

Reforming the European Union

How the European Parliament is responding to citizens' expectations

SUMMARY

The Conference on the Future of Europe was designed to give the general public a say about their vision for the EU, by means of a multilingual digital platform and citizens' panels. The panels are transnational forums, gathering citizens from the EU Member States to discuss their vision for the future of the Union and make recommendations on how the EU could be improved.

The resulting proposals are diverse but constructive. They include interesting, sometimes ambitious, suggestions for the future and in many respects are geared towards building a more efficient, integrated Union that is closer to its citizens.

This briefing focuses on the recommendations made by Panel 2 (European democracy / values, rights, rule of law and security), and recommendations uploaded onto the multilingual digital platform (under European democracy). The latter are predominantly constitutional and institutional in nature and therefore tackle broader issues, such as reform of the EU institutional set-up, improvements to the EU decision-making process, closer cooperation among Member States and a stronger European Parliament. In many respects, the overview given in this briefing shows how Parliament has been very active in making proposals and endorsing changes in almost all the fields where citizens have expressed the need for the EU to take action. While the citizens' panels have been an interesting and innovative exercise in participatory democracy, the outcome of the conference has still to take shape, and will be captured in a final report to be issued when its work ends in spring 2022.

This is the first in a series of briefings that will look at citizens' expectations and recommendations in the context of the Conference on the Future of Europe, and the European Parliament's response.



IN THIS BRIEFING

- > Citizens' involvement in the Conference on the future of Europe
- > Citizens' concerns, ideas and proposals
- > Parliament's response

Citizens and the Conference on the Future of Europe

Why citizens' panels?

The Conference on the Future of Europe was launched to create a new space for debate on the future of the EU, engaging institutions and citizens in a broad and deep reflection on the direction in which the EU should develop in the future.

The idea to convene a Conference on the Future of Europe was, from the very beginning, coupled with the intention to make the conference a genuinely bottom-up exercise and to give citizens a louder voice on choices affecting the EU. In her [political guidelines](#), and her [opening statement in the European Parliament's plenary](#) in July 2019, the President of the European Commission, Ursula von der Leyen, expressed her intention to hold a conference in which citizens from all walks of life could participate and express their vision for the future of the EU, and in that way help to steer the EU's way forward. Commissioner Dubravka Suiça, ahead of her hearing in the European Parliament before her appointment, [underlined](#) the need for the conference to be inclusive and ensure that all citizens were heard.

From the very start, Parliament championed the idea that citizens should be given a strong say in how the Union should develop in the years to come. Parliament adopted a [resolution](#) in early 2020 to mark the beginning of the conference's [preparatory phase](#). This offered a detailed and influential vision of how citizens could take part in the conference, with the creation of 'citizens' agoras', namely transnational forums made up of between 200 and 300 European citizens, randomly selected and representative of the EU's diversity. This proposal proved successful and appeared in the [joint declaration](#) signed by the Parliament, Council and Commission presidents, framing the conference's scope, composition and methods.

Rule 5 of the Conference's [Rules of Procedure](#) states that the composition of each panel should take into account the degressive proportionality principle applied to the composition of the European Parliament. Mirroring the joint declaration, it also states that members of the citizens' panels should be chosen randomly, to be representative of EU sociological diversity, in terms of citizens' geographic origin, gender, age, socioeconomic background and/or level of education. One third of each citizens' panel should also be composed of people younger than 25.

Citizens' panels are however not the only source of citizens involvement in the conference. The joint declaration also mentions a multitude of conference events and debates to be organised across the EU, to be organised at European, national, transnational and regional levels and to involve civil society organisations and stakeholders. Moreover, citizens' panels form one of the four pillars of the conference, together with the [multilingual digital platform](#), [decentralised national events](#) and the [conference plenary](#).

The creation of the [multilingual digital platform](#) for the citizens' panels arose from the intention to make the conference an inclusive, collective event, gathering suggestions, recommendations and ideas from the widest possible audience. The platform allows citizens, non-governmental organisations (NGOs) and stakeholders to express their views, [publicise events](#) relating to the conference and make proposals on any policy area. The platform identifies [nine policy areas](#) with a 10th residual one. The nine macro policy areas are as follows: i) climate change and the environment; ii) health; iii) a stronger economy, social justice and jobs; iv) EU in the world; v) values and rights, rule of law and security; vi) digital transformation; vii) European democracy; viii) migration; and ix) education, culture, youth and sport. Contributions to the platform are the subject of [periodical reports](#), also giving a country break-down of contributions. The platform is also the repository of [all documents](#) relating to the conference.

[Decentralised national events](#) can be organised by members of the public, NGOs and Member States on issues relating to the Conference on the Future of Europe. The conference website offers an

[overview](#) of initiatives of this kind taken by national authorities of the EU-27, and guidance on how to prepare them for the general public.

