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The Conference on the Future of Europe and the Prospects for the European Union

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To my family

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Table of Abbreviations

Acronym	-	Extended Form
CFE	-	Convention on the Future of Europe
CFSP	-	Common Foreign Security Policy
CoFE	-	Conference on the Future of Europe
CoR	-	Committee of the Regions
ECSC	-	European Coal and Steel Community
EP	-	European Parliament
EU	-	European Union
EYE	-	European Youth Event
GDPR	-	General Data Protection Regulation
IAAs	-	Interinstitutional Agreements
IGC	-	Intergovernmental Conference
MDP	-	Multilingual Digital Platform
MEPs	-	Members of the European Parliament
MS	-	Member States
NGEU	-	Next Generation EU
QMV	-	Qualified Majority Voting
RoP	-	Rules of Procedure
SDGs	-	Sustainable Development Goals
VAT	-	Value Added Tax
WG	-	Working Group

1. Introduction

1.1. European Integration

When in 1950, on the 9th of May, the French foreign minister Robert Schuman made his famous declaration proposing the creation of the European Coal and Steel Community (ECSC), with his speech he kickstarted the process of European integration. This ongoing process has made constant steps forward in the last 72 years, transforming the European project from a framework of economic collaboration governed by an international organisation to a network of institutions that regulate crucial aspects of the life of millions of citizens all around Europe.

Of course, this was a gradual process. From the first Treaty, signed in Paris in 1951, the evolution of the European project was achieved through different Treaties and amendments to existing Treaties. In 72 years, 10 Treaties or amendments have been signed and ratified by the Member States. Even the MS have changed, starting from the 6 founding members to 27 today, reaching a peak between 2013 and Brexit when the Union counted 28 members.

Nowadays, the process of integration may seem to have stopped. The last important treaty amendment was achieved in 2007 when the Lisbon treaty was signed. Furthermore, since the entry into force of the treaty in 2009, the Union has traversed different challenges and crises that have seriously hindered the process of integration. The Euro crisis in 2009, the migrant crisis in 2015, and the Coronavirus pandemic have all seriously challenged the European Union and its power in different fields. In this timespan, national politics in many European countries have seen the rise of Euroscepticism, with nationalist and souverainist parties reaching positions of power in different countries, while openly blaming the Union for the economic distress and stagnation that followed the crisis. The migrant crisis dealt a second blow to the process of European integration, with some Member States openly refusing to cooperate, going as far as suspending the Schengen agreement.

However, the situation is not as dire as it may seem. Criticism of the European responses to the aforementioned crises does not consider the Union's successes. The covid-19 crisis is a prime example of the ability of the EU to act swiftly and decidedly in such situations. Throughout 2020 the Commission and the MS have worked to secure enough vaccines,

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distributing them evenly among the countries of the Union, ensuring a successful – albeit slow in the beginning – vaccination campaign. Furthermore, the Next Generation EU relief fund was created, and through the creation of common debt instruments, the Union was able to raise almost 800 billion Euros¹.

Once again, when the Russian invasion of Ukraine began on the 24th of February 2022, the MS of the European Union responded with the strictest sanctions ever imposed by the EU on a foreign nation and have gone as far as devolving 450 million Euros to buying and gifting weapons to the Ukrainian defence force, a never seen before decision on the part of the Union, the same that had happened with the creation of common debt instruments.

Nevertheless, even if some fundamental steps have been made towards a more independent and assertive Europe, the widespread feeling in European politics is that something must be done to furtherly integrate the Community. It has been almost 15 years since the last significant amendment of the Treaties, and the prospect of a review of the Union's constitutional order is beginning to enter the mainstream political discourse in Europe. Ideas for the creation of a Common European Defence have begun during the European Council held in Versailles on the 10th and 11th of March 2022. The Heads of Government and State, summoned by European Council President Charles Michel, have stressed in the Versailles Declaration² that the European Union needs to make quick steps forward in matters of Defence and Security. This was confirmed a few days later with the approval of the EU Strategic Compass³, which pledges – among other things – a contingent of five thousand soldiers to the development of the EU's Rapid Deployment Capabilities. These proposals are a testament to the fast pace at which European politics is developing. Another instance of radical change in EU politics can be found in the new German government coalition agreement⁴. The document features a section in which the parties state to be in favour of the development of the EU into a "European federal state"⁵, to be achieved via – amongst other ideas – "partly transnational lists in European elections", the extension of

¹ European Commission and Directorate General for Budget, 'The EU's 2021-2027 Long-Term Budget and NextGenerationEU: Facts and Figures', 2021.

² European Council, 'Versailles Declaration', 11 March 2022.

³ European Union, 'A Strategic Compass for Security and Defence', 2022.

⁴ Sozialdemokratischen Partei Deutschlands (SPD), Die Grünen, and Den Freien Demokraten (FDP), 'MEHR Fortschritt Wagen, Bündnis Für Freiheit, Gerechtigkeit Und Nachhaltigkeit - Koalitionsvertrag 2021 - 2025', 2021.

⁵ Fondation Robert Schuman, 'The "Traffic Light" Coalition Contract Explained', 2021.

Qualified Majority Voting (QMV) in the European Council, the abolition of Unanimity in the Common Foreign Security Policy (CFSP), as well as the creation of an EU Foreign Ministry.

These are all radical ideas that would substantially reinvigorate the process of European integration. The widespread belief that this process needs to be restarted as soon as possible is progressively becoming present in most EU countries, thanks in no small part to the different crises the EU has endured in the recent past.

1.2. The Democratic Deficit of the European Union

As it was said, the feeling in Brussels is that there is a need to kickstart integration once again. This problem has become fundamental not only because of the extremely challenging crises the EU faced in the recent past, but also to tackle its underlying problems and shortcomings.

First amongst these criticalities is the question of the so-called “democratic deficit” of the EU⁶. One of the biggest criticisms that are often made of the Union is its lack of democratic legitimacy. According to this reading, the solution to this problem is to be found in the power balance between the three main institutions of the European Union⁷: The Council of Ministers, the European Parliament (EP), and the European Commission. Of course, to diminish the deficit measures should be taken to strengthen the position of the institution seen as more democratic, namely the Parliament. In this sense, in a speech to the plenary of the EP at the beginning of the French presidency of the Council⁸, French President Emmanuel Macron pledged to push forward in the agenda of the EU the institution of the right of legislative initiative for the members of the European Parliament (MEPs). Measures such as the one that was just mentioned are, indeed, what is needed to make the EU more democratic in the eyes of its citizens.

However, it is not only through such initiatives that this result must be achieved. Citizens must be put at the centre of the European project, and they must be involved in the decision

⁶ The term “democratic deficit” is believed to have been used for the first time in the Jeunesse Européenne Fédéraliste (JEF) Manifesto in 1977. ‘The First Use of the Term “Democratic Deficit”’, *Federal Union*.

⁷ Kevin Featherstone, ‘Jean Monnet and the “Democratic Deficit” in the European Union’, *JCMS: Journal of Common Market Studies* 32, no. 2 (1994): 149–70.

⁸ ‘French President Emmanuel Macron’s Speech at the European Parliament - Strasbourg, 19 January 2022 - French Presidency of the Council of the European Union 2022’.

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making as much as possible, especially if the core policies of the Union and its constitutional order are in question.

This issue is well known to the institutions of the Union. In fact, it has mechanisms in place to make sure that individuals can interact with the institutions to defend their rights and to make their voice heard. In this sense, EU institutions have promoted, throughout the last two decades, the institution of mechanisms to engage with European citizens.

Ever since the *Van Gend en Loos*⁹ judgement, in which the court determined the existence of individual rights under the EEC legal framework, citizens are able – in specific cases – to bring cases against the institutions or private entities if they feel that their rights have been violated. Furthermore, any European citizen has the right to petition the European Parliament¹⁰ to bring issues to the attention of the EP.

Nevertheless, these mechanisms are not sufficient to bring the Union closer to its citizens, therefore, the institutions have decided to promote an initiative to make this possible, the Conference on the Future of Europe (CoFE). This initiative is an extremely progressive form of bottom-up democratic exercise. It “evokes experiments of participatory constitutional changes which have been recently explored in some EU Member States, such as in Ireland and France”¹¹. In Ireland, a Citizens’ Assembly composed of 99 randomly selected citizens was instituted to discuss important matters including the constitutional prohibition of abortion¹². This assembly, chaired by a judge of the Constitutional Court of Ireland, suggested substituting article 18 of the Irish Constitution, which banned abortion in almost all circumstances. This was later the subject of a referendum in 2018, which resulted in the legalization of the right to abortion¹³. In France, an effort to strengthen the protection of the environment in the Constitution was launched in 2019 with the help of an assembly constituted of 150 randomly selected citizens¹⁴, however, the constitutional revision process was later abandoned by the French government.

⁹ Case C-26/62 *NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administratio*, No. C-26/62 (European Court of Justice 5 February 1963).

¹⁰ Art. 20, 24, 227 TFEU; Art. 44 Charter of Fundamental Rights of the European Union.

¹¹ Federico Fabbrini, ‘The Conference on the Future of Europe: Process and Prospects’, *European Law Journal* 26, no. 5–6 (2020): 401–14.

¹² Houses of the Oireachtas, ‘Citizens’ Assembly: Motion – Dáil Éireann (32nd Dáil) – Wednesday, 13 Jul 2016, Ireland.

¹³ See David M. Farrel and Jane Suiter, *Reimagining Democracy* (Cornell University Press, 2019),.

¹⁴ See ‘Site officiel de la Convention Citoyenne pour le Climat’, Convention Citoyenne pour le Climat.

The Conference on the Future of Europe took inspiration also from another initiative at the European level, the Convention on the Future of Europe (CFE). Starting its work in 2002 and ending in 2003 it was an effort, on the part of the European Union, to draft a Constitutional Treaty to be discussed and approved at a later intergovernmental conference (IGC)¹⁵. Indeed, the conference led by Valéry Giscard d'Estaing proposed a draft constitution that would be adopted by the MS the next year in Rome. However, following two failed referendums in France¹⁶ and The Netherlands¹⁷ in 2005 on the ratification of the Constitutional Treaty, the project of constitutional renewal was abandoned until, two years later, the treaty of Lisbon was approved and ratified by the Member States. In it, European Member States abandoned the emphasis on the creation of a European Constitution, reverting to conventional treaty-making, whilst maintaining much of the content of the Treaty Establishing a European Constitution.

1.3. The Origins of Today's Conference

On March 4th, 2019, just before the last election of the European Parliament, French President Emmanuel Macron published a letter¹⁸ titled *Pour une Renaissance Européenne* (For European Renewal). In this letter he directly addressed the European people, calling for ways in which Europe could be reformed. The letter contains three main fields in which action is needed according to the French President: freedom, protection, and progress. The last proposal that the letter contains is a call for the organization of a 'Conference for Europe' where proposals for the changes in the European political project could be made in collaboration with European citizens.

After the election, the idea of a 'Conference on the Future of Europe' was embraced by candidate President of the European Commission Ursula von der Leyen. In her political guidelines¹⁹, she declared to be 'open to treaty change' and how she believed that civil

¹⁵ European Council, 'Laeken Declaration', 15 December 2001.

¹⁶ Ministère de l'Intérieur, 'Référendum du 29 mai 2005'.

¹⁷ 'Kiesraad - Verkiezingsuitslagen'.

¹⁸ Emmanuel Macron, 'For European Renewal', 4 March 2019.

¹⁹ Ursula von der Leyen, 'A Union That Strives for More, Political Guidelines for the Next European Commission 2019-2024', 2019.

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society, young people, and European institutions would have to be equal partners in this Conference.

In the following months, many Member States and institutions supported the idea of the Conference on the Future of Europe. The beginning of the event was scheduled for March 9th, 2020; however, because of the explosion of the Coronavirus pandemic that same year, the beginning of the Conference was postponed to 2021.

On the 10th of March 2021 the Presidents of the European Council, Commission, and Parliament signed the Joint Declaration on the Conference on the Future of Europe²⁰, marking the spiritual beginning of the Conference. In it, the European institutions outlined the basic principles and aims of this experiment. However, this document was the result of intense negotiation between the three branches of the EU, leaving it incomplete and scarred by underlying ambiguities about the scope of the Conference²¹, however this will be the topic of a following section²². In the end, the Conference officially began in May 2021, and came to the end of its work in the same month of 2022, when, on Europe day, the Conference Plenary gave the Presidents of the three institutions the final report of the Conference, containing 49 proposals for the future of the EU spread across nine different topics.

1.4. Structure of the Dissertation

To answer the question of the likelihood of the Conference having a real impact on the European Union, the research is going to start with the analysis of one other similar process in the history of European integration, the Convention on the Future of Europe. Taking the Convention as a starting point will be useful in trying to assess the prospects of the current Conference. Therefore, the next chapter of the dissertation will be dedicated to the analysis of the Convention, starting from its roots, and ending with its achievements or lack thereof.

After the analysis of the Convention the dissertation will turn its attention towards the Conference. Chapter 3 will be dedicated to the study of the Conference. It will begin with the discussion of two documents, the open letter by French President Emmanuel Macron²³ and

²⁰ European Commission, European Council, and European Parliament, 'Joint Declaration on the Conference on the Future of Europe', 10 March 2021.

²¹ Fabbrini, 'The Conference on the Future of Europe'.

²² See section 3.1.2. "The Joint Declaration".

²³ See footnote 18.

the Joint Declaration on the Conference on the Future of Europe²⁴, signed on March 10th, 2021. Subsequently, the chapter will discuss the structures and processes of the CoFE. Starting from working documents of the Conference²⁵, as well as the Report on the Final Outcome²⁶, the timeline of its work and its bodies will be analysed. The final section of chapter 3 will consist of a comparison between the Conference and the Convention, highlighting differences and similarities between the two events in the context that surrounded them, as well as their mandate and their composition.

Finally, in chapter 4, the research is going to end with a summary of the proposals of the Conference Plenary. After a brief analysis of the 49 recommendations, the dissertation will focus on their possible effects on the European Union. In order to do so the legal nature of the Conference will be inquired and, after that the political obligations of the three institutions will be put under exam. After that, the chapter will end with the analysis of the likelihood of the effect Conference proposals may have on the EU institutional layout.

²⁴ See footnote 20.

²⁵ 'Rules of Procedure of the Conference on the Future Of Europe', 2021; Executive Board, 'European Citizens' Panels Guide', 2021.

²⁶ Executive Board, 'Report on the Final Outcome', May 2022.

2. The Convention on the Future of Europe

This chapter will be devoted to the study of the Convention on the Future of Europe. This endeavour of the European institutions was ideated to try and democratise the process of European Integration and Treaty amendment. In this sense, the CFE “comes closer to the ideal of deliberative democracy than an IGC”²⁷. This is a factor that should not be underestimated when studying democratic legitimacy in the European Union. This is the case for the current Conference on the Future of Europe as well; both events are an effort to render the people of Europe more central in the decision-making process of the EU, even at the highest level.

Therefore, analysing the spirit, form, and scope of an initiative that resembles the one that has just finished is paramount to be able to try and predict the possible outcomes of the CoFE. This chapter will begin with the analysis of the document from which the Convention originated, the Laeken Declaration²⁸, and end with the results achieved by the Convention, namely the draft Constitutional Treaty.

2.1. The Laeken Declaration on the future of the European Union

On the 15th of December 2001, the European Council met in Laeken, Belgium, and issued a declaration²⁹ with the main purpose of defining the scope of the Convention on the Future of Europe.

