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After the Conference on the Future of Europe: Time to Make Reforms Happen

Four lessons for a European Union again requiring a new balance between deepening and widening

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The debate over major reforms of the European Union is heating up. Now that the one-year Conference on the Future of Europe has concluded, the European Parliament has proposed a convention and treaty amendments. But many national governments would still prefer to develop the European Union within the framework of the existing treaties. Closer examination of the Conference's outcomes reveals a more complex picture: citizens who expect the Union to lead the great transformation projects, who demand greater transparency, and who see treaty amendments as a means to strengthen the EU. Although the Conference failed to bring supporters and opponents of treaty amendments any closer together, the newly revived debate about deepening and widening has the potential to do so.

Two debates about the future of the European Union converge in the shadow of Russia's war in Ukraine. On the one side, Ukraine's application to join the EU, closely followed by applications from Moldova and Georgia, has revived the discussion about enlargement. In June 2022 the European Council granted Ukraine and Moldova formal candidate status. Moves are also under way to restart the long deadlocked accession processes for the Western Balkans. The discussion also encompasses the possibility of different and/or intermediate forms of partial integration, such as the idea of an European Political Community recently floated by French President Emmanuel Macron. After the seismic geopolitical re-

orientation of 2022, the twin questions of the geostrategic role of enlargement and the ultimate size of the EU are very much back on the table.

On the other side, at the same time, the discussion about a further deepening, including treaty amendments, has been gaining momentum. In May 2022 the Conference on the Future of Europe presented its final report after a year of deliberations. Rather like the EU itself, the Conference experienced a series of transformations over the past two years. On account of the pandemic it began a year later than planned and ran for one year instead of two. Looking back, the moment when the Conference was announced in autumn 2019 now seems



like a different era. It was President Macron who first put it on the agenda. Ursula von der Leyen took the idea up and made it a promise to the European Parliament to secure her election as President of the Commission. Originally the Conference was intended to focus on the Union's democratic structures, such as reform of the *Spitzenkandidaten* procedure, transnational lists and a right of initiative for the European Parliament. Most of the member state governments regarded the Conference proposal sceptically, even if the new German government in 2021 noted its firm support in its coalition agreement, including the option to develop the Conference into a Constitutional Convention. As it turned out, the Conference discussed a broad spectrum of questions relating to the Union in a complex construction that was built around public participation while maintaining balance between the central EU institutions, Parliament, Commission and Council (see SWP Comment 19/2021).

The Conference on the Future of Europe was overshadowed by the Covid-19 pandemic and the Russian invasion of Ukraine. The pandemic meant that the start of the conference, which had been planned for 9 May 2020, had to be postponed for a year. And the public participation had to be almost exclusively virtual, with most of the citizens' panels held online or under strict hygiene rules. At no point did the Conference achieve broad media resonance.

In response to the Russian invasion of Ukraine the European Union has had to make a rapid succession of portentous decisions in order to reposition itself in what is now a confrontative European security order. These affect both reform and enlargement.

Conference on the Future of Europe encounters a Union in transformation

The pandemic and Russia's war in Ukraine fundamentally changed the external circumstances of the debate on the future of Europe. These developments therefore need to be

taken into account in the discussion about reforming the European Union, especially where the priorities for European reforms are concerned.

The conclusion of the Conference on the Future of Europe coincides with a very difficult economic situation. Two years of pandemic have left deep economic scars, with GDP in certain EU member states still below pre-pandemic levels in spring 2022. Inflation in the euro zone has reached its highest level ever, with the potential to create growing divergences between euro states and renewed pressure on state budgets. The repercussions of Russia's war against Ukraine, the EU sanctions and the Russian counter-sanctions are already being felt in the form of enormous price increases in the energy sector and will inevitably spill over into other areas of the economy. The longer the war continues, the higher will be the economic costs. And economic crises are not the ideal setting for abstract debates about institutional reform. Instead reforms must be a tool of solidarity and economic support.

At the same time, it should be noted that the EU has made considerable progress under the pressure of the crises of the past two years, independently of the Conference on the Future of Europe or the possibility of treaty amendments. It has assumed new responsibility for public goods (for example by procuring Covid-19 vaccines), instituted joint borrowing for the recovery fund, and introduced a rule of law mechanism. In the few months since the Russian invasion the EU has also assumed considerably more responsibility for European security, for example by collectively financing arms supplies for Ukraine, imposing unprecedented sanctions on Russia, and serving as a key actor in international coordination with the United States, the United Kingdom and other partners. Going forward, the EU intends to play a central role in energy diversification, in joint gas purchases and in coordinating rearmament to strengthen European defence.