How do the citizens' panels work?

The [four citizens' panels](#) are made up of 200 citizens each, chosen randomly. Nevertheless, the ultimate composition of the panels represents the EU population sociologically on the basis of five criteria: nationality, urban/rural background, socio-economic background, gender and age. A special focus was placed on young citizens, with one third of participants aged between 16 and 25. Degressive proportionality was applied for the numerical composition of the panels. The random selection was intended to ensure impartial selection of participants. [The four panels](#) were organised around the policies identified in the platform, in such a way that each citizens' panel is responsible for several maxi policy areas. [Panel 1](#) deals with stronger economy, social justice, jobs/education, youth, culture, sport/digital transformation; [Panel 2](#) with European democracy/values, rights, rule of law and security; [Panel 3](#) with climate change, environment and health; and [Panel 4](#) with the EU in the world/migration.

The citizens' panels have been designed and run in accordance with a strict methodology and a set deliberative protocol, derived from experiences of citizens' assemblies in various countries. A number of experts and fact-checkers help to prepare and moderate the panels, which meet for three sessions, each running over a weekend according to a [set programme](#). External service providers have helped design the methodology, moderate and facilitate the work of the panels following tried-and-tested methods, including the logistics. However, the overall supervision of the panels remains the responsibility of the common secretariat and [executive board](#). The [first session](#) was devoted to the illustration by policy experts of the context of the various policy areas in question and the main issues connected with those domains. During the same session, citizens could identify the critical problems that in their opinion deserved to be discussed. These were then subdivided into [workable policy streams](#). During the second session, which took place remotely, the citizens' panels discussed the subjects chosen. At the third session, the focus was on agreeing collectively on recommendations to be presented to the [conference plenary](#). During the debates, citizens' panels also took into account input from the platform and conclusions drawn from [national events](#). In practice, the [originally-agreed schedule](#) of citizens' panels sessions could not be achieved, as some sessions of the citizens' panels in December 2021 and January 2022 and the December 2021 conference plenary could not take place for public health reasons relating to the pandemic. The citizens' panels are expected to conclude by spring 2022, with a hybrid event envisaged for June 2022 in order to give feedback to the panels on the follow up.

The citizens' panels' input would not be useful unless it was passed on to the [institutional level](#) at which European institutions, national parliaments and civil society will debate the recommendations. For this reason the [joint declaration](#) and the [rules of procedure](#) provide for the citizens' recommendations to be explained and presented at the conference plenaries. Twenty citizens from each of the citizens' panels were drawn by lot to be 'ambassadors' for their panels during the conference plenaries, and one third of those ambassadors were chosen from among the participants aged under 25. By conveying the recommendations to the plenary, a solid link is established between the participatory component and the representative component of the conference, whereby the recommendations should be taken into account by the plenary and ultimately form part of its proposals to the executive board. The executive board is the highest level body of the conference and is composed of representatives of the [three institutions](#). It is responsible for drafting the conclusions of the conference. The conference plenary must adopt proposals by consensus, at least between representatives of the Commission, the Parliament, the Council and the national parliaments (Rule 17). Where divergences arise with the citizens' recommendations, this should be mentioned explicitly in the report by the executive board.

Citizens' concerns, ideas and proposals

The topic of **European democracy** has attracted a lot of attention from EU citizens during the conference, as shown by the number of **contributions** on this subject received on the conference's multilingual platform and the [recommendations](#) made by Citizens' Panel 2 (European democracy/values and rights, rule of law, security) and by young Europeans at the 2021 [European Youth Event \(EYE\)](#). Contributions on European democracy, how to reform the EU institutions and how to take the EU integration project forward have been the most numerous of all received through the multilingual platform **since the early months of the conference**, followed by contributions on climate change and environment and economy, social justice and jobs ([Third Interim Report Platform](#), p. 17). Citizens' contributions on this topic have revolved around the following ideas: i) institutional reform; ii) decision making at EU level; and iii) closer integration. This briefing looks into the detail of the citizens' contributions on these three areas and seeks to explain how the European Parliament has positioned itself in relation to the citizens' proposals.

Institutional reforms

Institutional reforms have attracted citizens' attention during the conference, with a focus on making the EU's institutional set-up more efficient, transparent and closer to the citizens. Citizens' Panel 2 suggests **modifying the names of the EU institutions** to make it easier for citizens to identify the role of each EU institution (for instance, the Council should become the Senate, and the Commission should become the Executive Commission, etc.) (Recommendation 15).