2.1.1. The Contents of the Declaration

This document begins with a lengthy description of the Union’s successes and the challenges it faced at the time, particularly focusing on the democratic challenges – such as indicating the need for the Union to be closer to its people – and citizens’ expectations.

²⁷ Erick Oddvar Eriksen, John Erik Fossum, and Augustin Jose Menéndez, *Developing a Constitution for Europe*, First (Routledge, 2004); as cited in Christine Reh, ‘The Convention on the Future of Europe and the Development of Integration Theory: a Lasting Imprint?’, *Journal of European Public Policy* 15, no. 5 (August 2008): 781–94.

²⁸ European Council, ‘Laeken Declaration’.

²⁹ Ibid.

Focus is also given to the institutional layout of the organisation, in its second section the document points to different defining questions of the time: the need for a better division and definition of competences, the need for the simplification of EU's instruments, and that of more democracy, transparency and efficiency in the Union. Furthermore, in this portion of the declaration a paragraph titled "Towards a Constitution for European citizens"³⁰ stands out. This could be considered the most important section of the whole document. Stating the need for simplification of EU primary law – in 2001 four different Treaties were in force in the European Union – the idea of a single fundamental text is introduced, defining it as a "constitutional text"³¹. This signals a shift of paramount importance in the discourse around European integration. Although the Constitutional Treaty failed in 2005 after popular referenda in France and the Netherlands, the possibility of the adoption of a European Constitution was at the time, at least semantically, a crucial step towards greater integration of the European Union.

Finally, the third and last section of the declaration is titled "Convening of a Convention on the future of Europe"³². In it, the scope, composition and working methods of the convention are defined. The European Council appointed former French President Valéry Giscard d'Estaing as Chairman of the Convention and former Prime Ministers of Italy and Belgium Giuliano Amato and Jean-Luc Dehaene as Vice-Chairmen³³.

Additionally, the CFE was to be composed of 15 representatives of the Heads of State or Government, 16 members of the European Parliament, 30 members from national Parliaments (2 per MS) and two Commission representatives³⁴. Furtherly, the candidate countries would be able to take part in the convention with the same modalities as the MS without, however, "being able to prevent any consensus that may emerge among the Member States"³⁵. The convention would be governed by the Praesidium, composed of the Presidency as well as nine members from the Convention, assisted by a Secretariat. Additionally, other institutions of the EU like the Economic and Social Committee were invited as observers³⁶.

³⁰ 'Laeken Declaration'. Page 5.

³¹ 'Laeken Declaration'. Para. 29.

³² 'Laeken Declaration'. Page 6.

³³ 'Laeken Declaration'. Para. 31.

³⁴ 'Laeken Declaration'. Para. 32.

³⁵ Ibid.

³⁶ 'Laeken Declaration'. Para. 35.

The declaration set the duration of the Convention at one year starting on the 1st of March 2002³⁷. At the end of this timeframe, the Chairman of the Convention was to present the outcome to the European Council.

Finally, the institution of a “Forum” was envisaged for the participation of organisations representing civil society, whose contributions were to serve as input to the debate³⁸. In this sense, the Praesidium could also institute ways to consult directly with the organisations present in the Forum.

2.1.2. The Importance of the Laeken Declaration

The Laeken declaration is, all in all, a fundamental document to understand the spirit of the Convention. First and foremost, the most central element in the declaration is the need for reforms to be made in the constitutional order of the Union. Certainly, the tone of the document is extremely optimistic and progressive in the context of European Integration. A spirit that, however, would be quashed by the failure of the Constitutional treaty in 2005.

Secondly, the centrality of the European citizens and their expectations are put in a position of absolute importance by the declaration. In the eyes of the Council, the Convention had to take it upon itself to satisfy and realise the needs and desires of the European people. The document, in this section³⁹, talks about the expectations of citizens for a Union that is more central on the global stage, promoting Human Rights, combating cross-border criminal activities, and the control of migration flows together with the reception of asylum seekers and refugees. These topics, together with the call for a common plan to combat environmental pollution and the augmented involvement of the EU in defence and security, are all remarkably actual, being still valid today, more than 20 years later.

In the end, this document is extremely important because of its ability to convey the spirit of the EU at the time. It should be noted that the declaration was drafted by the European Council, famously the most conservative out of the European Institutions because of its intergovernmental character. This optimistic approach was, at least in part, due to the wave of successful reforms that were achieved in the previous decade. The adoption of the Euro as the single currency of a significant portion of MS, as well as the adoption of the

³⁷ ‘Laeken Declaration’. Para. 36.

³⁸ ‘Laeken Declaration’. Para. 43.

³⁹ ‘Laeken Declaration’. Page 3.

treaties of Maastricht, Amsterdam, and Nice, gave the Union reasons to look optimistically at the reforms that were to come.

When compared to the equivalent document regarding the Conference on the Future of Europe, the Joint Declaration⁴⁰, the character of the Laeken Declaration is, as it was said, markedly more optimistic. This comparison will be significantly expanded in a following chapter. However, as was indicated in the introduction⁴¹, the Joint Declaration is the result of a compromise between the three institutions that co-signed the document⁴². This is not the case for the Laeken declaration. The focus is, albeit still cautiously, pointed more heavily to the reform of the EU constitutional order when compared to the Joint Declaration of 2021.

2.2. The Results of the Convention on the Future of Europe

The Convention ended in the summer of 2003. On the 18th of July of that year, the final draft of the Constitutional Treaty⁴³ was submitted by the Secretariat of the Convention to the Presidency of the European Council, at the time held by Italy. Along with the Treaty, a report⁴⁴ regarding the work of the Convention and the results it achieved was submitted. Finally, the President of the Convention, Valéry Giscard d'Estaing, published the so-called 'Rome Declaration'⁴⁵ in which he called for the treaty to be signed, unmodified, in Rome on the 9th of May of the following year, 2004.

The 18th of July 2003 marked the end of the Convention on the Future of Europe, and the beginning of the preparatory works for the IGC that would take place to finally assess, and eventually sign, the European Constitution.

Although we now know that the constitutional effort would prove unsuccessful, eventually giving rise to another, more moderate, reform of the EU Treaties⁴⁶, the Convention must be recognised for the work leading to the IGC. Indeed, the assembly was able to form

⁴⁰ European Commission, European Council, and European Parliament, 'Joint Declaration on the Conference on the Future of Europe'.

⁴¹ See section 1.3. "The Origins of Today's Conference".

⁴² Fabbrini, 'The Conference on the Future of Europe'.

⁴³ European Convention, 'Draft Treaty Establishing a Constitution for Europe', 18 July 2003.

⁴⁴ Valéry Giscard d'Estaing, 'Report from the Presidency of the Convention to the President of the European Council', 18 July 2003.

⁴⁵ Valéry Giscard d'Estaing, 'Rome Declaration', 18 July 2003.

⁴⁶ Reh, 'The Convention on the Future of Europe and the Development of Integration Theory'. Page 790

consensus – albeit not with unanimous support⁴⁷ – around the proposed Constitutional Treaty.

The draft contained very progressive provisions. The incorporation of the Charter of Fundamental Rights⁴⁸ in the European Constitution, the creation of the ‘Union Minister for Foreign Affairs’⁴⁹, and the creation of the European Common Defence in Art. 40⁵⁰, reliant on the creation of the ‘European Armaments, Research and Military Capabilities Agency’⁵¹. These are all provisions that point to the degree of integration the Convention was aiming to reach.

Undoubtedly, some members of the Convention had some reservations about the results reached, as well as on its *modus operandi*. This is the case for the signatories of the alternative report ‘The Europe of Democracies’⁵². Representatives from four national parliaments – namely Denmark, Ireland, the United Kingdom, and the Czech Republic – together with 3 MEPs, drafted this document to accompany the main report of the Presidency of the Convention. In it, they lament a general disrespect of the Laeken mandate, specifically in the failure to address specific needs such as bringing the Union closer to the citizens, the transparency of the institutions and the division of the competences, the bureaucratic behaviour of the EU, and the exclusion of national parliaments from Union processes. They go as far as questioning the legitimacy of the choice of drafting a constitutional text. Indeed, the Laeken Declaration does not directly call for a constitution⁵³, and the MPs point out how the Convention failed to consider neither possible alternatives nor the consequences of such a choice⁵⁴.

In conclusion, the Convention was a remarkable exercise in the effort to furtherly integrate the Union. Its character bears some resemblance to a constitutional assembly, given the presence of elected MPs and MEPs, as well as to an IGC, due to the presence of representatives from national governments. In the end, the task of completing the work of

⁴⁷ Giscard d’Estaing, ‘CONV 851/03’, para. 14.

⁴⁸ European Convention, ‘Draft Constitutional Treaty’, Title II, art. 7.

⁴⁹ European Convention, ‘Draft Constitutional Treaty’, art. 27.

⁵⁰ European Convention, ‘Draft Constitutional Treaty’, art. 40.

⁵¹ European Convention, ‘Draft Constitutional Treaty’, art. III-212.

⁵² ‘CONV 851/03’, Annex III.

⁵³ ‘Laeken Declaration’.

⁵⁴ ‘CONV 851/03’, Annex III.

the Convention was left, as it was said, to the IGC that approved the treaty, before its eventual failure in France⁵⁵ and the Netherlands⁵⁶.

⁵⁵ See footnote 16

⁵⁶ See footnote 17

3. The Conference on the Future of Europe

The CoFE officially started on the 9th of May 2021, ending the same day the following year. During its course citizens from all over Europe had the possibility of submitting recommendations for the future of the Union regarding any topic of their choice. For this purpose, a Multilingual Digital Platform (MDP)⁵⁷ was set up to collect citizen's proposals. According to the website of the Conference⁵⁸ more than 50 thousand users registered in the platform with 5 million individual visitors to the MDP⁵⁹, sharing more than 18 thousand ideas⁶⁰. Additionally, more than 700 000 individuals took part in events regarding the CoFE and the drafting of proposals which were subdivided in different topics⁶¹:

- Climate change and environment.
- Health.
- A stronger economy, social justice and jobs.
- EU in the world.
- Values and rights, rule of law, security.
- Digital transformation.
- European democracy.
- Migration.
- Education, culture, youth and sport.
- Other ideas.

This list is provided on the website of the Conference and follows the guidelines set up in the Joint Declaration on the Conference on the Future of Europe⁶².

In this chapter, the Conference will be analysed and studied, starting from its origins to its results, passing through the analysis of its rules and structures. The first section will study the Joint Declaration as well as the letter of French President Emmanuel Macron. Following

⁵⁷ European Commission. Directorate General for Communication., *The Future Is in Your Hands: Conference on the Future of Europe: Introducing the Multilingual Digital Platform for the Conference on the Future of Europe*. (LU: Publications Office, 2021).

⁵⁸ 'Conference on the Future of Europe', <https://futureu.europa.eu/?locale=en>.

⁵⁹ Conference on the Future of Europe, 'Report on the Final Outcome', May 2022.

⁶⁰ The term "ideas" does not coincide with single contribution made to the platform. It takes into consideration the content of the contribution made by users on the platform, not counting recommendations that are similar in nature and contents.

⁶¹ 'Conference on the Future of Europe', <https://futureu.europa.eu/?locale=en>.

⁶² European Commission, European Council, and European Parliament, 'Joint Declaration on the Conference on the Future of Europe'. Page 4.

that, the structures and processes of the Conference, particularly focusing on the decision-making process of the CoFE, will be the subject of further investigation. Finally, the chapter will end with a brief comparison between the Conference and the Convention on the Future of Europe.

3.1. How did it begin?

In the introduction of this dissertation the origins of the Conference on the Future of Europe were already briefly discussed⁶³. Starting from the letter titled 'For European Renewal'⁶⁴, and ending with the Joint Declaration of 2021⁶⁵. Indeed, these are the two most important documents when trying to understand the origins of this project. Although the momentum of this endeavour was briefly interrupted by the Coronavirus pandemic, forcing the Union to postpone the beginning of the CoFE to 2021 and halving its intended duration⁶⁶, the documents still hold great significance for anyone that wishes to understand the political motivation behind the Conference as a political exercise of bottom-up democracy.

3.1.1. Pour une Renaissance Européenne

On the 4th of March 2019 French President Emmanuel Macron published an open letter to all European citizens titled 'For European Renewal'. This letter is an effort by President Macron to reignite the integration process in the European Union after the rise of nationalist and Eurosceptic parties, responsible, amongst other things, of Brexit.

The letter begins precisely by addressing the topic of Britain leaving the European Union. In the President's opinion Brexit "symbolises the crisis of Europe, which has failed to respond to its peoples' needs for protection from the major shocks of the modern world"⁶⁷. The letter continues to list the challenges that the EU is faced with, culminating in the proposal of European renewal built on freedom, protection and progress.

⁶³ See section 1.3. "The Origins of Today's Conference".

⁶⁴ Macron, 'For European Renewal'.

⁶⁵ European Commission, European Council, and European Parliament, 'Joint Declaration on the Conference on the Future of Europe'.

⁶⁶ von der Leyen, 'A Union That Strives for More, Political Guidelines for the Next European Commission 2019-2024'. Page 19.

⁶⁷ Macron, 'For European Renewal', Para. 3.

In the opinion of President Macron neither abandoning the European project, nor leaving it as it is, constitute viable options. He writes that “the nationalists are misguided when they claim to defend our identity by withdrawing from Europe, because it is the European civilisation that unites, frees and protects us. But those who would change nothing are also misguided, because they deny the fears felt by our peoples, the doubts that undermine our democracies”⁶⁸. Progress and reform, then, are the only option for the survival of the Union.

Therefore, to ensure that this progress is achieved by the EU in line with the desires of its citizens, the French President proposes a “Conference for Europe in order to propose all the changes our political project needs, with an open mind, even to amending the treaties”⁶⁹. This conference would have to consult citizen’s panels, academics, business and labour representatives, and religious and spiritual leaders⁷⁰. In the end, according to the President “is it better to have a static Europe or a Europe that advances, sometimes at different paces, and that is open to all?”⁷¹.

This letter perfectly embodies the foundational spirit of the CoFE. In it the need for renewal and reform is expressed with conviction, in line with the spirit that has guided the process of European integration since its beginning. Indeed, nationalism is a menace for the European Union and its institutions and, from the point of view of the French President, no European nation would be able to call itself properly sovereign outside of the Union⁷². No response other than a reform of the European institutions and of their goals could, therefore, be able to protect Europe itself and the Member States.

This call to action would, a few months later be embraced by the European Commission and the European Parliament, setting in motion the plan for the organisation of what would become the Conference on the Future of Europe.

3.1.2. The Joint Declaration

After the publication of the letter of the French President, the candidate President of the European Commission published her guidelines. In the document she dedicated the last

⁶⁸ Macron, ‘For European Renewal’, Para. 5.

⁶⁹ Macron, ‘For European Renewal’, Para. 14.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Macron, ‘For European Renewal’, Para. 4.

chapter to “A new push for European democracy”⁷³. The second paragraph, titled “A greater say for Europeans”⁷⁴ contains her proposal for the organization of the Conference on the Future of Europe. The CoFE as described in the guidelines would last for two years, from 2020 to 2022 (although it was later shortened to one year as a consequence of the Coronavirus pandemic), and would have a clear scope and objectives, agreed between the main institutions of the EU. She concludes the section of the guidelines regarding the Conference saying that she is “ready to follow up on what is agreed, including by legislative action”, furthermore, she also pledges to be “open to Treaty change”⁷⁵.