At the same time, the European Union is entering a new debate about its (territorial) limits, about the relationship between en-

largement and deepening, and about its ability to integrate new members. The membership applications from Ukraine, Moldova and Georgia, along with the revitalisation of the Western Balkan accession processes, open up a longer-term perspective of a Union with thirty-five and more members. Although none of these countries can be expected to join imminently, the question of how such a large and heterogeneous EU will be able to retain its ability to act coherently will arise in the future.

Despite the turbulent circumstances, the conclusion of the Conference on the Future of Europe – with the adoption of its final report in May 2022, shortly after the French presidential elections – coincides with a window of opportunity for European reforms. Until the European elections in May 2024, no major national elections are expected (with the notable exception of Italy). Instead, crucial legislative projects are due to be rolled out, including the Green Deal and digital regulation. For the 2024 European elections the European Parliament has also published a proposal for transnational election lists with EU-wide lead candidates.

A complex construction

The Conference emerged as a complex formation comprising three levels, reflecting inter-institutional rivalries over objectives, structure and methods (see SWP Comment 19/2021). That aspect needs to be taken into account in analysis and follow-up.

The first level was public participation. This was the most innovative aspect, and was intended to gather Europe-wide input on the Union's future. For this, a multilingual consultation platform was established, where citizens were able to raise and discuss ideas about how to develop the EU. Participation was rather disappointing, however, with 19,000 proposals from only 50,000 active users across the entire EU. Closer examination of the suggestions reveals that the platform principally attracted persons who were clearly "pro" or "anti" EU. So this was not a broad representative

reflection of European public opinion, and it cannot supply political legitimacy for (or against) any particular political position.

To get a more representative view, European and national citizens' panels were conducted, comprising citizens from all member states selected to create a representative random sample. Together they prepared recommendations for developing the EU in four areas: "A stronger economy, social justice and jobs/Education, culture, youth and sport/Digital transformation"; "European democracy/Values and rights, rule of law, security"; "Climate change, environment/Health"; and "EU in the world/Migration". The citizens' panels thus covered institutional matters as well as questions relating to a wide range of policy areas. Although the citizens' panels, like the platform, attracted little media attention, their representative nature and pan-European composition does offer unique insights into the wishes and expectations of European citizens.

The second level of the Conference was the plenary, in which the Union's various institutions were represented. In terms of its composition it resembled a convention on EU treaty amendments: 108 MEPs, 108 representatives from national parliaments, 54 representatives of member states from the Council and three from the Commission, plus 108 from citizens' panels. The Committee of the Regions, the Economic and Social Committee, regional and local authorities, the social partners and civil society were also represented. The almost 450 members of the plenary formed nine working groups. Resistance from the Council delayed their constitution and it was not until near the end of the Conference that the working groups were functioning properly. Their findings were included in the final report along with the recommendations of the citizens' panels.

The real decision-making power lay at the third level, with the executive board. This ensured that the Conference was steered by the EU's central organs: the Council (represented by the successive Council Presidencies; in the decisive phase France), the Com-

mission and the European Parliament. The executive board formulated the unanimous final report and formally presented it to the three EU institutions on 9 May 2022. The final report essentially lists the recommendations of the citizens' panels and supplements them with individual aspects from the online platform and the plenary working groups. Altogether it comprises 49 proposals with 320 measures, covering the entire spectrum of EU policies.

Now the three institutions are required to draw their conclusions from the report in accordance with their competences and consistent with the Treaty on European Union. In other words, the politically most important phase of the Conference is still to come: the political process of turning the proposals into actual reforms, through secondary law or treaty amendments. The implementation will be crucial. This is where it will become clear whether the Conference experiment can make a contribution to developing the EU or whether the final report will merely be acknowledged by the institutions and subsequently set aside.

Institutional jostling over outcomes

Neither in the public sphere nor in European politics has the Conference on the Future of Europe generated momentum for strong reforms. Nevertheless (or perhaps precisely for that reason), three very different conclusions can be drawn.

1) Citizens expect the EU to assume responsibility

The representatively selected citizens' panels, drawn from all the EU member states, call on the European Union to assume more responsibility and to operate more transparently. The most original outcome of the Conference is found in their recommendations, which make up the bulk of the final report. An analysis of the recommendations is revealing. Out of 178 in total, sixty-six relate to market regulation,

as the prototypical sphere of EU competence. 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).

All the citizens' panels also expressed the wish for the Union to improve its public communication on policies and legislative projects, and to communicate general information about its work in a more comprehensible form. For example, the citizens' panels proposed in various contexts establishing an online tool operated by the EU and offering: general information about EU institutions and policies; verified political information and counter-disinformation; fact checks; online referendums; and discussion with politicians. The wish for greater participation in the EU's political processes was also explicitly expressed, and it was suggested that the innovations introduced for the Conference be continued as a permanent citizens' forum. The participants obviously experienced the opportunity to contribute to the Conference as a welcome and rewarding opportunity to play a role in shaping EU-wide discussions.