Citizens' Panel 2 also focuses on the **rules applicable to the election of the European Parliament**, clearly recommending harmonising the electoral rules applicable to the European elections and allowing citizens to vote for electoral lists with candidates from multiple Member States (Recommendation 16). Abandoning the current state of affairs in which every Member State develops its own national rules for European elections on the basis of the few common rules enshrined in the [European Electoral Act](#) would, according to the panel, build a sense of unity and foster debates on EU-related topics during the elections. Several other proposals were also discussed by the citizens in order to boost the European dimension of the elections and increase turnout. To attain the first goal, the creation of **transnational electoral lists** was also proposed through the conference [platform](#) and by young Europeans at [EYE 2021](#). In addition, ideas on allowing postal and digital voting and harmonising the legal voting age, setting it at 16, have also been discussed on the platform as a way to increase the turnout for European elections, including among younger voters ([Third Interim Report Platform](#), pp. 54 and 59). The platform has also received [proposals](#) to attribute **further powers to Parliament**, including full budgetary and legislative powers to be shared equally with the Council, the right to propose new EU legislation and to elect the president of the Commission directly without the prior appointment of a candidate by the European Council.

As regards the **Council and the European Council**, some contributions received through the platform have proposed to [eliminate](#) the European Council or [merge](#) it with the Council and transform it into a second Chamber of the European Parliament (or EU Senate) in which Member States would be represented and would participate in the EU legislative process. Increasing **transparency** within the Council decision-making process and [moving](#) from **unanimity** to qualified majority voting have also been discussed by several contributions to the platform. Unanimity voting and the difficulties it causes for EU decision making was also the focus of [Recommendation 20](#) made by Citizens' Panel 2.

As regards the **Commission**, debates within the conference platform have revolved around the **procedure** for appointing the president of the Commission and the other commissioners, with some [proposals](#) calling for the merging of the presidencies of the Commission and the European Council and having one single president of the EU directly elected by the people. Without going so far, other [contributions](#) received through the platform have proposed to revive the

Spitzenkandidaten (lead candidate) process, in order to enhance the democratic legitimacy of the Commission, a proposal also put forward by young Europeans at [EYE 2021](#). Similarly, some contributions made through the platform have called for a [reduction](#) in the number of commissioners or the [election](#) of commissioners by the European Parliament alone.

Decision making at EU level

Citizens have also put forward several ideas to boost their participation within the EU's decision-making process and complement representative democracy at EU level, with various **mechanisms for direct or participatory democracy**. Proposals [put forward](#) through the platform as ways to strengthen citizens' participation in the EU decision-making process have included making wider use of citizens' assemblies or panels for sensitive political matters, creating different on-line forums for citizens to participate in EU decisions, creating a citizens' parliament to advise the European Parliament, boosting young people's participation through different mechanisms, and allowing EU-wide referendums on EU-related topics.

[Citizens' Panel 2](#) takes up some of the proposals put forward through the platform. For instance, it recommends establishing a **digital platform** through which citizens would be able to **access fact-checked information**. The reasoning here is that relevant and informed participation requires accessible and trustworthy information (Recommendation 17). In addition, Recommendations 18 and 19 from Citizen's Panel 2 propose two different ways to involve citizens directly in the decision-making process at EU level: first, **EU-wide referendums** on important matters in which all EU citizens can participate, triggered by the European Parliament and to be legally binding; and second, a digital platform in which citizens can participate in **online elections and polls** on legislative or other relevant proposals from EU institutions. Finally, Recommendation 20 from Citizens' Panel 2 focuses more on the decision-making process within EU institutions and suggests moving away from unanimity in the Council, as already indicated in the previous heading.

Achieving closer integration

Recommendations 21 to 23 made by Citizens' Panel 2 also call for **closer integration**: the panel proposes **increasing EU investments** to create appropriate jobs and **harmonise living standards across the EU**. According to the panel, investment in education, health, housing, physical structures, care for the elderly and for people with disabilities, and structures aiming to ensure a better work-life balance, should be prioritised and equal opportunities should be offered to all citizens throughout the EU. Taxes on big corporations should help to finance those investments.

Debates on how to take forward the EU integration project have also flourished on the conference platform, with some [contributions](#) calling for further **federalisation of the EU**, in the understanding that such a process would give the EU further credibility and influence on the global stage, would help the EU to address transnational challenges such as climate change or the pandemic, and would help overcome Euroscepticism and nationalism. Calls to build a **common economic and fiscal policy**, to have a **single European army** or to have a **common foreign policy** have also been made through the platform. Some [proposals](#) made through the platform link the federalisation of the EU to the adoption of a **European constitution** by a constituent assembly, laying the foundations for a democratic European federation, an idea also included in [Recommendation 35](#) of Citizens' Panel 2. However, some [contributions](#) made through the platform do go in the opposite direction, calling for further respect for Member States' identities and repatriation of some competences back to the Member States. Somewhere in between, some [contributions](#) sent through the platform call for a step by step federalisation process in which not all Member States would have the same level of integration but would move from less integrated to more integrated solutions over time.

