve the citizens and the civil society in the process of renew through a new original tool; in a second step, it will briefly present the architecture of the CoFoE and its hybrid format which combines institutional negotiations and citizen participation. Hence it will focus on obstacles to the reforms proposed by the Conference. In the end, the article draws some critical conclusions regarding the future outcomes.*

Key words: *EU crisis - EU reform - Conference on the Future of Europe - European identity – Democracy.*

1. Introduction

The need to undertake a deep reflection on the EU's future in order to step forward a new integration process has been forced by the pressure of the most recent upheavals, namely the pandemic crisis and the Russia's war in Ukraine: to the persisting problems, such as the asylum and migration policy, the contestation of rule of law, the central structural deficits in the Eurozone, the democratic legitimacy of the EU leadership position, new questions added specifically related to EU competence in health policy, in common defense, and more generally related to the EU's role in the future international scenario.

As a matter of facts, over the past decade, despite this obvious need for reform, the EU and its Member States have only been able to find solutions to the many internal and external challenges with great difficulties and without amending the Lisbon Treaties. The common argument against reforming EU primary law is that the EU treaties are based on a complex package of compromises between member States, that ratification process also harbors great political risks and that due to the complex procedure sets in art. 48 TFUE the amendments are very time-consuming and not suitable for responding rapidly to crises (Ondarza, N.v, & Alander, M. 2021).

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However, under the pressure of the crisis of the past two years, the need to adapt EU objectives, institutional dynamics – and consequently its legal framework – to changing times could have no longer been postponed.

The Covid-19 pandemic has shown the limited competences of the EU, for instance in the field of health, and the responses to it (particularly the financial support through the recovery plan) have created new exigencies to reform the EU power in spending and taxing. The repercussions of Russia's war against Ukraine, on the other hand, has revived the discussion about the European security order, the enlargement process for the Western Balkans States and the energy diversification, the Eu role in the international arena.

This time the EU experimented a new strategy: if the heart of the problem of EU is confronted with a serious challenge to its political legitimacy thus, an innovative dialogue formats have enabled citizens of different backgrounds from all across Europe to formulate specific ideas on how to further develop the EU.

According to President Von Der Lyen, Europe believes citizens need to be at the core of the European Union fully involved in a deeper and wider debate about the future of EU. The idea of a Conference on the Future of Europe (COFoE) was first suggested by French President Emmanuel Macron in March 2019 and was subsequently supported by the new Commission President before her election by the Parliament. She called for a Conference on the Future of Europe in her Political Guidelines of July 2019 as part of a vision for a new push for European democracy – and committed to following up on its results.

The most significant novelty is that, for the first time, the physiological evolution of the EU and the reform proposals were not respectively discussed and elaborated at government level but were, instead, analyzed and redefined 'from the bottom' in observance of the principle of democratic participation democratic participation enshrined in Article 11 TEU.

As it is clearly stated in Art. 1 of the Rules of Procedure of the Conference: "The Conference is a 'bottom-up', citizen-centred process that allows Europeans to express their views on what they expect from the European Union".

On 10 March 2021, EP President, Prime Minister of Portugal, on behalf of the Council of the EU, and EC President signed the Joint Declaration on the Conference on the Future of Europe, launching a new process to reflect on the future of Europe. The document formally titled "Engaging with Citizens for Democracy—Building a More Resilient Europe", outlines the constitutional mission and the governance structure of the CoFoE and paved the way for the start of the process: the Conference, which kicked off on Europe Day 2021, ran for one year.

It has been an unprecedented pan-European exercise in participatory and deliberative democracy – the largest and broadest of its kind. It was supposed to open a new path and generate new ideas for the development of the Union through a hybrid format of interinstitutional negotiations and citizen participation.

This unprecedented, one-year journey of discussion, debate and collaboration between citizens and politicians culminated in a report presented on 9th of May 2022 to the three Presidents of the EU institutions.

2. Architecture and work of the Conference

The debate has been structured on different levels designed to channel and filter from the bottom up the output of the democratic deliberations.

Three tools were keys for the citizen's participation: 1) a Multilingual Digital Platform (MDP) where all Europeans had the opportunity to share ideas for the future of the EU; 2) European Citizens' Panels (ECPs) and 3) decentralized national citizens' panels (NCPs).

On the basis of the input is the MDP, a collector of ideas and proposals clustered in 9 macro-themes: climate change and environment; health; a stronger economy, social justice and employment; the EU in the world; values and rights, rule of law, security; digital transformation; European democracy; education, culture, youth and sport; other ideas. It was the main hub for citizens' contributions and information on the different parts of the Conference and an interactive tool to share and debate ideas and input from the multitude of events organized at national level by citizens and national, regional or local authorities under the umbrella of the Conference.