Indeed, as the then candidate President of the Commission proposed, the institutions would eventually agree on a framework for the Conference on the Future of Europe. This plan is contained in the Joint Declaration⁷⁶, signed on the 10th of March 2021.

This document is, in many respects but particularly in its structure, similar to the Laeken Declaration. It begins listing the successes of the Union and the challenges it now faces, particularly focusing on the Coronavirus pandemic, as well as the green and digital transitions⁷⁷. It then focuses on the increase in turnout at the 2019 European elections, stating that it reflects the “growing interest of European citizens in playing a more active role in deciding the future of the Union and its policies”⁷⁸. This is exactly what the CoFE aims to do, giving the citizens of Europe a more central role in setting the agenda of the EU.

The Presidents of the European Parliament, Commission and of the Council commit themselves, as equal partners, to “listen to Europeans and follow up on the recommendations made by the Conference, in full respect of our competences and the subsidiarity and proportionality principles enshrined in the European Treaties”⁷⁹. This passage defines the main difference between this document and the Laeken Declaration, depending on the interpretation that is given to these words. On the one hand, a stricter interpretation of the fact that the institutions are committed to follow up recommendations in accordance with the principles contained in the Treaties, could exclude Treaty amendments from the scope of

⁷³ von der Leyen, ‘A Union That Strives for More, Political Guidelines for the Next European Commission 2019-2024’. Page 19.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ European Commission, European Council, and European Parliament, ‘Joint Declaration on the Conference on the Future of Europe’.

⁷⁷ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 2-3.

⁷⁸ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 4.

⁷⁹ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 6.

the conference. On the other, a less strict interpretation suggests that everything is on the table, as long as the principles of subsidiarity and proportionality, as well as the competences of the three institutions, are not undermined.

Nevertheless, the phrasing of this sentence is a manifestation of the compromised nature of this document⁸⁰, particularly in light of the different positions of MS towards the possibility of amending the treaties as a consequence of recommendations originating in the CoFE. It was already pointed out how both the French President⁸¹ and the President of the Commission⁸² seemed to be in favour of the possibility of Treaty amendments originating in the Conference, but the ambiguity of the Joint declaration suggests that not all parties were in favour of giving such a wide scope to the CoFE while redacting the Declaration.

The document then goes on to explain how the Conference would work. It defines the CoFE as a “citizens-focused, bottom-up exercise”⁸³ with individuals taking part in events, from the regional level to the European one, and contributing to the debate through an interactive multilingual digital platform⁸⁴. The institutions also commit themselves to organise European Citizens’ Panels – demographically representative of the population of the Union – with the task of examining contributions to formulate a set of recommendations for the Union to follow up on⁸⁵. National Citizens’ Panels could also be organised by single MS⁸⁶.

As it was said, according to the document, contributions to the CoFE would be made on the MDP and, a feedback mechanism would be tasked with ensuring that the ideas expressed online and during in person events could “result in concrete recommendations for EU action”⁸⁷.

The following paragraphs explain, albeit vaguely, the governance structure of the Conference. It will be “placed under the authority of the three institutions, represented by the President of the European Parliament, the President of the Council and the President of the European Commission, acting as its Joint Presidency”⁸⁸. An Executive Board, composed of an equal representation of the three institutions – with three members each – with the task

⁸⁰ Fabbrini, ‘The Conference on the Future of Europe’. Page 2.

⁸¹ See footnote 69.

⁸² See footnote 75

⁸³ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 11.

⁸⁴ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 11-12.

⁸⁵ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 14-15.

⁸⁶ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 16.

⁸⁷ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 19.

⁸⁸ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 20.

of taking executive decisions about the conference by consensus⁸⁹. To assist the Board in its work a Common Secretariat would also be created, although no specification other than “limited size and equal representation of the three institutions”⁹⁰ are given about its composition.

To debate the recommendations originated in the CoFE a Conference Plenary would be created, to be composed by “representatives from the European Parliament, the Council and the European Commission, as well as representatives from all national Parliaments, on an equal footing and citizens”⁹¹. The Plenary would have the goal of debate recommendations “without a predetermined outcome and without limiting the scope to pre-defined polity areas”⁹². In the context of the works of the Plenary the High Representative of the Union would have to be associated when debating the international role of the EU.

Furthermore, the Declaration states that “the final outcome of the Conference will be presented in a report to the Joint Presidency. The three institutions will examine swiftly how to follow up effectively to this report, each within their own sphere of competences and in accordance with the Treaties”⁹³. This is possibly the most important passage of the whole document. If previously⁹⁴ it was stated that the scope of the conference, regarding the possibility of amending the treaties, was unclear, this simple phrase leaves much less room for doubts. Indeed, the institutions do not appear to be willing to discuss the possibility of amending the Treaties following the suggestions received by the CoFE, an opposite position to the one expressed by both the French President Emmanuel Macron and the then candidate President of the Commission Ursula von der Leyen.

Finally, the Joint Declaration discusses two other topics, the topics of the conference and its values. Firstly, regarding the topics a provisional list is provided⁹⁵. However, citizens are still free to raise additional issues of their interest⁹⁶. In this section the document also states that “the scope of the Conference should reflect the areas where the European Union has the competence to act or where the European Union action would have been to the

⁸⁹ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 22-23.

⁹⁰ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 24.

⁹¹ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 25.

⁹² Ibid.

⁹³ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 26.

⁹⁴ See footnote 79.

⁹⁵ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 29.

⁹⁶ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 31.

benefit of European citizens”⁹⁷. Secondly, the values of the CoFE are those of the EU, particularly those of inclusiveness, openness and transparency.

In conclusion, as it was briefly explained, the Joint declaration presents several ambiguities. However, those ambiguities are due to the unprecedented nature of the Conference and the difficult web of competences that sits between the EU and the MS. Particularly, the aforementioned ambiguities regard the possibility for the CoFE to suggest amendments to the Treaties and, more importantly, the obligation for the institutions to follow up on those suggestions. There is, however, one main criticality with this procedure. As the Declaration states repeatedly, the institutions will follow up on the recommendations within their competences. The Treaty revision procedure of the EU⁹⁸ is markedly intergovernmental in character, therefore making it impossible for the three institutions to independently amend the Treaties. Although the Parliament or the Commission may propose amendments it is a responsibility of the European Council and, eventually, of a Convention of government and national Parliaments’ representatives to decide on Treaty amendment procedures. The nature of the EU itself forbids the CoFE from having control over the future of the Treaties, giving the power of choosing whether to act or not on the recommendations to the MS.

3.2. Structure and Processes of the Conference

The Conference on the Future of Europe was somewhat complex in its mechanisms. In this section of the dissertation its parts and their relationship are going to be thoroughly analysed. Starting from the timeline of its activities, the citizens’ panels, the multilingual digital platform, and the Conference Plenary are all going to be studied. How did this initiative, created to allow every citizen of the Union to take part, manage to produce a single, all encompassing, document?

⁹⁷ ‘Joint Declaration on the Conference on the Future of Europe’. Para. 30.

⁹⁸ ‘Article 48 TEU’

3.2.1. The Timeline of the Conference

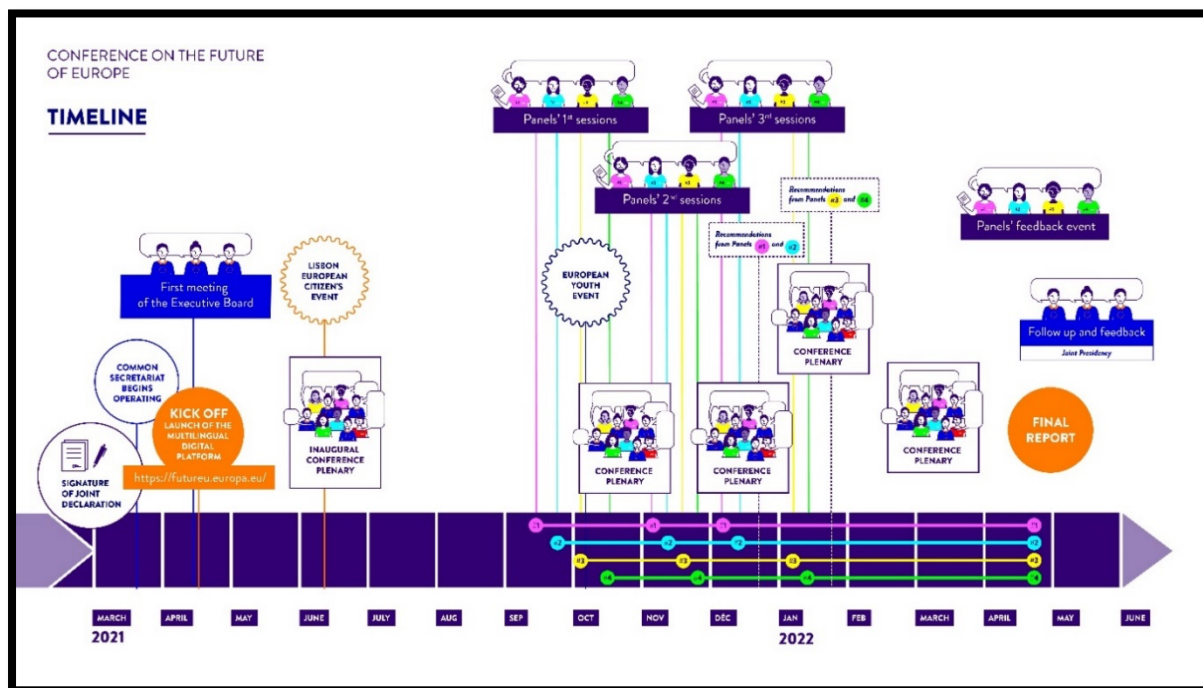


Figure 1 – CoFE Timeline – <https://futureu.europa.eu/pages/information-material>

The Conference, as it was said, began on Europe day in 2021, and ended one year later, with a final ceremony held in Strasbourg, where representatives of the citizens’ panels presented the final report⁹⁹ containing the 49 recommendations of the CoFE to the Presidents of the three institutions, Ursula von der Leyen for the Commission, Roberta Metsola for the Parliament, and French President Emmanuel Macron for the Council.

Throughout its year-long activity the Conference was a cauldron of activity, with citizens’ panels and the conference plenary meeting on several occasions. On the background of these meetings in Strasbourg and Brussels, all around Europe as well as on the internet, citizens were also making recommendations either alone or in group and submitting them to the MDP.

As depicted in Figure 1, the timeline of the Conference was, especially in its second half, decidedly full of action and activities. That is because the conference began with the focus on collecting recommendations from the MDP, so that the citizens’ panels would have material to discuss and debate. However, the way in which the gargantuan number of single recommendations was reduced to a single report is the true feat of the CoFE.

⁹⁹ Conference on the Future of Europe, ‘Consolidated List of Draft Proposals’, 9 May 2022.

3.2.2. The Decision-making Process

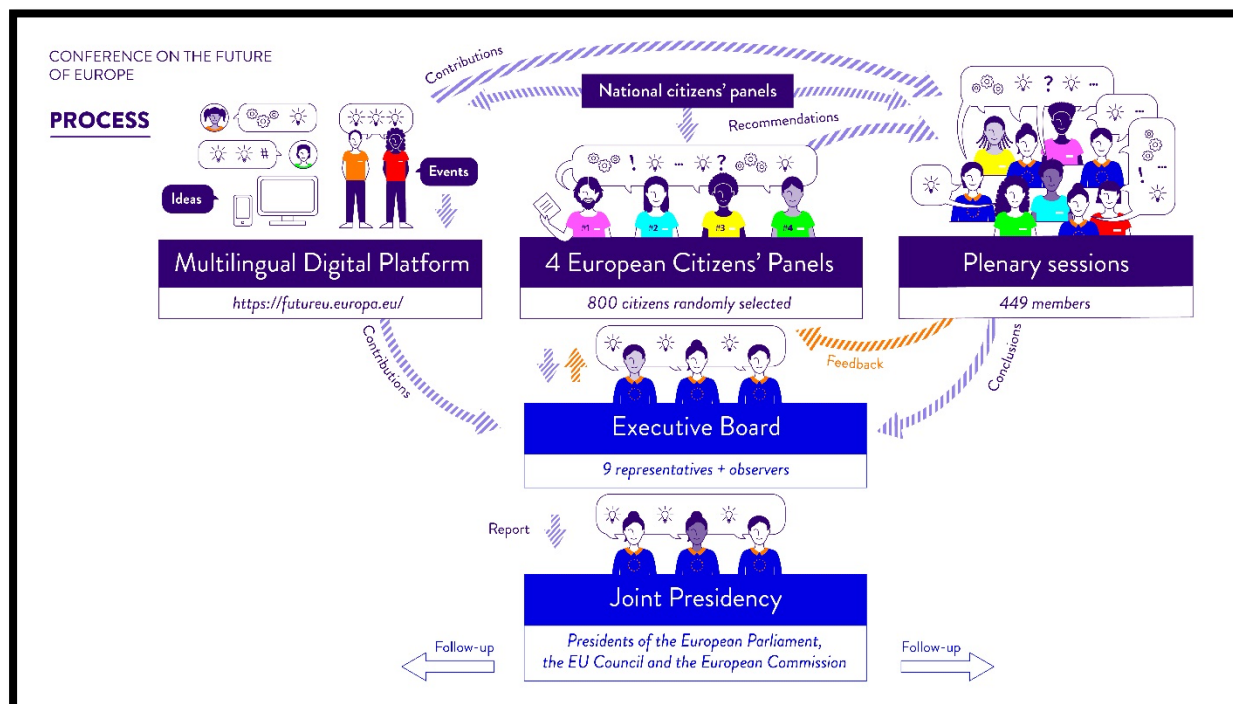


Figure 2 – The Process of the CoFE – <https://futureu.europa.eu/pages/information-material>

Although the Joint Declaration gives a vague indication of the way in which the CoFE would work, it does not provide sufficient information on the different mechanisms and relationships between the bodies that make up the Conference.

Therefore, to have a satisfying picture of the process that characterize this conference we must turn to other documents, in this case the Rules of Procedure (RoP) of the Conference¹⁰⁰ and the Report on the Final Outcome of the Conference¹⁰¹. In these documents a more detailed framework is provided by the Union for the organisation of the CoFE, as well as a more detailed summary of the actual way in which the Conference played out.

The CoFE has been, as it was already established, a bottom-up democratic exercise¹⁰². When picturing the decision-making process of the CoFE we can imagine an upside-down funnel, with its widest part corresponding to the MDP, then, as it becomes less and less wide, we find the National Citizens' Panels, followed by the European Citizens' Panels, the

¹⁰⁰ 'Rules of Procedure of the Conference on the Future Of Europe'.

¹⁰¹ Executive Board, 'Report on the Final Outcome'.

¹⁰² See footnote 83.

Conference Plenary, and finally the Joint Presidency at its narrowest point. Excluding the Joint Presidency, we have what was called the “three pillars of the Conference”¹⁰³.

The Multilingual Digital Platform

The first pillar is the Multilingual Digital Platform. It was launched on 19 April 2021¹⁰⁴ and it served as the gateway for all European citizens to the Conference and was the main source of recommendation in the whole process.

Previously¹⁰⁵ the figures regarding the participation on the digital platform have been briefly discussed. Although the numbers might seem remarkable at first sight, 18 thousand ideas¹⁰⁶ on the platform can be seen as an underwhelming amount. The figures regarding participation are more acceptable if we consider the registered participants on the website as well as the participants to in-person events. In which case the figure rises to a quarter of a million individuals participating in the Conference, with 5 million individual visitors to the MDP¹⁰⁷.

