



Conference on the Future of Europe: Who is ready for a European Political Union?

EU INSTITUTIONS & POLICIES

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Summary

- The *Conference on the Future of Europe* aims to give Europeans a greater say in what the EU does and how it works for them. While listening to Europe's citizens is indeed very important, politicians in the member states as well as at the EU level should also become creatively active by taking a stand on its *scope*, its *procedure* and its *objectives*.
- As for the *scope* of a Conference on the Future of Europe, the member states, as "masters of the treaties", should take a clear stand, each for itself, on the question of whether ambitious new political priorities and projects for the Europe of tomorrow can actually be realised through the *old institutional vehicle*, or whether, rather, a *new, more integrated institutional structure*, such as a *European Political Union (EPU)*, would be more appropriate.
- As regards the *procedure* for such a Conference, the member states, which would be convinced of the need for Europe to equip itself with a new democratic, effective and solidarity-based institutional structure, would be well advised to follow, instead of the *revision procedure* provided for in Article 48 TEU, an *alternative procedure*, which would enable them to move forward without being dependent on the Member States hesitating to embark on this path.
- As for the *objectives* that a Conference on the Future of Europe should strive to achieve, it is argued that institutionally such a Conference should produce *strong political institutions* and *effective decision-making procedures*, and substantively provide an EPU with *substantial means of action* in a number of policy areas, including common foreign and defence policy.
- Which political forces in today's Europe are ready to speak out in favour of a democratic, efficient and solidarity-based EPU? European citizens, especially the younger generation, have the right to receive a clear answer to this question.

Introduction

To mark this year's Europe Day on 9 May 2021, a [Conference on the Future of Europe](#) was launched by the President of the European Parliament, the President of the European Council and the President of the European Commission. The Conference aims to give Europeans a greater say in what the EU does and how it works for them.

While listening to Europe's citizens is indeed very important, politicians in the member states as well as at the EU level should not simply hide behind the Conference and shirk their responsibilities. Rather, alongside the Conference, they should also become creatively active by taking a stand on its *scope*, its *procedure* and its *objectives*. On these three points, this paper proposes a series of thought-provoking ideas.

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What should a Conference on the Future of Europe be about?

What should a Conference on the Future of Europe focus on in the first place? What should be the *scope* of its work?

The Conference that was set up deals primarily with questions of *substantive European law*. The aim is thus to sound out the *political projects and priorities* that should be at the centre of political action in Europe in the coming decades. In contrast, little emphasis is placed on the question of whether the *Institutions* that are to fill these projects and priorities with life are not also in need of renewal.

There is no doubt that a Conference on the Future of Europe must necessarily and primarily define its future political projects and priorities in the form of an ambitious *catalogue of competences*, both in terms of the *range* and *nature* of those competences. Indeed, the political assertion of tomorrow's Europe, both internally and externally, may depend not only on the number but also on the nature (exclusive or not) of these competences.

However, in the absence of an *institutional structure* and *decision-making process* that guarantee the democratic participation of the peoples, the organisational efficiency of the EU and the solidarity between states and peoples, it is more than doubtful that even a very substantial increase in the competences attributed to Europe can, on its own, lead to concrete achievements that are easily perceived by the ordinary European citizen as having their origin in Europe.

Before the debate on the substantive issues even begins, the member states, as “*masters of the treaties*”, should therefore take a clear stand, each for itself, on the question of whether ambitious new political priorities and projects for the Europe of tomorrow can actually be realised through the *old institutional vehicle*, or whether, rather, a *new, more integrated institutional structure*, such as a *European Political Union (EPU)*, would be more appropriate for realising these priorities and projects in the 21st century.

As it is well known, the institutional structure and decision-making process of the current EU has developed in successive layers, with the adoption of a multitude of treaties amending the original treaties that established the three well-known European Communities (ECSC, EEC and Euratom) in the 1950s. The result today is an *institutional and decision-making structure that is antiquated, opaque and remote*, and difficult to access even for seasoned experts in Community and EU law.

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In these circumstances, it would be more than logical that, if not all Member States, at least most of them agree that, in order for the EU to realise new and ambitious political projects as a self-supporting political actor, it should evolve towards a new institutional structure, more integrated than the current EU, such as a *European Political Union (EPU)*. However, this latter path is accompanied, whether we like it or not, by a certain abandonment of sovereignty.

It is therefore more than predictable that the question of whether, in the current political and geopolitical circumstances, the establishment of a democratic, effective and mutually supportive EPU is appropriate and necessary will meet with insurmountable national resistance in one or other Member State and will ultimately divide the minds of the Member States. It even seems that this scenario is the most likely to happen!

Yet, as has just been explained, the establishment of a modern European Political Union, based on the premises of democracy, efficiency and solidarity, seems to be a prerequisite for the success of the whole project for a radiant future of Europe.

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What procedure should a Conference on the Future of Europe follow?

This being said, given such a fundamental divergence of positions, the EU Member States which would be convinced of the need for an EPU to actually come into being, what *procedure* should they then follow in a Conference on the Future of Europe in order to achieve its establishment? Should it be *the revision procedure* provided for in Article 48 TEU or *the classic procedure under international law* for drawing up an international treaty establishing an international organisation?

It is true that all previous developments in the constitutional structure of the EU were carried out under the procedure of Article 48 TEU. This procedure provides for a simple majority decision for the start of negotiations and, in principle, unanimity for the entry into force of an amending treaty. As a result, it favours a homogeneous progress of all Member States but, as far as the final result of the negotiation is concerned, it tends to make the lowest common denominator prevail.