On the one hand, the citizens' recommendations clearly imply that the EU's existing major projects, such as the Green Deal, the digital agenda and the European Health Union, enjoy legitimacy. Enthusiasm for treaty amendments is much less clear. Only thirteen of the recommendations involve actions that would definitely require a treaty amendment. The latter include 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, a European constitution, federalisation of the EU, and

the abolition of unanimity. The other recommendations could all be implemented through the Union's legislative processes without the need to reopen the treaties.

2) Parliament wants treaty amendments

The European Parliament has a rather different interpretation. When the Conference on the Future of Europe was being established, a majority of MEPs — unlike the Commission and the Council — called for the option of treaty amendments to be included in its mandate. And when the final report was prepared, participating MEPs ensured that proposals requiring treaty amendments were given greater prominence than in the original recommendations from the citizens' panels. Just as the EU institutions argued about the mandate before the Conference, now they also interpret its outcomes differently. Neither the conference itself nor the Covid-19 pandemic or the war in Ukraine have done anything to significantly shift the fronts.

So a majority in the European Parliament sees their demand for treaty amendments confirmed. In its responses to the Conference the Parliament has underlined that the measures listed in the final report should be implemented to the greatest possible extent — thereby elevating those aspects that require treaty amendments. In a second step in June 2022 the Parliament made use of its right to propose treaty amendments under Article 48 of the Treaty on European Union (TEU), which would ultimately lead to a convention. This is new, given that all successful treaty amendments to date have been initiated by the member states in the European Council, whose approval — as the “masters of the treaties” remains necessary.

The European Parliament's initiative thus offers an sense of the maximum extent of the treaty amendments up for debate. The Parliament makes five concrete proposals:

Firstly it calls for a broad shift from unanimity to qualified majority voting in the Council, in order to improve the Union's

ability to take coherent action. It names as an example decisions about sanctions in foreign and security policy, especially after the haggling over the sixth package of sanctions against Russia, where generous opt-outs for Hungary were required to end more than four weeks of internal negotiations. In fact, if the political will is available, a shift to majority voting can be accomplished at any time without major treaty amendments, via the so-called passerelle clause (Art. 48 (7) TEU). The decision itself, however, requires unanimity and would be subject to national approval requirements in various countries, including Germany.

The second proposal is closely connected: to amend Article 48 (7) TEU such that a qualified majority suffices to switch from unanimity to majority voting. While technical in nature, such a change would possess the potential to lastingly transform the character of the EU, as it would allow majority decisions to be made in all policy areas, even against the will of individual states, and as such would neutralise the leverage of the national veto. As such, it would increase the need for European democratic legitimacy. It would likely also meet with firm resistance from the member states.

Thirdly, the European Parliament calls for the EU's competences to be expanded, specifically in health policy (in response to the pandemic), and in energy, defence, economic and social policy. This demand is the one most closely tied to the discussions at the Conference, where participating citizens also argued for EU competences to be expanded in areas like health. However the Parliament's proposal remains vague. Expanding competences in such a manner would require comprehensive treaty amendments, with a convention and an inter-governmental conference to negotiate the details.

Fourthly, the European Parliament calls for a right of initiative of its own and a full say on the EU budget. Those are longstanding demands of the Parliament and only implicitly supported by the Conference. If integration is further deepened, including an

expansion of majority voting and new competences, there is certainly a case for a discussion about how democratic legitimacy can be strengthened.

Finally, the European Parliament calls for the rule of law mechanism under Article 7 TEU to be strengthened, bolstering the procedure itself and specifying which measures the EU can employ in the event of violations of its fundamental values. However, sharpening the rule of law instruments in that way would require the approval and ratification of all twenty-seven member states, including Poland and Hungary.

All in all the proposals to expand majority voting and the EU's powers are closest to the discussion at the Conference. The former would also be possible without major treaty amendments and a convention. The strongest resistance is likely to be encountered by those initiatives that seek to expand and reinforce the Parliament's right to enforce rule of law or to drastically simplify the passerelle clause.

3) Member states divided

Before the Conference on the Future of Europe even began it was apparent that it generated little enthusiasm in a number of member states. When it did begin, a group of twelve member states (Austria, the Czech Republic, Denmark, Estonia, Finland, Ireland, Latvia, Lithuania, Malta, the Netherlands, Slovakia and Sweden) argued in a joint non-paper for a more restrictive mandate and for excluding treaty amendments altogether. When the Conference concluded, a similar group of thirteen member states – again including the Nordic and Baltic states, as well as Central and Eastern European member states (Bulgaria, Croatia, the Czech Republic, Poland, Romania and Slovenia) plus Malta – issued another non-paper opposing the maximalist interpretation of the European Parliament and rejecting treaty amendments at the present juncture.