It is interesting to note that out of the possible topics for the recommendations¹⁰⁸ the one that received the highest number of contributions was the one titled ‘European democracy’, followed by ‘Climate change and the environment’, and then by ‘Other ideas’¹⁰⁹. This data can give us a vague idea of the most clicked topics, and therefore of what participant felt as needing to be addressed by the European Union more immediately. The final recommendations of the CoFE will be the subject of chapter 4.

The European Citizens’ Panels

The second pillar of the Conference on the Future of Europe were the European Citizens’ Panels, together with National Citizens’ Panels. However, even if it may seem as though these two kinds of bodies had similar tasks, the national panels could be portrayed as being an in-between step positioned between the MDP and the European panels.

¹⁰³ Executive Board, ‘Report on the Final Outcome’. Page 37.

¹⁰⁴ Conference on the Future of Europe, ‘Report on the Multilingual Digital Platform of the Conference on the Future of Europe’, February 2022.

¹⁰⁵ Page 18.

¹⁰⁶ See note 60.

¹⁰⁷ Executive Board, ‘Report on the Final Outcome’. Page 13.

¹⁰⁸ Page 18.

¹⁰⁹ Executive Board, ‘Report on the Final Outcome’. Page 12, 19.

National panels were to be organized by the national governments of Member States and had the function of inputting recommendations both to their European counterparts as well as to the Conference Plenary. Only six MS¹¹⁰ answered the appeal of the Joint Declaration creating National Citizens' Panels. Guidance for the organisation of these panels¹¹¹ was issued by the Executive Board. In these context citizens could approach any topic relating to the Conference as indicated by the MDP and had to follow the principles of the Conference¹¹² of transparency, inclusiveness and representativeness.

When it comes to the European Citizens' Panels, article 5 of the Rules of Procedure of the CoFE mandates that the role of these panels was to gather contributions on the digital platform and, after having discussed them, input recommendations to the Conference Plenary¹¹³. When it comes to the composition¹¹³ of these panels the RoP state that "at least one male and one female citizens per MS"¹¹⁴ must be represented, and that the "degressive proportionality principle applied to the composition of the European Parliament" must be taken into account¹¹⁵. Furthermore, members of the panels had to be chosen randomly and be representative of "EU sociological diversity"¹¹⁶, and that at least one third of the participants had to be under the age of 25. Finally, each and every panel had to be represented in the Conference Plenary by a subset of their members, of which at least a third had to be under the age of 25¹¹⁷.

Although the Rules of Procedure do not specify how many panels had to be organised, we know that the final number was four¹¹⁸, with 200 citizens per panel¹¹⁹:

- Panel 1. Stronger economy, social justice, jobs/ education, youth, culture, sport/ digital transformation;
- Panel 2. European democracy/ values and rights, rule of law, security;
- Panel 3. Climate change, environment/ health;
- Panel 4. EU in the world/ migration.

¹¹⁰ In alphabetical order: Belgium, France, Germany, Italy, Lithuania, and the Netherlands.

¹¹¹ Executive Board, 'Guidance for National Citizens' Panels in the Context of the Conference on the Future of Europe', 26 May 2021.

¹¹² Conference on the Future of Europe, 'Conference Charter', 2021.

¹¹³ 'Rules of Procedure of the Conference on the Future Of Europe'. Art. 5. Para. 4.

¹¹⁴ 'Rules of Procedure of the Conference on the Future Of Europe'. Art. 5. Para. 1.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ 'Rules of Procedure of the Conference on the Future Of Europe'. Art. 5. Para. 3.

¹¹⁸ Executive Board, 'UPDATE Practical Modalities of the European Citizens' Panels of the Conference on the Future of Europe', 10 September 2021, Page 2.

¹¹⁹ Executive Board, 'UPDATE Practical Modalities of the European Citizens', Page 1.

The panels were to meet 3 times during the Conference, twice in person and once online, with the first session in Strasbourg dedicated to the “definition of the agenda”¹²⁰ with citizens identifying thematics that they wanted to concentrate on.

To ensure transparency the plenary meetings of the panels were livestreamed on the Conference website and their working documents are available on the website of the conference¹²¹.

The role of these panels was crucial in the works of the CoFE as they had the task of translating ideas from the MDP to concrete recommendations. In this case a recommendation is either stating “how to achieve change” (with specific solutions) or “the direction that should be taken to create a solution to the problem” (a general recommendation)¹²². As the final recommendations will show¹²³ the task of the panels is akin to that of committees in Parliaments all around the world. This is a testament to the faith institutions put in the citizens of the Union while ideating the Conference.

The Conference Plenary

The final pillar of the CoFE, and arguably most important, is the Conference Plenary. The creation of the Plenary is anticipated in the Joint Declaration, but its composition, role, and processes are specified in articles 16 through 22 of the Rules of Procedure.

Starting with the composition of the Plenary, which had to be gender balanced according to the RoP¹²⁴, it was composed of 108 representatives from the European Parliament, 54 from the Council, 3 from the Commission and 108 representatives of national Parliaments. To represent the citizenship and civil society 80 citizens from the European panels – a third of which had to be under the age of 25 – would be present, together with the president of the European Youth Forum and 27 representatives from National panels, bringing the total to 108 citizens. Furthermore, an additional 18 representatives from the Committee of the Regions, 18 from the Economic and Social Committee, 6 elected representatives from regional authorities, 6 from local authorities, 12 representing social

¹²⁰ Executive Board, ‘UPDATE Practical Modalities of the European Citizens’, Page 2.

¹²¹ <https://futureu.europa.eu/pages/european-citizens-panels>

¹²² Executive Board, ‘European Citizens’ Panels Guide’.

¹²³ See chapter 4.

¹²⁴ ‘Rules of Procedure of the Conference on the Future Of Europe’. Article 16, Para 5.

partners and 8 from civil society would also take part, bringing the total to 449 members of the Conference Plenary¹²⁵.

This assembly had the task of “discussing recommendations from the national and European Citizens’ Panels, and the input gathered from the Multilingual Digital Platform [...] without a predetermined outcome and without limiting the scope to pre-defined policy areas”¹²⁶. The required quorum of participants for official meetings of the Plenary was of one third of the participants¹²⁷.

The Plenary was organised in working groups (WG)¹²⁸, one per Conference topic for a total of nine. This was proposed by the Co-Chairs of the Executive board¹²⁹ with the task of debating proposals from the national and

European panels and preparing the recommendations for the final approval of the Plenary. These working groups were composed of a subset of the Plenary representatives and chaired by one of the citizens representatives.

This body met 7 times between the 19th of June 2021 and the 30th of April 2022, and the meetings, chaired by the Co-Chairs and streamed live on the CoFE website¹³⁰ are summarised in the final report of the Conference¹³¹. In these seven appointments the Plenary was able, through the working groups and the recommendations of the citizens’ panels, to draft the



Figure 3 – Composition of the Conference Plenary – <https://futureu.europa.eu/pages/information-material>

¹²⁵ ‘Rules of Procedure of the Conference on the Future Of Europe’. Article 16, Para 1-3.

¹²⁶ ‘Rules of Procedure of the Conference on the Future Of Europe’. Article 17.

¹²⁷ Ibid.

¹²⁸ Executive Board, ‘Report on the Final Outcome’. Page 36.

¹²⁹ The Co-Chairs of the Executive Board were Mr. Guy Verhofstadt, MEP, Mr. Clément Beaune, State Secretary for EU Affairs for the French Council Presidency, and Ms. Dubravka Šuica, Vice-President of the European Commission in charge of Democracy and Demography.

¹³⁰ ‘Rules of Procedure of the Conference on the Future Of Europe’. Article 22

¹³¹ Executive Board, ‘Report on the Final Outcome’. Pages 37-38.

final 49 recommendations that would be presented to the closing ceremony of the Conference on the Future of Europe on the 9th of May 2022.

The Final Report

As it was repeatedly pointed out, the CoFE did not have legislative powers *per se*. Its task was that of providing, through the inputs given by citizens and civil society, recommendations for the future of the European Union. The EU envisaged the Conference to end with the publication of a final report¹³² containing the draft recommendations.

The European institutions committed themselves to act upon those recommendations “within their competences and in accordance with the Treaties”¹³³. This point, as well as its meaning for the Conference, was already pointed out in a previous section¹³⁴.

Indeed, the Conference ended its mandate by drafting the 49 recommendations¹³⁵ contained in the final report¹³⁶. This document was handed out to the Joint Presidency during the closing ceremony of the CoFE on May 9th, 2022, in Strasbourg. This document contains not only the final proposals, but also a complete summary of the Conference.

After the introduction to the CoFE the document focuses on the architecture of the Conference, shifting then its attention to the citizens’ input through the MDP, citizens’ panels and other events organised in the context of the CoFE, such as national events and the European Youth Event (EYE); the following topic tackled by the report is the Conference Plenary, of which a substantial account is provided. Finally, in its fourth section the report contains the 49 Plenary proposals, followed by the final considerations of the Executive Board on the Conference¹³⁷. The report also contains four annexes that link to prior reports on the MDP and to the recommendations of the four European Citizens’ Panels and to those of the National Citizens’ Panels.

All in all, this is the most important document of the CoFE, providing the outcome of the discussions and the negotiations between the citizens’ representatives and the

¹³² European Commission, European Council, and European Parliament, ‘Joint Declaration on the Conference on the Future of Europe’, para. 26; ‘Rules of Procedure of the Conference on the Future Of Europe’. Article 23.

¹³³ Ibid.

¹³⁴ See section 3.2.1. “The Joint Declaration”

¹³⁵ Conference on the Future of Europe, ‘Consolidated List of Draft Proposals’.

¹³⁶ Executive Board, ‘Report on the Final Outcome’.

¹³⁷ Executive Board, ‘Report on the Final Outcome’. Page 3.

institutions. A more in-depth analysis of the results of the Conference is provided in the next chapter¹³⁸.

3.3. Conference and Convention

It was pointed out on several occasions throughout the dissertation that there are some similarities between the Convention on the Future of Europe of 2002 and the more recent Conference on the Future of Europe. Both were put forward with the publication of declarations that are very similar in tone as well as regards to contents. Both had the ambition of reforming the European Union. And both were created outside of the legal order of the EU, with the mandate of preparing draft proposals for the institutions to analyse and eventually follow up on.

However, this section of the dissertation will focus more on the difference between the two experiences, particularly looking at the context in which the two were placed, their mandate, and their composition. Indeed, these three elements will provide a sufficient clear representation of the way in which similar ideas can be realised so differently.

3.3.1. The Context

When we think of the EU in 2001, we must think of a very different organisation to the one we see today. First and foremost, the Member States were only 15 at the time. The fall of the Soviet Union ten years before had primed the Union for Eastward expansion, with many former Soviet Republics ready for accession. The Union was regulated by an intricate web of treaties and protocols, and the Euro had just been adopted in a select group of MS. All these elements combined gave the European Council the idea of working towards reforming the EU to prepare it for the new influx of members, propelling the Union towards the future.

The Convention was an optimistic effort to reform the constitutional order of the EU. And the first difference with the CoFE is precisely the spirit of the effort.

In fact, beginning in 2008, the Conference had on its shoulders the weight of all the difficulties the Union had to tackle in the two decades that preceded it. Starting from the financial crisis in 2008, the European debt crisis in the early 2010s, the migrant crisis in

¹³⁸ See section 4.1. “The Plenary Proposals”.

2015/2016 and the consequent rise of nationalism and Euroscepticism, perfectly embodied by Brexit, furtherly aggravated by the rule of law crisis. These were all challenges that highlighted the shortcomings of the Union, and in this timespan, citizens began to feel Brussels as incredibly distant and detached. The Coronavirus pandemic, begun in early 2020 only added to this weight. In this context, the creation of the Conference was an effort to relaunch the project of European integration¹³⁹.

It can be argued that the optimistic spirit of the Convention was lacking in the months preceding the beginning of the CoFE. Indeed, probably with the contribution of the failure of the CFE project, the mandate of the recent Conference was severely limited if compared to that of its predecessor.

3.3.2. The Mandate

In sections 2.1.1. and 3.1.2 the declarations respectively marking the beginning of the Convention of the Future of Europe and the Conference were discussed. These documents provide us with, amongst other elements, the mandate of the assemblies.

In the case of the Laeken declaration, as discussed previously¹⁴⁰, the need for simplification in the Constitutional order of the Union is highlighted. At the time four different Treaties were in force¹⁴¹, which proved to be confusing. Therefore, the declaration lays out a series of questions that regard the reform – although revolution could be seen as a preferable term in this specific case – of the institutional layout of the Union. In addition to the simplification of the Treaties the questions of the revision of the “three pillars”¹⁴² and of the “distinction between the Union and the Communities”¹⁴³ are put forward. Furthermore, the immortal question of whether the EU should accede to the European Convention of Human Rights is mentioned¹⁴⁴. According to the Laeken Declaration, though, the ultimate question is whether all these issues should be summarised in a single constitutional text¹⁴⁵. These questions are followed by the mandate for the Convention which states that “The Convention will consider the various issues. It will draw up a final document which may comprise either

¹³⁹ Fabbrini, ‘The Conference on the Future of Europe: processes and prospects’. Page 403.

¹⁴⁰ See section 2.1.1. “The Laeken Declaration”.

¹⁴¹ ‘Laeken Declaration’. Para. 25.

¹⁴² ‘Laeken Declaration’. Para. 25.

¹⁴³ Ibid.

¹⁴⁴ ‘Laeken Declaration’. Para. 28.

¹⁴⁵ ‘Laeken Declaration’. Para. 29.

different options, indicating the degree of support which they received, or recommendations if consensus is achieved”¹⁴⁶.

We now know that the assembly led by the former French President interpreted these words, combined with the previous questions posed by the declaration, as a mandate to draft the Constitution of the European Union.

Even though criticism to the decisions of the CFE are – and indeed were¹⁴⁷ – raised, the interpretation that the Convention decided to follow of the mandate given by the Laeken declaration is not unjustified. Although not directly, the idea of the Convention drafting a provisional Constitution is easily justified by reading the declaration. Some scholars have gone as far as stating that this was a preferable alternative to giving the same mandate to an IGC, because of the greater legitimacy¹⁴⁸.

On the contrary, the idea of Constitutional reform is absent from the Joint Declaration on the Conference on the Future of Europe. Even though, as explained in section 3.1.2., both the French President and the President of the European Commission had expressed themselves in favour of more radical reforms resulting from the CoFE, the mandate of the Conference seems to be more focused on agenda-setting recommendations. It was even argued that, because of the intrinsic ambiguities in the text of the declaration, the document failed completely to address the issue of the Conference’s mandate¹⁴⁹. In fact, the letter of the declaration does fail to clearly state whether a reform of the Treaties is within the prerogatives of the CoFE or not. As it was argued before¹⁵⁰, the interpretation of the declaration does seem to exclude this possibility, but not completely. The indecision that transpires from the words of the three institutions could be explained by the desire to postpone the issue of Treaty reform. This point will be developed further in section 4.3., titled “The Road to Treaty Amendment”.

¹⁴⁶ ‘Laeken Declaration’. Para. 30.

¹⁴⁷ See ‘CONV 851/03’, Annex III, as discussed in section 2.2. “The Results of the Convention on the Future of Europe”.