On the one hand, however, the revision procedure of Article 48 TEU is designed, as its name suggests, simply to be used to push through revisions. Unlike past revisions of varying degrees of importance, in this case it would be a matter of establishing a *new political entity*, quite different in nature from that of the EU.

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On the other hand, in the case of a Conference on the Future of Europe, following the revision procedure provided for in Article 48 TEU in order to give life to an EPU would *severely hamper its chances of success*. Indeed, when it comes to launching negotiations, one of two things is possible. Either the Member States in favour of an EPU will be in the minority, in which case they would not even be able to bring about a launch of the negotiations they were advocating. Or, these Member States will be in the majority and would then be forced to negotiate with partners who are hostile to the project of establishing an EPU. Moreover, in the case of the entry into force of an amending treaty providing for the establishment of an EPU, making this entry into force dependent on ratification by all Member States allows a single reluctant Member State to hold hostage all the States wishing to see an EPU established and to scupper the whole project.

For all these reasons, and given the need for Europe to equip itself with a new

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democratic, effective and solidarity-based institutional vehicle, the Member States convinced of this need would be well advised to follow an *alternative procedure*, inspired moreover by public international law, which would enable them to move forward without being dependent on the member states hesitating to embark on this path. In contrast to the procedure provided for in Article 48 TEU, this alternative procedure (see for details: [here](#)) facilitates the realisation of major political projects that do not meet with unanimity, albeit at the cost of a lack of synchronised progress by all Member States. For the sake of completeness, it should be noted that this state of affairs is not entirely unknown in the current EU. This is demonstrated by the various '*enhanced cooperations*' that already exist within the EU.

What objectives should a Conference on the Future of Europe strive for, both institutionally and substantively?

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In this respect, it is clear that the results of the consultation of European citizens must be fully borne in mind. In addition, of course, much will depend on the specific political contexts that will prevail in the different member states at the time of the start of the possible negotiations, especially in France and Germany. Nevertheless, since, under the alternative procedure advocated in this contribution, only those member states convinced of the desirability and necessity of an EPU would be around the negotiating table, it is not unreasonable to hope that the results could live up to expectations.

In any case, at the *institutional level*, a treaty establishing an EPU should, first, establish a *democratic, transparent and efficient decision-making process*. This process should, at the very least, enshrine a much more direct legitimacy between the peoples of Europe and their European government than exists today. The ordinary European citizen should, when he or she goes to the European ballot box, feel that his or her vote could have a real impact not only on the composition of the European legislature but also on that of the European government. Second, the *system of allocating decision-making competences to the different institutions of the EPU* should take more account of the basic functional design of each institution than it does at present. Thus, to take just one example, the Council of the EU is basically conceived as an intergovernmental institution that is designed to safeguard, like the Senate in the United States of America or the Bundesrat in Germany, the national interests of the EU member states in the EU legislative process. Although politically understandable, it seems constitutionally strange that the Council, which was originally conceived to perform a legislative function, should be given executive functions over time (this happened in particular with the establishment of the CFSP and JHA pillars by the Maastricht Treaty), while the EU institution conceived precisely to perform executive functions, namely the European Commission, is left outright.

As for the *substantive level* then, the *endowment of the EPU with decision-making powers*, as well as the *determination of the nature of these powers* (exclusive or non-exclusive, and, in the latter case, whether or not they are likely to become exclusive powers over time) should be made by the founding treaty, while respecting the principle that any transfer of competence to the EPU should be beneficial to the interests of its member states. Indeed, one should not lose sight of the fact that one of the main reasons for the existence of an EPU is the recognition of the progressive marginalization of all EU member states on the international scene and their will to effectively counteract this development. It is, moreover, on the basis of considerations similar to those above that the EU has, in the past, been granted exclusive competence in the areas of common commercial policy or monetary policy. On the same basis, a

“...a Conference on the Future of Europe should: a) focus not only on substantive issues, but also on the establishment of a democratic, efficient and mutually supportive EPU [...]; b) operate according to a classic procedure of international public law [...]; c) achieve an EPU with strong political institutions and effective decision-making procedures as well as substantial means of action in a number of policy areas.”

Conference on the Future of Europe could now grant the EPU exclusive competence in the area of migration and asylum and non-exclusive (but likely, in certain circumstances, to become exclusive) competence in the areas of common foreign and security policy and European security and defence policy. Depending on the results of the above analysis, the list of competences attributed to the EU could be more or less extensive.

In a nutshell, a Conference on the Future of Europe should:

- focus not only on *substantive issues*, but also on the *establishment of a democratic, efficient and mutually supportive EPU* among the Member States and peoples of Europe who so wish;
- operate, to this end, not according to the *revision procedure of Article 48 TEU* but according to a *classic procedure of international public law* allowing those Member States which would be in favour of the establishment of an EPU to go ahead without being prevented by Member States unfavourable to this prospect;
- achieve an EPU with *strong political institutions* and *effective decision-making procedures* as well as *substantial means of action* in a number of policy areas, including common foreign and defence policies.

On the basis of the above thought-provoking ideas, it would be good if, in addition to the opinion of the European citizens on the future of Europe, the politicians of the individual Member States as well as at the EU level would also take a stand on the question of whether they would be prepared to commit themselves to the creation of a democratic, efficient and mutually supportive EPU.

71 years after Robert Schuman's groundbreaking declaration, which political forces in today's Europe are ready to speak out in favor of such an EPU? European citizens, even more so the younger generation, have the right to receive a clear answer to this question.