In response six Western European states (Belgium, Germany, Italy, Luxembourg, the Netherlands and Spain) published their own non-paper, in which they argue for

reforms including the option of treaty amendments. Together with France (which held the Council Presidency and was therefore unable to sign) these states represent the majority of the EU's population. On the other hand, together with Hungary, which clearly opposes treaty amendments seeking to expand EU competences, the thirteen countries rejecting treaty amendments represent a majority of the EU member states. So the Conference has not contributed to finding a compromise on treaty amendments, with only the Netherlands switching sides after a change of government.

The opposition to treaty amendments has various causes. In general, enthusiasm for further integration is particularly weak in the north-eastern member states. The states of Central and Eastern Europe are not prepared to cede further sovereignty to the EU, after regaining their full sovereignty only thirty years ago. The Nordic member states are concerned to prevent EU regulation penetrating too far into their national decision-making powers, especially in taxation and fiscal policy, in social policy and in other areas of relevance for the Nordic welfare state model.

The timing is also relevant. In the course of the Russian war in Ukraine, the states of northern, central and eastern Europe have increasingly converged in their assessment of the situation and their vision of the course Ukraine's Western partners should be taking. For the states geographically close to Russia, the priority is ensuring that Russia cannot attack another neighbour. This harder line, which demands a clear defeat for Russia, contradicts the more cautious German and French approach of not burning all bridges and starting to think – even now – about how to reconfigure relations with Russia after the war. The north-eastern member states regard the present moment, where war in Europe will likely continue for a long time, as an especially dangerous and strategically unwise moment to begin an institutional process of treaty amendments, as France and Germany propose. In their eyes such a process would bind massive resources and consume attention that is

urgently needed for supporting Ukraine and strengthening European security.

Back to the future

The European Union is facing yet another major test. The Conference on the Future of Europe was heavily overshadowed by external events and its ability to contribute to the debate on necessary reforms was limited. The legitimacy of the representative citizens' panels was not sufficient to achieve that, nor was the plenary able to bridge the opposing interests between and within the EU institutions. In particular the camps of states supporting and opposing treaty amendments hardly shifted in the course of the Conference. Nevertheless four conclusions that are central for the debate about reforming the EU can be drawn from the process and the final report:

Firstly, the recommendations prepared by the citizens' panels demonstrate the expectations that citizens place on the European Union. Namely that it should assume more responsibility, exhibit external unity, and use its strengths — its regulatory powers and economic policies — to advance the great transformation projects, the Green Deal and the digital agenda. These objectives should guide the decisive second half of the current legislative period and the EU's major undertakings. But almost all those objectives can be achieved without treaty amendments. So concentrating implementation of the Conference proposals exclusively on the question of treaty amendments would do justice neither to the EU's needs nor its citizens' wishes.

Secondly, 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. This should also be a task for ongoing development of the EU. One concrete lesson from the Conference is that the model of representative citizens' panels drawn from all the member

states can create a genuine European debate and supply valuable input. The EU should institutionalise this model for major initiatives, although naturally to supplement rather than substitute its regular legislative processes involving the European Parliament. For example specific European citizens' panels on Green Deal 2023/2024 initiatives would be conceivable. This should be discussed in conjunction with the proposals on democratising the European elections with the help of transnational lists — made by the citizens' panel on democracy — which currently enjoys a broad majority in the European Parliament for the first time.

Thirdly the attempt to leave the question of treaty amendments explicitly open (to neither include in or exclude it from the mandate of the Conference) has failed. But the Conference did give a partial answer to the question of what treaty amendments are up for discussion. And that answer is not as sweeping as in the major treaty revisions of the 1990s and 2000s — from Maastricht to Lisbon — but concentrates on the aspects of expanding majority voting and capacity to act, a limited expansion of EU powers and, from the perspective of the European Parliament, institutional reforms to strengthen the Parliament itself and the rule of law procedure. At least the first point can also be realised without treaty amendments via the passerelle clause, presupposing the necessary political will.

Fourthly, the tug-of-war over the EU's strategic direction has resumed. The north-eastern member states, which oppose treaty amendments, explicitly support swift EU membership for Ukraine and others for geopolitical reasons. Especially with eye to the geostrategic transformation of Europe, Germany, on the other hand, should press to make any new accessions conditional on treaty reforms and deeper integration, for example in the form of more qualified majority voting. Otherwise the EU risks losing its capacity to act coherently if its heterogeneity continues to grow as expected. Reconciling those two strands is the EU's reform task for the coming decade.

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