¹⁴⁸ C. Closa, ‘The Convention Method and the Transformation of Constitutional Politics’, in E.O. Ericksen, J.E. Fossum and A.J. Menéndez *Developing a Constitution for Europe* (London and New York: Routledge, 2004), 183–206; J. E. Fossum and A. J. Menéndez, ‘The Constitution’s Gift? A Deliberative Democratic Analysis of Constitution Making in the European Union¹’, *European Law Journal* 11, no. 4 (2005): 380–410; T. Risse and M. Kleine, ‘Assessing the Legitimacy of the EU’s Treaty Revision Methods*’, *JCMS: Journal of Common Market Studies* 45, no. 1 (2007): 69–80.

¹⁴⁹ Fabbrini, ‘The Conference on the Future of Europe: processes and prospects’. Page 405.

¹⁵⁰ See section 3.1.2. “The Joint Declaration”.

Both declarations leave room for interpretation, however, the Joint declaration is much less decided than its counterpart in declaring the intention of European institutions regarding the mandate of the Conference. This left ample space for the CoFE when drafting making decisions. Furthermore, recommendations were not limited to a concise list of topics, as citizens were able to raise additional issues to those expressly mentioned in the official documents of the Conference¹⁵¹. This is even more evident when we read that the scope of the CoFE was not limited to the areas that are competence of the Union, but that they could also focus on areas “where European Union action would have been to the benefit of European citizens”¹⁵². Consequently, as the next chapter will show, the Conference did not fail to take advantage of its wide scope, and in some cases of its vague mandate.

3.3.3. The Composition

The third and final aspect that will be analysed regarding the differences between the CFE and the CoFE is the composition of the and structure of the two events. The first aspect, clear to anyone who studies this subject, is the difference in complexity between the two. While the Convention was more limited in its composition, including representatives of the three institutions and of the national Parliaments in a single assembly, the Conference was characterized by a pyramidal structure, based in the contributions on the MDP, with the European Citizens’ Panels and their national counterparts as an intermediate step, and the Conference Plenary at its highest point. Furthermore, the Plenary was not analogue to the Convention when it comes to its composition, including members of the public and representatives from other European institutions like the Economic and Social Committee and the Committee of the Regions, amongst others.

The composition of the main bodies in the two events in question is crucial to analyse one aspect, that of representativeness, and ultimately that of legitimacy. Probably the most important criticism that is often directed towards the EU is that it does not represent its citizens well enough. Indeed, we know that the only institution directly elected by the people of Europe is the European Parliament, while all the other institutions are indirectly elected. This problem is aggravated in the process of Treaty amendment, where the parliament – and

¹⁵¹ European Commission, European Council, and European Parliament, ‘Joint Declaration on the Conference on the Future of Europe’. Para. 31.

¹⁵² ‘Joint Declaration on the Conference on the Future of Europe’. Para 29.

the EC – are almost completely cut off the negotiations, giving all their power to a purpose-built IGC¹⁵³. It has been argued that Conferences and Conventions would be a more legitimate method of EU Governance¹⁵⁴. This is true because, on the one hand, national representatives at IGCs are unnecessarily detached from the people they represent¹⁵⁵, and on the other because the alternative is more representative.

Finally, if this line of thought is to be followed, the necessary conclusion is that the difference between the CFE and the CoFE, the Conference is the one with a higher degree of legitimacy. This is justified by both its size, which is considerably more conspicuous than that of its predecessor, and its greater representativeness, because of the citizens present. Whether this means that, going forward, the EU should rely more heavily on an instrument of this kind to consider Treaty amendment is not clear. However, the Conference on the Future of Europe will surely set a precedent if its recommendations are considered and, indeed, implemented.

¹⁵³ Article 48 TEU.

¹⁵⁴ Risse and Kleine, 'Assessing the Legitimacy of the EU's Treaty Revision Methods'.

¹⁵⁵ Risse and Kleine, 'Assessing the Legitimacy of the EU's Treaty Revision Methods', Page 75.

4. The Outcomes of the CoFE

This chapter is going to delve in the conclusions reached by the Conference on the Future of Europe, analysing their contents as well as their possible consequences. Undoubtedly, the main questions regarding the draft recommendations are about the proposals themselves and their contents, if they will be able to make a difference for the EU going forward, and if there is any possibility of Treaty reform stemming from proposals made by the plenary assembly.

4.1. The Plenary Proposals

During the last session of the Conference Plenary, on the 30th of April 2022¹⁵⁶, the final list of draft recommendations was approved by the assembly. It consists of 49 proposals subdivided by the nine main topics of the CoFE, which coincided with the different WGs.

Each recommendation is divided in two sections, the objective and the measures. The objective states what is the aim of that proposal, while the measures are concrete ways in which the objective can be reached. Furthermore, the measures are a collection of suggestions from the MDP, the National Citizens' Panels and the European Citizens' Panels, as well as from the WGs. As it was said the report contains 49 recommendations, for a total of 325 measures. Finally, every measure has credits indicating where in the process of the Conference it originated.

4.1.1. Citizens' Input.

Before delving in the analysis of the proposals, however, the final report contains a summary of the key messages from citizens' interventions during the final Plenary session of the Conference¹⁵⁷. This section of the document provides us with an overarching view of what is the bigger picture, the general direction in which the recommendations try to steer the EU.

¹⁵⁶ Executive Board, 'Report on the Final Outcome'. Page 38.

¹⁵⁷ 'Report on the Final Outcome'. Page 39-40.

Throughout this portion of document, the focus is placed mainly on the values of the EU and on their importance. Solidarity, social justice and equality¹⁵⁸, environmentalism and sustainability¹⁵⁹, democracy¹⁶⁰ and dignity are critical in the eyes of the citizens' representative and can be found throughout the recommendations.

They also tackle the question of European identity. In their eyes the term 'European' should complement, without challenging, the nationality of EU citizens¹⁶¹. However, this is not the case today, to use their words "many of us did not feel European before this Conference" and "we were lucky to have this opportunity, but many do not"¹⁶². The intrinsic message is that the Union should strive towards making itself known to the citizens, by putting them at the centre of its political project, through education and the empowerment of citizens overall¹⁶³.

Finally, they call for increased competences to the EU, with more harmonization in fields such as foreign policy¹⁶⁴ and for a quicker and more transparent Union, "where the unanimity principle is reconsidered and in which [...] citizens are regularly and seriously involved"¹⁶⁵.

Altogether, this section of the final report is the perfect introduction to the recommendations. In it, the citizens present at the Conference Plenary perfectly embody the spirit of the CoFE, going as far as calling upon the institutions to respect their work and to swiftly implement them.

4.1.2. Proposals for the Future of Europe

The dissertation will now analyse the proposals subject by subject, focusing on the most important and most radical measures therein.

Climate Change and the Environment

The first of the nine topics of interest in the Conference on the Future of Europe was "Climate Change and the Environment". This has been, in the recent past, a driving force of the EU.

¹⁵⁸ 'Report on the Final Outcome'. Page 39, para. 5.

¹⁵⁹ 'Report on the Final Outcome'. Page 39, para. 6.

¹⁶⁰ 'Report on the Final Outcome'. Page 39, para. 7.

¹⁶¹ 'Report on the Final Outcome'. Page 40, para. 3.

¹⁶² Ibid.

¹⁶³ 'Report on the Final Outcome'. Page 40, para. 4.

¹⁶⁴ 'Report on the Final Outcome'. Page 39, para. 8.

¹⁶⁵ 'Report on the Final Outcome'. Page 39, para. 7.

With European Institutions such as the Commission sponsoring the Green Deal, pledging to make Europe carbon neutral before 2050.

This topic is particularly of interest for the Conference, so much so that the chapter regarding climate change contains six proposals with a total of 57 different measures. They begin with the production of food, where strengthening incentives towards organic farming, coupled with the reduction of chemical pesticides and fertilizers in agriculture¹⁶⁶ is demanded. The request is also put forward to invest in research – a recurring theme in the proposals – as well as curbing water and plastic consumption in the sector¹⁶⁷.

Measures in support of reforestation and protection of water sources¹⁶⁸ are present in proposal 2. The embedding of the ‘polluter pays’ principle in taxation is also put forward¹⁶⁹. The third proposal is focused on energy security and independence, as well as on ensuring a just transition. More investments in renewables¹⁷⁰ as well as the evaluation of geopolitical and security implications in energy policy¹⁷¹ (including human rights records and rule of law of all third-party suppliers) are demanded.

The role of infrastructure both regarding the transport sector and industry is tackled. Proposed measures range from increasing the high-speed rail network to disincentivizing short haul flights¹⁷². From the creation of car free zones in cities, to the regulation of the mining of cryptocurrencies¹⁷³. Phasing out non-sustainable packaging and a renewal of the global supply chain are also on the table¹⁷⁴. The creation of the ‘right to repair’ is proposed as a way of tackling obsolescence of consumer products¹⁷⁵, and the implementation of transparent labelling to indicate how sustainable those same products are¹⁷⁶. Finally, measures to increase education and awareness on the topic are included, most notably regarding the strengthening the EU’s role in the areas of the environment and education

¹⁶⁶ Proposal 1, measures 2, 4.

¹⁶⁷ Proposal 1, measures 6, 8.

¹⁶⁸ Proposal 2, measures 5, 7.

¹⁶⁹ Proposal 2, measure 2.

¹⁷⁰ Proposal 3, measures 1, 5, 6, 9.

¹⁷¹ Proposal 3, measure 2.

¹⁷² Proposal 4, measure 4.

¹⁷³ Proposal 4, measures 6, 8.

¹⁷⁴ Proposal 5, measures 2, 4, 5.

¹⁷⁵ Proposal 5, measures 6, 7.

¹⁷⁶ Proposal 5, measure 1.

through an extension of its competences, as well as the extension of the use of qualified majority voting for topics relating to the environment¹⁷⁷.

Health

This second topic, less important in EU policy because of its national dimension, was pushed to the centre of the continental debate by the Coronavirus pandemic, necessarily becoming one of the central questions of the CoFE.

For this topic, similarly to that of the environment, the inclusion of health in the shared competences of the EU through an amendment of article 4 TFEU is proposed¹⁷⁸. This is a necessary condition for many of the measures put forward in this section such as the creation of an EU medicines stockpiling scheme, a European health data space, and investments in the health systems¹⁷⁹. To this the development of an EU Action Plan on mental health¹⁸⁰, together with disincentivising unhealthy food through taxation¹⁸¹ should be added.

Finally, the creation of the ‘right to health’ is proposed with measures such as the establishment of minimum healthcare standards at EU level, the creation of a European network for transplants and organ donations, and by ensuring the affordability of care¹⁸².

A Stronger Economy, Social Justice and Jobs

Just like the environment, this is a central topic of the CoFE. Its importance is reflected in the number of proposals and measures that are presented. Indeed, according to the number of recommendations, with 60 measures distributed between 6 proposals this is the heaviest part of the document, narrowly beating the first section.

Throughout this section a strong accent is put on the question of sustainability. The transition to a green economy is a cardinal point for the EU going forward and this is reflected in proposals such as the promotion of research in new materials and technologies and support for a greener production process, and the institution of a “competitiveness check” (in accordance with the Paris Agreement and the SDGs)¹⁸³.

¹⁷⁷ Proposal 6, measure 7.

¹⁷⁸ Proposal 8, measure 3; proposal 10, measure 3.

¹⁷⁹ Proposal 8, measures 1, 3, 5.

¹⁸⁰ Proposal 9, measure 1.

¹⁸¹ Proposal 7, measure 2.

¹⁸² Proposal 10, measures 1, 4, 5, 7.

¹⁸³ Proposal 11, measures 1, 6; proposal 12, measure 21.

Another cardinal point of this section is support for small and medium enterprises (SMEs). They are defined by the proposals as the “backbone of our economy”¹⁸⁴, and recommendations ask that special attention is given to them through the ‘think small first’ principle when legislating, that bureaucracy be cut for SMEs, as well as privileged access for financing and participation in high-risk innovation projects¹⁸⁵.

Attention is also given to the inclusiveness of the labour market. Statutory minimum wages – pondered to a set of clear criteria – are requested along other measures such as the strong enforcement of the ‘Working Time Directive’¹⁸⁶, the regulation of ‘smart working’ and the creation of the ‘right to disconnect’, the creation of a “gender equality index” to monitor gender-based discrimination on the workplace, promoting youth employment and employment of disadvantaged groups, the establishment of minimum pensions, and the recognition of the same rights for families across the union, including the right to marriage and adoption¹⁸⁷. Furthermore, affordable and accessible childcare at EU level and other measures aimed at helping mothers and fathers to reconcile their work and family life are put forward, such as the reduction of VAT on equipment for children¹⁸⁸. The importance of the free movement of education, to be promoted through further mutual recognition of degrees¹⁸⁹ is also stressed.

Finally, a proposal is entirely dedicated to the issue of taxation. It begins with demanding that decisions on tax matters be taken by QMV in the Council to harmonise and coordinate tax policies, tackle and prevent tax evasion and tax heavens, and curb offshoring within Europe¹⁹⁰. Furthermore, ensuring the companies pay their fair share of taxes where profits are made is proposed, as well as further consideration of common borrowing at EU level, and strengthening oversight of the absorption and use of EU funds¹⁹¹.

¹⁸⁴ Proposal 12, measure 6.

¹⁸⁵ Proposal 12, measures 6, 7, 17, 19.

¹⁸⁶ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 Concerning Certain Aspects of the Organisation of Working Time [2003], OJ L 299/9.

¹⁸⁷ Proposal 13, measures 1-3, 6-8; proposal 15, measures 5, 7.

¹⁸⁸ Proposal 15, measure 1.

¹⁸⁹ Proposal 15, measure 3.

¹⁹⁰ Proposal 16, measure 1.

¹⁹¹ Proposal 16, measures 2, 3, 5, 6.

EU in the World

The fourth topic of the Conference on the Future of Europe is titled “Europe in the World” and, as the name might suggest, it revolves around the geopolitical position of the EU in today’s world. This was, just like health, a difficult topic for the CoFE given the non-extensive nature of EU competences in this sphere. Furthermore, as it can be expected, the Russian invasion of Ukraine influenced the proposals in this section, particularly regarding the decision-making process and the idea of strategic autonomy.

In fact, the analysis will begin with the idea of autonomy. This is articulated in two proposals, one more general and one limited to the field of energy¹⁹². In the first, the diversification of supply chains, increasing investments in strategic sectors, stockpiling critical productions, and the increased EU production of strategic assets to be coupled with an ambitious trade negotiation agenda¹⁹³ are proposed. To ensure energetic autonomy the process has, in the eyes of the Plenary, to be rooted in the green transition, but must also consider nuclear energy, common purchases of imported energy, and linking foreign trade with climate policy measures¹⁹⁴.

When it comes to trade the main request of the Conference is that the Union should consider, when doing business with third parties, their respect of human rights, the rule of law and sustainable development¹⁹⁵. This would give greater access to the EU internal market to democratic countries, limiting it for those that do not respect basic values¹⁹⁶. Furthermore, the European Union should also aid third countries in the transition to a sustainable economy through infrastructure investments as a first step to relaunch global multilateralism¹⁹⁷.

Finally, there is the question of CFSP reform. Immediately, the abandonment of the unanimity principle is demanded, as well as strengthening the role of the High Representative¹⁹⁸. Furthermore, when it comes to the question of hard power the demands of the Plenary concern increased cooperation in CFSP, the use of EU’s joint armed forces for defence purposes or peacekeeping missions in line with UN mandates, protecting strategic

¹⁹² Proposals 17 & 18.

¹⁹³ Proposal 17, measures 2-4.