The ECPs are the core element of the Conference: they were meant to facilitate open, inclusive, transparent and structured debate; they were the filters for translating proposals into recommendations to be presented to the Plenary of the Conference and to the Executive Committee. The topics set out in the Platform were divided and discussed in four panels, each consisting of 200 citizens from the 27 Member States (they were randomly selected representative of the EU's sociological and geographical diversity, origin, gender, age, socioeconomic background and level of education. Young people between 16 and 25 made up one-third of each panel).

In addition, each Member State made further contributions to the Conference, organizing national events in order to foster the public debate (NCPs).

The CoFoE is a hybrid political process where representatives of European citizens from all ages, countries and backgrounds coexisted with representatives of the institutions of the Union, national parliaments, the governments of the Member States seated in the Conference Plenary.

The Plenary was composed of 449 individuals, representatives of the Economic and Social Committee, the Committee of the Regions, the social partners (representatives of trade unions), civil society, representatives of regional and local authorities, representatives of the national parliaments, of the Council (two per Member State), of the Commission and of the European Parliament.

Following the discussions on the recommendations of the ECPs at national and European level and the contributions gathered by the MDP, the Plenary Session addressed its proposals, deliberated by consensus, to the Executive Committee.

On 9 May 2022, the final outcome of the discussions, debates and events was presented in a report addressed to the three Presidents of the EU institutions, who, according to Article 23 of the COFoE regulation, undertook to rapidly examine how to effectively follow up the 49 proposals with 326 measures including concrete objectives.

3. The proposals: an overview

The final report essentially lists the citizens expectations: it comprises 49 proposals with 326 measures, covering the entire spectrum of EU policies.

The proposals and their corresponding objectives are structured across nine topic clusters: 1) Climate change and the environment (1-6); 2) Health (7-10); 3) A stronger economy, social justice and jobs (11-16); 4) EU in the world (17-24); 5) Values and rights, rule of law, security (25-30); 6) Digital transformation (31-35); 7) European democracy (36-40); 8) Migration (41-45); and 9) Education, culture, youth and sport (46-49).

It is important to mention that the 90% of Conference proposals and initiatives can be implemented using all the possibilities offered by the current Treaty framework; by contrast, only 13 of the recommendations involve actions that would require a treaty amendment (namely: harmonisation of fiscal policy and tax rules within the EU, Europe-wide referendums, EU taxes on large corporations, changing the names of EU institutions, expanding the EU's powers over health policy, the request for qualified majority voting instead of unanimity in several areas, a right of initiative for the European Parliament, introducing a new EU citizenship statute, creating a European Health Union, European minimum wages, strengthening the Parliament's right of inquiry, discussing a European Constitution, introducing transnational electoral lists).

Generally, all the recommendations call for a strengthening of the EU powers, with the expansion of EU competences in the fields of health, energy, digital and foreign affairs.

Citizens want the EU to use its regulatory powers to prepare Europe for the future by advancing the energy transformation, creating incentives for more sustainable agriculture, strengthening labour protections, improving data protection, promoting convergence in Europe, and introducing stricter and more sustainable import standards. The recommendations also name the following important concerns: public participation (18), migration (17), education (15), expanding the EU's legislative competences (11) and the Health Union (11).

Almost all those objectives, which are mainly related to the growth of the internal market, could be achieved through the Union's legislative processes without the need to reopen the treaties.

Some other

It is worthy to note that the recommendations of the citizens' panels reflect a consistent demand that the EU should become more transparent and communicate better (also outside of the Conference experiment) and offer more possibilities to involve the public.

Moreover, the recommendations request an overhaul of the EU decision-making system, with the overcoming of unanimity rule, particularly in the field of foreign affairs and defence.

Finally, the recommendations also underline the importance of endowing the EU with the financial means to back up its actions, including by reproducing the "Next Generation EU" funding model beyond the Covid-19 pandemic.

4. The follow up and obstacles

Since the closing of the Conference, the three institutions have worked to fulfil their commitment to act on the Conference's proposals. They started the implementation and follow-up process in accordance with their respective competences under the Treaties of the EU. The Commission's Work Programme for 2023 is driven by the vision laid out in the conclusions of the Conference. Only one month after the end of the Conference, the Commission promptly provided feedback in line with its Communication on "Putting Vision into Concrete Action"; in addition, on 14 September 2022, President von der Leyen in her State of the Union speech announced that participatory practices experienced in the COFoE will be embedded in the policy-making toolbox through European citizens' panels, which are being involved in certain key policy areas.

The European Parliament welcomed the Conference conclusions and committed to enhance the EU's capacity to act its democratic legitimacy and accountability. It pushes for the implementation of the proposals which require Treaty change (the reform of the electoral law and the introduction of a transnational list for EP election) and asked the Committee on Constitutional Affairs to prepare proposals to reform the EU Treaties, a process which would take place through a Convention in line with Article 48 of the Treaty on European Union. From its point of view, increasing democracy and supranational powers will increase its own power.