¹⁹⁴ Proposal 18, measures 4, 6, 7.

¹⁹⁵ Proposal 19, measures 2-5.

¹⁹⁶ Proposal 19, measure 5; proposal 20, measure 4; proposal 24, measures 1, 2.

¹⁹⁷ Proposal 24, measures 5, 7.

¹⁹⁸ Proposal 21, measures 1, 3.

research in sectors such as space and cybersecurity, as well as strengthening operational capabilities of the EU¹⁹⁹ in case the activation of the mutual assistance clause²⁰⁰.

Values and Rights, Rule of Law, Security

Fifth on the list of the topics of the CoFE are values, rule of law and security. This topic directly addresses the rule of law crisis that has been threatening the Union in recent years²⁰¹. The first recommendation directly focuses on this question, demanding that the institutions ensure that EU rights are non-negotiable, going as far as evaluating the 'Conditionality Regulation'²⁰² and even assessing Treaty changes to punish breaches of the rule of law²⁰³.

Another frontier of EU law is currently the digital sphere. Firstly, data management is tackled. The Plenary demands that privacy be even more protected by the EU, and that mechanisms are put in place to give users the possibility of withdrawing their consent to data processing in an easy and permanent manner, particularly focusing on minors' data²⁰⁴. Secondly, cybersecurity, misinformation and media more in general are the subject of two proposals. The first relating to media proposes measures to ensure media independence such as limiting monopolies in the sector²⁰⁵. Furthermore, misinformation is addressed, the Plenary puts forward plans to strengthen fact-checking organisations and mandate school trainings to increase media literacy²⁰⁶. Secondly, to foster cybersecurity, the proposal asks that the competent EU agency (ENISA) be reinforced²⁰⁷.

Finally, social rights and food production are tackled, although many of the measures are repetitions of what has been said in previous sections, such as combating tax evasion, increasing social rights standards in the union, anti-discrimination measures in the workplace, protection of animal rights and environmental evaluation of imported goods²⁰⁸.

¹⁹⁹ Proposal 23, measures 1, 3, 4.

²⁰⁰ Article 42.7 TEU.

²⁰¹ Dimitry Kochenov and Petra Bárd, 'The Last Soldier Standing? Courts Versus Politicians and the Rule of Law Crisis in the New Member States of the EU', in *European Yearbook of Constitutional Law 2019: Judicial Power: Safeguards and Limits in a Democratic Society*, ed. Ernst Hirsch Ballin, Gerhard van der Schyff, and Maarten Stremmer, European Yearbook of Constitutional Law (The Hague: T.M.C. Asser Press, 2020), 243–87.

²⁰² Regulation (EU, Euratom) 2092/2020 of the European Parliament and of the Council of 16 December 2020 on a General Regime of Conditionality for the Protection of the Union Budget [2020], OJ L433/1.

²⁰³ Proposal 25, measures 1, 4.

²⁰⁴ Proposal 26, measures 2, 3.

²⁰⁵ Proposal 27, measures 1, 2.

²⁰⁶ Proposal 27, measures 3, 4.

²⁰⁷ Proposal 28, measure 1.

²⁰⁸ Proposal 29, measures 1, 3, 4; proposal 30, measures 1, 2.

Digital Transformation

The section dedicated to the digital transformation focuses on the equality and inclusiveness of the digital transition, cybersecurity, and the protection of data. In fact, equal access to the internet is defined as a “fundamental right of every European citizen”²⁰⁹.

Proposals range from investing in digital infrastructure to the prevention of monopolies in the digital sector²¹⁰. From improving standards to secure cross-border interoperability to improving them for a greener digital transition²¹¹. Great attention is also given to digital literacy²¹² and the role this transition can play in making economy more sustainable. Measures such as the aforementioned ‘right to disconnect’, the regulation of ‘smart working’ with incentives to support remote working and further research into artificial intelligence and its correct use²¹³. Similarly to the final part of the last section, proposals regarding cybersecurity and data protection are also put forward. Strengthening cybersecurity capacity and combating misinformation, as well as measures to better enforce data protection rules (GDPR) and to assist citizens in this field²¹⁴.

European Democracy

The section that follows is probably the most prone to Treaty revision. It tackles different issues such as citizens’ participation in the EU, elections, the decision-making process of European institutions and the subsidiarity principle.

Beginning with participation the Plenary is particularly interested in the involvement of citizens in decisions taken at the European level. Some ideas are taken from the CoFE itself, such as the creation of an online platform where ideas can be shared and the institution of periodical citizens’ assemblies to be composed of randomly selected citizens²¹⁵. Other ideas are also proposed, such as the creation of the so called ‘youth check’ for legislation when laws could impact on younger generations²¹⁶. Particular attention is also given to informing citizens of EU initiatives, for example by creating a ‘EU application’ where citizens could see what is

²⁰⁹ Proposal 31, objective.

²¹⁰ Proposal 31, measures 1-4, 6.

²¹¹ Proposal 31, measures 7, 8.

²¹² Proposal 32.

²¹³ Proposal 35, measures 1-4, 8.

²¹⁴ Proposals 33 & 34.

²¹⁵ Proposal 36, measures 1-3, 7.

²¹⁶ Proposal 26, measure 9.

happening in the institutions, by mandating curricular courses on the Union in schools, and by encouraging media outlets to cover European affairs more frequently²¹⁷.

Democracy and elections are the next subjects of proposals. Some of the ideas of the Plenary are the institution of EU referendums, harmonising EU elections to be held with the same electoral law in all MS, giving greater say to citizens in the election of the EC President – either through direct election or the so-called *Spitzenkandidaten*²¹⁸ process – and giving MEPs the right of legislative initiative²¹⁹.

Then, the Plenary focuses on the decision-making process. Its proposals in this field include: the replacement of unanimity voting in the Council and European Council with QMV (with the only exception being “the admission of new membership to the EU and changes to the fundamental principles of the EU as stated in Art. 2 TEU and the Charter of Fundamental Rights), the broadcasting of Council meetings to increase transparency, and reopening the discussion about the adoption of a European Constitution²²⁰.

Finally, the section ends with a direct call on EU institutions to realise the proposals by “triggering the request of launching a European Convention”²²¹. This point will be furtherly investigated in a later section²²².

Migration

The penultimate section of the Plenary proposals concerns migration. It includes measures regarding both regular and irregular migration as well as integration policy.

To foster legal migration the creation of a European entity for migrants’ access to EU labour market is proposed, together with the implementation of the ‘blue card’ directive²²³ and the simplification of the national processes of reception and integration of legal migrants²²⁴. For irregular migration recommendations include the development of countries with a great outflux of migrants through Partnership agreements, an increase in transparency

²¹⁷ Proposal 37, measures 1, 2, 4.

²¹⁸ The *Spitzenkandidaten* process is a lead-candidate process where the candidate of the party that has received the most seats in the EP is elected as President of the European Commission.

²¹⁹ Proposal 38, measures 2-4.

²²⁰ Proposal 39, measures 1, 2, 7.

²²¹ Proposal 40, measure 6. Footnote 164 states, as regards to this sentence, that it is a “compromise formulation”.

²²² See section 4.3. “The Road to Treaty Amendment”.

²²³ Council Directive 2009/50/EC of 25 May 2009 on the Conditions of Entry and Residence of Third-Country Nationals for the Purposes of Highly Qualified Employment [2009], OJ L155/17.

²²⁴ Proposal 41, measures 2, 3.

and the expansion of competences of Frontex, the development of measures to safeguard the health of migrants, and financial, logistical and operational support to Member States in hosting and repatriating migrants²²⁵.

In the context of asylum and integration the Conference proposes to revise the Dublin agreements, to create common rules concerning procedures for the examination of claims for international protection in Member States, increasing the resources and capacities of the EU Agency for Asylum in its coordination efforts, as well as giving asylum seekers the possibility of attending language courses and to give them access to the labour market when relevant qualifications are present²²⁶.

Education, Culture, Youth and Sport

This is the final topic covered by the recommendations of the CoFE. Proposals in this section cover overarching topics of critical importance such as education, culture, youth and sport.

In education proposals include the expansion of the equivalence of diplomas in the EU, specific courses on civic education and media literacy, and support to MS in the training of teachers²²⁷. Furthermore, the promotion of exchanges is promoted, with it also multilingualism and the protection of European cultural heritage²²⁸.

The topic of youth is also a source of interesting proposals, such as giving voting rights in European elections to citizens over the age of 16, forbidding unpaid internships and giving reasonable living standards through social protection to the younger generations²²⁹.

Finally, proposals on the topic of sport relate mainly on information campaigns regarding the health and social benefits of sporting activities, but also propose the creation of EU sports teams and the display of EU flags at sporting manifestations²³⁰.

4.1.3. The Aims

A comprehensive comment on the entirety of the proposals would be a lengthy affair, however, the character and general political direction of the propositions is easily individuated when reading the final report.

²²⁵ Proposals 42 & 43.

²²⁶ Proposal 44, measures 1, 2, 5; proposal 45, measures 1, 2.

²²⁷ Proposal 46, measures 1-3.

²²⁸ Proposal 48, measures 1-4.

²²⁹ Proposal 47, measures 2, 5, 6.

²³⁰ Proposal 49, measures 1, 2, 5.

The first consideration on the proposals is that they point towards ever increasing European integration. Particularly, they are markedly in favour of the extension of EU competences. With few exceptions²³¹, they ask for more standardisation of products and practices throughout the Union, seeing this as an essential instrument to guarantee – amongst others – an effective transition towards a greener economy.

Secondly, the issues of climate change, human and social rights, equality, fairness, inclusiveness, as well as the strategic autonomy of the EU are cardinal points of the 49 proposals. The centrality of these topics does not leave room for doubts, in the eyes of the European people and their representatives in EU institutions these are the priorities on which the Union should focus its efforts.

Thirdly, the impulse of the proposals is that of pushing Europe to be increasingly democratic, including citizens more and more in its work, through information campaigns but also through direct participation in decision-making and through education.

Finally, linking with the first consideration, in the eyes of the Conference the continuation of European integration must be reached also through Treaty reform, which is not seen as outside of its scope. Additionally, amendments are not limited to the extension of EU competences, but consist mainly of procedural aspects, such as the elimination of unanimity votes in the Council in almost all situations, the right of legislative initiative for MEPs, and the direct election of the President of the Commission.

4.2. How Powerful is the CoFE?

In the previous section the most salient proposals of the Conference have been described. In this following section the dissertation will try to understand the prospects of these provisions. Will the institutions implement them? And if yes, to what extent? To answer these questions the dissertation will need to analyse the legal nature of the Conference and the power of the documents it produced. Is there an obligation for the institutions to act on the proposals? And if so, of what kind? This subject is particularly difficult to approach, as academic literature discussing the legal dimension of the CoFE is particularly sparse, however, the legal order of

²³¹ One such example could be measure 3, proposal 12 (originated from the Italian National Citizens' Panel), which states "reducing the standardization of products and recognizing local and regional cultural and production peculiarities".

the EU and the primary documents of the Conference itself can be enough to reach a conclusion.

First and foremost, the most important thing to understand is that the CoFE sits outside the realm of European Union law, as it is neither derived from EU primary nor from secondary law. Therefore, stating that any document originating from the Conference Plenary cannot be the source of any obligation for EU actors is reasonably straightforward.

However, an argument can be made that, by signing the Joint Declaration on the Conference on the Future of Europe, the three institutions have committed themselves to acting upon the proposals of the CoFE. In fact, in EU law the instrument of interinstitutional agreements (IIAs) – which are agreements between the Commission, the European Parliament and the Council – may be of a binding nature²³². Not all IIAs are born the same and, therefore, depending on the wording they may or may not have binding effects on the institutions who signed them. Indeed, the assumption is that contracting parties tend to bind themselves if the wording of the IIAs is ‘clear’ or ‘sufficiently precise and unconditional’²³³. Furthermore, there is a second element that stands at the basis of the legal value of IIAs, the treaty provisions on which they are based. This means that on the one hand “If Treaty provisions underlying the IIA are already precise, the IIA negotiations tend to produce a precise and thus legally relevant content”²³⁴, and that on the other, if Treaty provisions underlying the IIA are not precise “the content of such IIAs are thus likely to be legally ambiguous or even irrelevant at all”²³⁵. Nevertheless, even if an IIA has no legal power it can still have long-term political consequences, as far as leading to future Treaty amendments²³⁶.

Knowing that IIAs can have binding force on the institutions that sign them leads to a second question, should the Joint Declaration be considered on par with an agreement of that kind. Once again, the short answer is that it is not possible. Firstly, from a purely legal and formal point of view, a declaration is not an agreement. Secondly, even if it was, there are no precise provisions in the treaty that mandate an exercise like the one of the Conference. In

²³² Article 295 TFEU.

²³³ Isabella Eiselt and Peter Slominski, ‘Sub-Constitutional Engineering: Negotiation, Content, and Legal Value of Interinstitutional Agreements in the EU’, *European Law Journal* 12, no. 2 (2006): 212.

²³⁴ Eiselt and Slominski. Page 225.

²³⁵ *Ibid.*

²³⁶ *Ibid.*

this sense the Joint Declaration would be, to use Eiselt and Slominski's words, legally ambiguous or even irrelevant at all.

The inevitable conclusion is that both the documents that instituted the Conference and those that resulted from it have no legal force and cannot, therefore, legally bind the institutions to act upon the proposals of the Conference. However, although there is no legal obligation this does not mean that a political one is not present. Particularly, the democratic legitimacy enjoyed by the Conference Plenary necessarily points towards the fact that European institutions may be politically obligated to act upon many – if not all – of the recommendations, this argument is even stronger when the similarity of Conference proposals with many established EU policies is considered.

In fact, the consensus amongst European institutions is that policy proposals of the Conference should be examined and, eventually, approved²³⁷. This does not hold true, however, if we analyse the prospects of Treaty revision proposals. In this case the web of legal and political obstacles in the way of Conference proposals is much thicker if compared to the one in front of policy proposals.

4.3. The Road to Treaty Amendment

Following what was said in the previous section, the aspects that must be analysed are two. The path Conference proposals must take to lead to Treaty reform, and the likelihood of it happening.

Before delving in this analysis, some observations that were made earlier must be considered. Firstly, as it was pointed out, there is no legal guarantee that provisions contained in the proposals of the CoFE will be implemented by the institutions. This consideration was followed by the suggestion that, although no legal obligation is present, there might be a political obligation on the part of the institutions to enact the recommendations of the

²³⁷ Council of the European Union, 'Council Position on the Conference on the Future of Europe', 24 June 2020; European Commission, European Council, and European Parliament, 'Joint Declaration on the Conference on the Future of Europe'; 'European Parliament Resolution of 4 May 2022 on the Follow-up to the Conclusions of the Conference on the Future of Europe (2022/2648(RSP))'; Mario Draghi, 'Prime Minister Address to the European Parliament', 3 May 2022; Ursula von der Leyen, 'Speech by the President: Conference on the Future of Europe', European Commission, 9 May 2022; 'French President Emmanuel Macron's Speech at the European Parliament - Strasbourg, 19 January 2022 - French Presidency of the Council of the European Union 2022'.

Conference. However, if policy proposals do not have any guarantee of implementation, this is even more true for proposals that would entail Treaty reform. This is due to two distinct reasons. On the one hand, the procedure that must be followed to amend the Treaties, contained in Art. 48 TEU, and on the other, the second observation made in a previous chapter, and that is the fact that the Joint Declaration was extremely vague on this issue. In fact, as it was previously highlighted²³⁸ the document is a compromise text, likely originating from the reticence of the Council, where national governments are represented.