The Council has taken concrete steps towards implementing the Conference proposals and has produced a comprehensive analysis contained in the Conference's final report (updated in November 2022) in order to reflect the actions undertaken since May.

On 2 December 2022, citizens who participated in the European and national Citizens' Panels met with the EU institutions in the European Parliament premises in Brussels to be informed about the progress achieved in implementing the Conference outcome. They had the opportunity to pose questions to representatives from the EU institutions and comment on the information received: the prospect of launching a Convention to revise the EU Treaties was repeatedly mentioned, as well as the potential activation of passerelle clauses in the existing framework, and the need to further improve communication between the EU institutions.

Thus, the most important phase of the Conference is still in progress, and future steps will be crucial for understanding whether the public consultation experiment can really contribute to the development of the EU or whether the final report will simply be acknowledged by the institutions and set aside.

The EU institutions have so far hardly been willing to translate citizen's recommendations into political initiatives. At the moment, two seems to be the obstacles to the political process of turning the proposals into actual reforms through secondary law (or treaty amendments).

Firstly, the rivalry among institutions: it was clear since the beginning that there was a conflict among them on the Conference's mandate. On this respect, the Joint Declaration launching the Conference on the Future of Europe is a compromise text which includes a number of ambiguities (Fabbrini F.2021).

The EP embraced the idea of the Conference as an opportunity to strengthen input

legitimacy through citizen participation and to deepen integration, including an expansion its competences and powers (Ondarza, N.v, & Alander M. 2022); the EC, through the Conference tried to find a democratic consensus to its mandate; the Concil (i.e. States governments) made clear since the beginning that “The Conference does not fall within the scope of Article 48 TEU, excluding in this way to give a feedback to the proposals of institutional reforms.

As a consequence of the inter-institutional division, the different expectations will affect the possible legislative process in the next months.

Secondly, the scepticism of the Member States: they are still the “Masters of the Treaty”, and consequently, any change needs the national government support. Up to today, thirteen MS - including the Nordic and Baltic States, as well as Central and Eastern European States - issued a non-paper on the outcome of and follow-up to the CoFoE for excluding Treaty amendments. For this group of countries, the conference “should not create legal obligations”, and “the Union framework offers potential to allow priorities to be addressed in an effective manner”, explicitly excluding the possibility of treaty changes (Non-Paper dated 23 march 2021).

On the opposite side, Belgium, Germany, Italy, Luxembourg, the Netherlands and Spain submitted their own non-paper, in which they argue for reforms, including the option of treaty amendments (Non-Paper dated 13 May 2022).

The different publicly stated views on the question of Treaty change indicate that further alignment not only needs to be found between the different EU institutions but also within them, as Member States have expressed varying positions on this.

In order to reach the progress on the follow up and to put forward the future reforms, differentiation should be made between proposals aiming to generate improvements in individual policy fields and those targeting long-term institutional reform. Furthermore, should be considered which proposals are already being implemented, which can be implemented quickly within the framework of existing Treaties and which would require Treaty changes.

4. Conclusions

Crises have proven to be a necessary driver for the development of European integration, but they haven’t always led to a strengthened Union.

The overarching purpose of the COFoE was to make the European Union fit for present and future challenges by a complex formation comprising three levels: the public participation (which is the most innovative aspect and was intended to gather Europe-wide input on the union’s future), the plenary, in which the various institutions were represented (not only PE, Commission and Council, but also National Parliaments, Committee of Regions, the Economic and Social Committee, regional and local authorities) and the real decision-making power, with the executive board who ensures that the conference was steered by the three main EU institutions (Ondarza, N.v, & Alander, M. 2022).

It has the potential to create a momentum to relaunch the project of European integration, reform the EU and tackle the shortcomings of its current constitutional

settlement (Fabbrini F. 2022). It should open a path to address the EU structural weaknesses and provide a venue to achieve these reform objectives.

The tools and methodology developed in this process provided a unique set of resources that could form the basis for future exercises in citizen engagement and deliberative democracy at EU level.

To translate into concrete outcomes, at least the recommendations that do not need any Treaty reform is decisive in order to demonstrate to citizens that their input is taken seriously. If the citizen's demands were not implemented, the EU would not only miss another opportunity for renew itself, but would ultimately have the "boomerang effect" to reinforce the disaffection of the citizens to the EU project of integration.

Instead of strengthening the EU internally before the next crises – which are certain to arise – the Union would continue to be capable of reforms only when crisis situations come to a head and pose an existential danger. In the long run, such crisis-driven reactions rightly reinforce doubts about the EU's capacity to act (Ondarza, N.v, & Alander, M. 2021).

In conclusion, the COFoE is a special opportunity to further develop the EU at this time of epic challenges and fundamental change. However, the fate of the EU and its ultimate success hinge on the follow-up, and it will depend on the political will (of both EU institutions and Member States) and legal inventiveness.

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