4.3.1. Article 48

As it was illustrated previously²³⁹ the treaty amendment procedure is extremely complex. In fact, this process is almost exclusively intergovernmental in character and consists – in the case of the ordinary revision procedure – of a proposal made either by the European Parliament, the Commission or a MS to the Council which will, in turn, submit it to the European Council and notify national Parliaments²⁴⁰. If the European Parliament is, by a vote of simple majority, in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of “representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission”²⁴¹. The task of the Convention is that of adopting, by consensus, a recommendation for a later conference of representatives of the governments of the Member States²⁴². The following step is the IGC, which shall approve by common accord the amendments²⁴³. The issue of ratification is then raised, where many Treaties have either failed or risked of failing, the Constitutional Treaty and the Lisbon Treaty being two prime examples of these two possibilities. In fact, if all MS have not ratified the Treaty after two years the matter is referred to the European Council²⁴⁴.

Therefore, it is evident how the lengthiness and complexity of this procedure do not play in favour of whoever is proposing amendments to the Treaties. A simplified revision

²³⁸ See section 3.1.2. “The Joint Declaration”.

²³⁹ See section 3.1.2. “The Joint Declaration”. Page 24.

²⁴⁰ Art. 48(2) TEU.

²⁴¹ Art. 48(3) TEU.

²⁴² Ibid.

²⁴³ Art. 48(4) TEU.

²⁴⁴ Art. 48(5) TEU.

procedure²⁴⁵ is provided in Art. 48 TEU, but it requires a unanimous vote of the European Council, in the same way as the ordinary revision procedure. Necessarily, if the Conference were to result in revisions to the Treaties it would be because of the political impulse towards it or the lack thereof.

4.3.2. Political Impasse

Treaty reform is a remote possibility, but there is a considerable force pushing towards this objective. A few days before the closing ceremony of the Conference on the Future of Europe, Italian Prime Minister Mario Draghi held a speech at the European Parliament speaking in favour of the abolition of unanimity and of what he called “pragmatic federalism”²⁴⁶. This speech was followed, on the day of the ceremony, by those of French President Emmanuel Macron²⁴⁷ and Commission President Ursula von der Leyen²⁴⁸, who both confirmed their positions on this subject. Specifically, Mr Macron spoke in favour of the abolition of unanimity and the right of legislative initiative of the European Parliament, while President von der Leyen focused, in addition to the abolition of unanimity, on the extension of EU competences.

Furthermore, similarly to the position of the Commission, some European institutions have expressed their support for the Conference and the possibility of Treaty amendment, chief amongst all the European Parliament. On the 4th of May 2022 the EP approved resolution 2022/2648²⁴⁹ which calls for the abolition of unanimity and the institution of the right of legislative initiative for MEPs²⁵⁰ and, most importantly, for the President of the European Council to call the Convention necessary to begin the ordinary revision procedure, as provided by Art. 48 TEU²⁵¹. This proposal of the European Parliament was publicly endorsed by President Macron in his speech to the Conference Plenary. In addition to the European Parliament, also the Committee of the Regions (CoR) issued a resolution in 2021 supporting the Conference and stating that it had to “follow an open-ended approach with regard to

²⁴⁵ Art. 48(6) & 48(7) TEU.

²⁴⁶ Mario Draghi, ‘Prime Minister Mario Draghi’s Address to the European Parliament’, 3 May 2022.

²⁴⁷ Emmanuel Macron, ‘Speech at the Closing Ceremony of the Conference on the Future of Europe’, French Presidency of the Council of the European Union, 9 May 2022.

²⁴⁸ Ursula von der Leyen, ‘Speech by the President: Conference on the Future of Europe’, European Commission, 9 May 2022.

²⁴⁹ ‘European Parliament Resolution of 4 May 2022 on the Follow-up to the Conclusions of the Conference on the Future of Europe (2648/2022(RSP))’.

²⁵⁰ Resolution 2648/2022, Art. 11.

²⁵¹ Resolution 2648/2022, Art. 15.

reforming policies and institutions and pave the way for lasting reforms of the European Union”²⁵². This phrasing clearly indicates the support of the CoR for Conference proposals aiming at Treaty reform.

However, the same optimism about the Conference and its prospects for Constitutional reform in the EU was not reflected in the Joint Declaration. As it was previously pointed out²⁵³ this was the result of the diverging opinions of Member States. Indeed, in its Conclusions of the 12th of December 2019²⁵⁴, the European Council stated that “the Conference should contribute to the development of our policies in the medium and long term”²⁵⁵. In the same document the European Council asked the Croatian Council Presidency to define a Council position on the “content, scope, composition and functioning”²⁵⁶ of the Conference. The document²⁵⁷, published in June of the following year, preannounces many of the criticalities that would eventually lead to the drastically negotiated Joint Declaration. In fact, the Council position reiterated how the focus of the Conference should be put on policies²⁵⁸ rather than other priorities, adding in Art. 21 that “The Conference does not fall within the scope of Article 48 TEU”²⁵⁹. Art. 20 anticipates the phrasing that would eventually make its way into the Joint Declaration, stating that “the EU institutions would commit to examine swiftly how to follow up effectively to this report²⁶⁰, each within their own sphere of competence and in accordance with the Treaties”²⁶¹.

This opposition does not seem to have waned in the two years that have followed the publication of the Council Position. On Europe day 2022, a few moments after the conclusion of the closing ceremony of the Conference of the Future of Europe, the delegations of 13 Member States²⁶² to the EU published a statement²⁶³ on their social media accounts titled

²⁵² ‘Resolution of the European Committee of the Regions on the Conference on the Future of Europe’ (COR 01674/2021) [2021], OJ C/300, p. 1-3.

²⁵³ See section 3.1.2. “The Joint Declaration”, page 23.

²⁵⁴ ‘European Council Conclusions 12 December 2019’.

²⁵⁵ ‘European Council Conclusions 12 December 2019’, Art. 15.

²⁵⁶ ‘European Council Conclusions 12 December 2019’, Art. 14.

²⁵⁷ Council of the European Union, ‘Council Position on the Conference on the Future of Europe’.

²⁵⁸ ‘Council Position on the Conference on the Future of Europe’, Art. 3.

²⁵⁹ ‘Council Position on the Conference on the Future of Europe’, Art. 21.

²⁶⁰ The report in question is the final report of the Conference on the Future of Europe.

²⁶¹ ‘Council Position on the Conference on the Future of Europe’, Art. 20.

²⁶² The 13 MS in question are: Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Romania, Slovenia and Sweden.

²⁶³ Sweden in EU [@SwedeninEU], ‘Non-Paper by Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Romania, Slovenia, and Sweden on the Outcome of and Follow-up to the Conference on the Future of Europe’, Tweet, *Twitter*, 9 May 2022.

“non-paper on the outcome of and follow up to the Conference on the Future of Europe”. The statement clearly spells-out the position of the thirteen MS on the possibility the Conference proposals could result in Treaty amendments. It states that “We recall that Treaty change has never been a purpose of the Conference. [...] While we do not exclude any options at this stage, we do not support unconsidered and premature attempts to launch a process towards Treaty Change”²⁶⁴. This position is supported by the MS with the argument that the EU’s handling of recent crises is an indication of the efficiency and capabilities of the Union under the current framework, and that institutional reforms are not currently needed²⁶⁵. Furthermore, the parties state that “The ideas presented by the Conference should [...] not be instrumentalised to serve special institutional interests”²⁶⁶. This is likely to be a not-so veiled accusation directed towards the European Parliament. In fact, the EP has long been in favour of the abolition of unanimity and the concession right of legislative initiative to MEPs. These reforms, proposed by the Conference and supported wholeheartedly by the Parliament²⁶⁷ would tip the institutional balance in favour of the EP, to the detriment of the powers of the Council, which would not be acceptable for many national governments.

Therefore, even though the Member States opposed to Treaty review leave some space for the discussion of proposals aimed at structural change in the Union, the probability of Treaty amending initiatives resulting from the Conference being successful is unarguably low, especially when the remarkable dimension of the opposition is considered.

4.3.3. An Arduous Achievement

Having highlighted both the legal and political challenges that stand in the way of the Conference achieving any kind of institutional reform, the final step consists in determining if the Conference has, according to its RoP and the provisions of the Joint Declaration, the possibility of proposing amendments to the Treaties.

As previously highlighted²⁶⁸, Art. 48 mandates that amendments must be proposed by either a Member States, the Commission or the European Parliament. Furthermore, the Joint Declaration and the Rules of Procedure state that the institutions commit to follow-up on the

²⁶⁴ ‘Non-paper on the outcome of and follow up to the Conference on the Future of Europe’, paragraph 5.

²⁶⁵ ‘Non-paper on the outcome of and follow up to the Conference on the Future of Europe’, paragraph 6.

²⁶⁶ ‘Non-paper on the outcome of and follow up to the Conference on the Future of Europe’, paragraph 3.

²⁶⁷ ‘European Parliament Resolution 2648/2022’.

²⁶⁸ See section 3.1.2. “The Joint Declaration”, page 25, and section 4.3.1. “Article 48”.

proposals of the Conference “within their competences and in accordance with the Treaties”²⁶⁹. Therefore, it would be perfectly legitimate for either the Commission or the European Parliament to propose amendments to the Treaties. This would be within both the realm of their competences as well as the RoP of the Conference on the Future of Europe.

After that step, however, the decision-making procedure is almost exclusively intergovernmental, passing through a simple majority vote in the European Council, which if successful would lead to a Convention and eventually to an IGC, where unanimity and ratification are needed for the amendments to enter into force²⁷⁰.

Therefore, the Conference may well be the source of proposals regarding Treaty reform, although their success is in the hands of the institutions where the greatest amount of scepticism is present, the Council of the EU and the European Council.

²⁶⁹ European Commission, European Council, and European Parliament, ‘Joint Declaration on the Conference on the Future of Europe’, para. 26; ‘Rules of Procedure of the Conference on the Future Of Europe’. Article 23.

²⁷⁰ Art. 48 TEU.

5. Conclusions

The dissertation has touched upon the different aspects of the Conference on the Future of Europe. It started with an introduction to the process of European integration, the issue of democratic deficit of the European Union, the origins of the Conference and the analysis of what could be considered the predecessor of the CoFE, the Convention on the Future of Europe. Subsequently, an in-depth analysis of the Conference was performed, starting from its structure and processes and ending with its outcome and the possible repercussions on the European policy agenda and institutional structure. However, the question that was put forward at the beginning of the dissertation has not yet received an answer. What, if any, will be the impact of the Conference on the European Union? What are the prospects of the Union after this democratic experiment? To answer this question all the elements that were uncovered in the previous pages will be essential.

To begin, one important distinction must be made. As it was said the proposals of the Conference can easily be divided in two groups, those that only regard EU policy and those that demand a reform of the European institutional layout. The answers to the fundamental questions of the dissertation vary depending on which aspect is being considered and, therefore, it is necessary to approach the two topics separately.

5.1. EU Policy

The vast majority of Conference proposals concern EU policy and not the constitutional layout of the European Union. However, this does not mean that “ordinary proposals” do not have the power to define the EU in the future.

The Union has been for a better part of its existence on an upward trajectory, steadily pointing towards deeper integration. This trajectory began to plateau with the new century, especially after the entry into force of the Lisbon Treaty with the multitude of crises of the 2010s. The proposals of the conference manifest a desire for a new era of integration²⁷¹,

²⁷¹ See section 4.1.3. “The Aims”

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characterised by bolder EU policies in areas of cardinal importance such as, to name a few, the environment, social rights, the free movement of persons and goods, the internal market and energy policy. The view of the Conference is that many of these topics are deeply intertwined, and that solutions to global problems can only be found at the European level.

In addition, proposals have strongly focused on the importance of the values of the EU, going as far as tying them to the external relations of the EU. In the eyes of the CoFE the Union should trade with countries that have a positive human rights record or that are committed to improving it, this is true also for the sustainability of products. This holistic approach to trade and foreign relationships of the Union could be considered one of the most interesting developments that could originate from the Conference, even if its realisation might happen only partially due to the importance of the trade relationships with countries like China.

One additional remarkable achievement of the conference is, in this context, the inclusion of citizens for agenda-setting purposes. The nature of this experiment itself should be applauded, particularly given the sparsity of similar examples. Popular assemblies cited in the dissertation²⁷² were limited to specific areas and had incredibly precise instructions. However, the European Union gave the MDP and European Citizens' Panels *carte blanche*, instructing them to draft proposals on any topic of their preference.

Finally, the dissertation argued that EU policies and Conference proposals substantially overlap²⁷³. Indeed, the requests of the Conference follow the general direction of EU policies. One example is the attention given to climate change and the transition to a green economy in the CoFE on the one hand, and the European green deal on the other. The fact that these proposals will be implemented by the EU was confirmed by the President of the Commission in her speech to the Conference Plenary on Europe day 2022. In this regard, the institutions are all in favour of their implementation, which is not the case for Treaty reform.

5.2. Deeper Reforms

In light of the considerations that were made, the Conference is unlikely to become responsible for a revolution of the European institutional design. Indeed, the Union finds itself

²⁷² See section 1.2. "The Democratic Deficit of the European Union", notes 12 and 14.

²⁷³ See section 4.2. "How Powerful is the CoFE?", page 49.

in a very difficult position, where the deadlock of unanimity prevents any relevant change from being adopted. Although there have been suggestions on how to overcome this seemingly unsurmountable obstacle such as the activation of the so-called *passerelle* clauses²⁷⁴, the adoption of a reform process outside the realm of the EU²⁷⁵ or even the creation of a ‘two speed Europe’, but none have yet been adopted.

Therefore, it is in this context that the successes, or failures, of the Conference on the Future of Europe must be assessed.

When it comes to Treaty reform the biggest handicap of the CoFE was the ambiguity in its scope. The institutions failed to clearly limit the Conference to the proposal of policies, leaving instead, according to some interpretations of the Joint declaration, space for the promotion of proposals regarding Treaty change. The opposite is true as well. The institutions could have indicated more clearly that the CoFE was allowed to propose Treaty revision initiatives without, however, committing to their implementation.

Being left without any clear instructions, the Conference decided to follow a wider interpretation of its scope, including measures that would require Treaty revision in the 49 Plenary proposals. In the previous chapter²⁷⁶ it was explained how either the European Commission or the Parliament could, theoretically, trigger Art. 48 TEU without infringing the Treaties or their commitment expressed in the Joint Declaration²⁷⁷. However, it was also explained how this process would, almost surely, not be able to overcome the obstacle posed by the simple majority vote in the European Council needed to trigger the Convention tasked with examining the proposed amendment, never mind the unanimity required in case of final adoption of the amendments or the ratification by all member states.

In the end, the Conference itself fails to propose a solution to the unanimity deadlock. As it was pointed out, the resistance of several MS to treaty change²⁷⁸ will make it almost impossible for the Conference proposals to be adopted. This means that, at least in the near

²⁷⁴ Sandro Gozi, ‘Working Document on Overcoming the Deadlock of Unanimity Voting’.

²⁷⁵ Federico Fabbrini, ‘Reforming the EU Outside the EU? The Conference on the Future of Europe and Its Options’, *European Papers - A Journal on Law and Integration* 2020 5 (15 December 2020).

²⁷⁶ See section 4.3.3. “An Arduous Achievement”.

²⁷⁷ European Commission, European Council, and European Parliament, ‘Joint Declaration on the Conference on the Future of Europe’, para. 26; ‘Rules of Procedure of the Conference on the Future Of Europe’. Article 23.

²⁷⁸ Sweden in EU [@SwedeninEU], ‘Non-Paper by Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Romania, Slovenia, and Sweden on the Outcome of and Follow-up to the Conference on the Future of Europe’.

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future, the abolition of unanimity and the right of legislative initiative for the EP are not likely to become a reality, at least not because of the Convention.

5.3. The Future of the EU?

The Union has always demonstrated how the most radical reforms are achieved at times of crisis, a famous quote of Jean Monnet goes as far as saying that “Europe will be forged in crises, and will be the sum of the solutions adopted for those crises”. Nowadays, Europe is traversing possibly the biggest crisis since its inception. The Russian invasion of Ukraine has had an outstanding impact on the Union and its members, the swift adoption of sanctions in the early day of the invasion led many to believe in a newfound unity of the EU27. Many propositions that were considered impossible to even talk of are now the subjects of debates at the European level. One clear example is the proposal of a unified European defence. The adoption of the new strategic compass in 2022²⁷⁹, with the provisions it contained²⁸⁰ would have seemed impossible to many commentators up to the beginning of the war in Ukraine. The invasion has had a deep impact on the EU and on its prospects. The Conference on the Future of Europe itself was well aware of the implications of the developments on the international stage and, many of the policies it proposed have been greatly influenced by the events in Ukraine.

The CoFE was proposed to spark interest in the process of European integration once again. However, following the Coronavirus pandemic the Conference quickly internalized the issue of health, proposing bold policies in this field that have resonated with the European Institutions²⁸¹. The same happened with the war in Ukraine. In fact, the CoFE proposed many measures aimed at ensuring the strategic independence of the European Union in critical fields, such as those of energy, industry and trade. Along these policies, the Conference also put forward its idea for a reform of the Institutional layout of the EU. However, even though a significant portion of the EU27 is staunchly in favour of the amendments proposed by the Conference, it does seem that their implementation is still out of reach.

²⁷⁹ European Union, ‘A Strategic Compass for Security and Defence’.

²⁸⁰ See section 1.1. “European Integration”.

²⁸¹ In her speech to the Conference Plenary on the 9th of May 2022, the President of the Commission confirmed how the EU was already working on the Creation of a European Health Data Space.

Nevertheless, this does not indicate the Conference as a failure. Indeed, it would be legitimate to say that judging the CoFE on its ability to amend the Treaties is simply misguided²⁸². The success of the Conference is summarised by its ability to create a sense of true legitimacy around its decisions, something that must be appreciated in today's European Union. Although the Union is not yet as democratic as many citizens would like it to be, the institutions have showed that they are not afraid to include citizens in decision-making, and that they are willing to commit themselves to respect their proposals. In this sense, the exceptionality of this project – which is all in its nature as an innovative democratic bottom-up exercise of citizens' involvement – truly comes to light.

This level of openness and transparency should not be underestimated, regardless of the results of the Conference, it may well be the beginning of a process of further democratization of the Union²⁸³. Closing the democratic deficit will be a priority of the EU in the future if it wants to increase its competences and powers. Citizens must feel represented in Brussels to trust its decisions and, at least at the moment, this is not the case.

In conclusion, the aspect of participation is the defining element of the Conference on the Future of Europe. From the creation of the ECSC to the most recent Treaty the Union has been transforming. In its initial form the only mechanics that governed its decisions were purely intergovernmental. Nowadays, participation and democratic representation have made their way in the processes of the EU. The CoFE may be a further step in this transformation. The launch of the Conference represents the admission, by the European institutions, that citizens are the real source of authority and legitimacy of the EU, and not the Member States²⁸⁴. Regardless of the Conference's results, the EU is aiming to a more democratic future, maybe, eventually, without vetoes.

²⁸² Alberto Alemanno, 'Unboking the Conference on the Future of Europe and Its Democratic Raison d'Être', *European Law Journal*, 2022, 34.

²⁸³ Ibid.

²⁸⁴ Ibid.

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7. Riassunto

La tesi proposta tratta della Conferenza sul Futuro dell'Europa, un esperimento democratico di inclusione dei cittadini nella politica europea della durata di un anno, terminata il 9 maggio 2022. La dissertazione si pone come obiettivo quello di studiare e analizzare tanto il funzionamento di questo progetto quanto i suoi risultati, e le conseguenze che questa potrebbe avere sull'Unione Europea nel futuro.

Il processo di integrazione europea iniziò nel 1950 quando il ministro degli esteri francese Robert Schumann propose la creazione della Comunità Europea del Carbone e dell'Acciaio (CECA). Nei settantadue anni che si sono succeduti a questa celeberrima dichiarazione l'Europa si è trasformata da una organizzazione internazionale in una comunità, per poi diventare l'Unione che oggi conosciamo. Dopo grandi passi avanti nel processo di integrazione, con nuovi Trattati o emendamenti a quelli già esistenti, questo processo sembra però essersi fermato. L'ultimo degli avanzamenti nel processo di integrazione europea risale a quasi quindici anni fa, quando venne firmato il Trattato di Lisbona.

In questi quindici anni l'Unione si è trovata ad affrontare diverse sfide che l'hanno messa a dura prova. In primis la crisi economica del 2008, seguita dalla crisi del debito europeo nei primi anni dello scorso decennio, la crisi dei migranti nel 2015 e la conseguente ascesa di partiti sovranisti e antieuropeisti, culminata nel 2016 con il voto del Regno Unito che ne sancì l'uscita dall'UE. Infine, più recentemente, la pandemia globale e l'invasione russa dell'Ucraina.

Nonostante alcuni successi, come l'organizzazione dell'approvvigionamento dei vaccini a livello europeo nel 2021, l'opinione della popolazione europea nei confronti dell'Unione ha spesso vacillato. A questo fattore bisogna aggiungere l'inerente deficit democratico dell'Unione Europea, che non ha mai permesso ai cittadini di percepire l'UE come perfettamente legittima e rappresentativa. Anche se rispetto alla Comunità Europea dello scorso secolo sono stati fatti enormi passi in avanti rispetto alla questione della rappresentatività – ci basti pensare al cambiamento del ruolo del Parlamento Europeo nelle dinamiche dell'Unione – i cittadini non si ritengono ancora rappresentati da quest'entità che viene spesso percepita come lontana e imponente.

Pertanto, è prioritario per l'Unione Europea cercare di diventare più democratica e rappresentativa, cercando allo stesso tempo di riaccendere il fuoco dell'integrazione europea.

Nel marzo 2019, poco prima delle elezioni europee, il Presidente francese Emmanuel Macron pubblicò una lettera aperta sul sito dell'Eliseo, nella quale veniva avanzata la proposta di istituire una "Conferenza per l'Europa", nella quale i cittadini potessero esprimere la loro idea di Europa. La proposta del Presidente francese venne successivamente ripresa dall'allora candidata alla presidenza della Commissione europea, Ursula von der Leyen che, nelle sue linee guida per il periodo 2019-2024, rese nota la sua intenzione di proporre la "Conferenza sul Futuro dell'Europa".

Come anticipato, la dissertazione si pone l'obiettivo di studiare la Conferenza dal punto di vista del suo funzionamento e dei suoi risultati, provando a rispondere alla domanda che più spesso è stata accostata a questo esperimento democratico. Avrà conseguenze concrete per il futuro dell'Europa? E se sì, di che tipo?

Per iniziare questa analisi, però, è necessario partire non tanto dalla Conferenza quanto da un progetto simile avvenuto in passato. Infatti, nel 2002 ebbe luogo la Convenzione sul Futuro dell'Europa, che si occupò di redigere la prima versione di quella che sarebbe poi diventata la Costituzione per l'Europa. Il secondo capitolo analizza approfonditamente il documento che diede vita a questo progetto, la dichiarazione di Laeken. Essa definisce la composizione della Convenzione e le modalità con le quali si sarebbero svolti i lavori dell'assemblea. Diversamente dalla Conferenza più recente, la Convenzione non prevedeva la presenza di cittadini, ma quella di rappresentanti dei governi e Parlamenti nazionali assieme a quella dei rappresentanti delle istituzioni Europee.

Forte di questa analisi, nel terzo capitolo la dissertazione studia la Conferenza sul Futuro dell'Europa. Come per la Convenzione il punto di partenza dello studio sono i documenti che si trovano alla base del progetto, in questo caso, la già citata lettera del Presidente francese Emmanuel Macron intitolata "Per un Rinascimento Europeo" e la dichiarazione congiunta dei Presidenti del Parlamento Europeo, della Commissione e del Consiglio, firmata il 10 marzo 2021. Quest'ultima è un documento molto importante per comprendere la Conferenza ma, per via delle sue limitazioni e intrinseche ambiguità, fornisce una visione decisamente parziale di questo esperimento. Di conseguenza, il capitolo propone un'approfondita analisi della struttura della Conferenza, basandosi principalmente sul regolamento della stessa. In questa sezione vengono spiegati e analizzati diversi aspetti del progetto, partendo dai diversi

elementi che la compongono – come la *Multilingual Digital Platform* (MDP), i Pannelli Europei dei Cittadini e la Conferenza Plenaria – per arrivare alle loro relazioni e ai processi decisionali. Infine, il capitolo si chiude con un’analisi comparata di tre aspetti della Conferenza e della Convenzione del 2002: il contesto nelle quali le due si svolsero, il loro obiettivo e la loro composizione.

Da questo punto di vista la dissertazione illustra come la Convenzione, a discapito di quanto si potrebbe immaginare per via della sua composizione, fosse idealmente più rivoluzionaria della sua controparte moderna. Quest’ultima non puntava, infatti, a creare un nuovo Trattato o a rivoluzionare lo status quo europeo ma, al contrario, si limitava principalmente – ma non esclusivamente – a suggerire quali dovessero essere le priorità per l’UE per quanto riguarda le sue politiche.

Il quarto capitolo è interamente dedicato alle conclusioni della Conferenza sul Futuro dell’Europa. Come previsto dal regolamento della Conferenza, essa è terminata con la consegna del report finale ai Presidenti delle tre istituzioni, che componevano la Presidenza della CoFE. Il report contiene, oltre ad un resoconto sul lavoro svolto dalla Conferenza nel suo anno di attività, le quarantanove proposte approvate dalla Conferenza Plenaria. Dopo averle riassunte e commentate, il capitolo cerca di determinare quale sia lo status legale di questa iniziativa e, attraverso questa analisi, le probabilità che le sue proposte vengano effettivamente implementate. Per riuscirci, le proposte della Conferenza sono analizzate in due gruppi distinti, da un lato quelle che riguardano le politiche dell’UE e, dall’altro, quelle – in numero decisamente minore – che propongono un emendamento dei Trattati.

La divisione è necessaria per un motivo molto semplice, la Conferenza cade all’esterno del diritto dell’Unione Europea. Infatti, non è prevista né dai Trattati né da altre fonti del diritto dell’Unione. Necessariamente, quindi, per quanto le istituzioni si siano impegnate a studiare il modo migliore per implementare le proposte della Conferenza, questo impegno non determina un’obbligazione, quantomeno non da un punto di vista legale. Difatti, la dissertazione controbatte che, per quanto non vi sia un vincolo legale, le istituzioni sono politicamente tenute a rispettare il loro impegno. Avendo stabilito che il vincolo a cui le istituzioni sono sottoposte sia di natura politica e non legale, è necessario fare una seconda considerazione. Nella dichiarazione congiunta, le istituzioni si impegnano ad esaminare le proposte e ad implementarle “all’interno delle loro competenze e rispettando i Trattati”. Questa frase è il motivo per il quale le due tipologie di proposta devono essere analizzate

separatamente. Le proposte che riguardano le politiche dell'Unione e la determinazione delle sue priorità essa non pongono alcun tipo di problema, soprattutto se si considera la considerevole somiglianza tra la grande parte delle proposte della Conferenza e le politiche dell'UE. Questo però cambia quando a dover essere implementata è una proposta che si basa sull'emendamento dei Trattati. In quel caso, la vaghezza della formulazione lascia spazio a diverse interpretazioni, in particolare a quella data dal Consiglio dei ministri, il quale sostiene che ogni tentativo di emendare i Trattati della Conferenza cada al di fuori della portata giuridica dell'Art. 48 TUE, e quindi della Conferenza. A questa interpretazione se ne oppone una più permissiva. Lo stesso Art. 48 TUE spiega come, nel processo di revisione ordinaria dei Trattati, siano la Commissione, il Parlamento o in alternativa uno Stato Membro a proporre gli emendamenti al Consiglio, che a sua volta è tenuto a sottoporli al Consiglio Europeo, il quale ha il compito di prendere una decisione sulla loro esaminazione. Pertanto, nel caso in cui Parlamento e Commissione scegliessero questa seconda interpretazione – come sembra essere successo con l'approvazione della risoluzione 2022/2648 del Parlamento Europeo – essi sarebbero in grado di avanzare proposte di emendamento dei Trattati anche di fronte all'opposizione del Consiglio. Naturalmente però, per via del carattere puramente intergovernativo della procedura di revisione, sarebbe il Consiglio Europeo a decidere se procedere o meno con la discussione degli emendamenti, e questo, almeno per il momento, sembra essere molto complicato per via dell'opposizione di diversi Stati Membri.

Infine, la dissertazione si conclude con l'interpretazione dei tre aspetti principali della Conferenza, vale a dire le politiche proposte dalla CoFE, gli emendamenti ai Trattati e i suoi effetti simbolici. Il primo di questi gruppi viene commentato dal punto di vista contenutistico, infatti, le proposte della Conferenza sono simili alle proposte legislative dell'UE in quanto mirano a maggiore integrazione europea, ponendo l'accento su questioni valoriali, ambientali e di indipendenza strategica. Il discorso è diverso invece per il secondo gruppo, le proposte di emendamento dei Trattati. Come anticipato, in questo caso la conclusione della dissertazione è che una riforma dei Trattati come conseguenza della CoFE sia molto difficile da realizzare, principalmente per via del requisito di unanimità richiesto agli Stati Membri per fare sì che i cambiamenti entrino in vigore. Ironicamente, quindi, la proposta di abolire il criterio di unanimità attualmente necessario per molte decisioni a livello europeo non entrerà in vigore nel breve termine proprio per via della necessità di un voto unanime. Detto ciò, la terza ed ultima parte della conclusione si apre con un accenno all'invasione russa dell'Ucraina.

Riassunto

L'ipotesi portata avanti in questa sezione dell'elaborato è che quest'avvenimento potrebbe, in modo ben più determinante della Conferenza, portare ad eventuali emendamenti dei Trattati. Le ultime righe della conclusione terminano con un ragionamento che era stato accennato in diversi punti della dissertazione, la democraticità dell'Unione Europea. L'opinione espressa in questa sezione è che, per quanto possa essere interessante analizzare dal punto di vista legale la Conferenza, e quindi anche l'eventualità che essa porti a cambiamenti radicali nelle dinamiche europee, la realtà è che il vero impatto della CoFE sia di tipo simbolico. In questo senso, la Conferenza sul Futuro dell'Europa può rappresentare un passo importante per l'ineluttabile processo di integrazione europea, in quanto essa rappresenta il momento in cui le istituzioni si sono rimesse alle decisioni dei cittadini, muovendo un altro passo verso la visione di Europa più democratica, non più dicotomicamente divisa, come successo dall'inizio della sua esistenza, tra dinamiche puramente intergovernative e democratiche.