Parliament's response

Institutional reforms

On a number of occasions since the adoption of the Lisbon Treaty, the European Parliament has expressed the need for **an in-depth consideration of the [future of the European Union](#)** and to address the **shortcomings in EU governance**, shortcomings that have become apparent in the light of the successive crises faced by the Union in the last decade (economic and migratory crises, Brexit, and the pandemic).¹ Among other proposals, the European Parliament has debated and put forward various suggestions to modify the EU's current institutional setting, in some cases mirroring the content of the proposals put forward by citizens within the conference.

Europeanising elections to the European Parliament

As suggested by several citizens' proposals, the European Parliament has **repeatedly** pointed at the need to **enhance the European dimension of European elections**. In line with Recommendation 16 adopted by Citizen's Panel 2, Parliament is currently discussing a **proposal to reform the electoral rules applicable to European elections** and further harmonise them ([Devesa Report, 2020/2220\(INL\)](#)). The draft report includes several innovations, including a common minimum age for voting and standing as a candidate in European elections; an obligation for Member States to provide for postal voting; a fixed common day for holding European elections (9 May); an obligation to ensure gender equality in candidate lists through a zipper system (i.e. a system alternating the sex of candidates on the list); the creation of a **pan-European constituency**, comprising the territory of all the Member States, from which a number of Members of the European Parliament would be elected through **transnational electoral lists**; and, the establishment of a European electoral authority in charge of conducting the elections in the EU-wide constituency.

According to the draft report, a uniform electoral system and procedure would apply to the EU-wide constituency and European political parties, movements and coalitions would be entitled to submit candidates for the pan-European constituency, as well as coalitions of national political parties or movements from at least a quarter of the Member States. The candidate lists would be obliged to meet specific criteria to ensure demographical balance. A total of 731 amendments were tabled to the draft report and the Committee on Constitutional Affairs (AFCO) is expected to vote on them at the end of March 2022. The draft report takes on board several ideas already put forward by Parliament in its [resolution](#) of 26 November 2020 taking stock of the European elections. In this resolution, Parliament already pointed to the need to move towards a **unified European electoral law** to foster the European dimension of the elections and highlighted the **importance of European political parties and movements** to stimulate a European political debate. The resolution also referred to the need to allow European parties and movements to participate fully in the European political space.

In previous parliamentary terms, Parliament had already [proposed](#) to modify the **1979 European Electoral Act** to further harmonise national electoral rules applicable to European elections. Since the adoption of the Act, **two main amendments** have been adopted, in **2002 and 2018**, on the basis of proposals put forward by Parliament ([Anastassopoulos Report](#), A4-0212/98; and [Hübner-Leinen Report](#), P8_TA(2015)0395), although the latter is still not in force as it is awaiting the approval of [several Member States](#) as required by [Article 223 of the Treaty on the Functioning of the EU](#). Some other initiatives to modify the Act were unsuccessful in Parliament ([First Duff Report](#) in 2011, [Second Duff Report](#) in 2012).

During the last parliamentary term (2014-2019), Parliament's [initiative](#) to modify the Act included proposals to enhance the visibility of European political parties by including their names and logos in the ballot papers used for European elections, to ensure gender equality in electoral lists, to establish an electoral threshold of between 3% and 5% for constituencies of more than 26 seats, to create a **joint constituency** and to require European political parties to nominate their **lead**

candidates for European elections at least 12 weeks before the elections, in line with the 'Spitzenkandidaten' process, covered below. Although the Council found an agreement to modify the Act, the **Council's decision** ([Council Decision \(EU, Euratom\) 2018/994](#)) **did not retain** two proposals made by Parliament to enhance the European dimension of the elections, namely the proposal to create a joint constituency headed by each European political party's lead candidate for the elections and to oblige European political parties to nominate those candidates 12 weeks ahead of the elections. Parliament also decided to delete the references to the joint constituency originally included in the AFCO Committee report in its final legislative proposal concerning the composition of Parliament after Brexit ([2017/2054\(INL\)](#)).

Strengthening the powers of the European Parliament

Parliament is also [intent](#) on strengthening its powers in different policy areas, such as the common foreign and security policy. It also aims to strengthen its legislative powers through a generalised right of legislative initiative and extension of the ordinary legislative procedure to policy areas where it does not currently apply (e.g. fiscal and social policy). Parliament would like to strengthen its budgetary powers, not least through a more salient role in the adoption of the multiannual financial framework; and to strengthen its oversight powers, for instance by reinforcing of its right of inquiry.

To this end, the AFCO committee is currently discussing a [draft report](#) on **Parliament's right of initiative** (2020/2132(INI); rapporteur Paulo Rangel, EPP, Portugal). In contrast to the tradition in parliamentary democracies, the European Parliament's right of legislative initiative is very limited. In practice, Parliament has a direct right of initiative in very few areas of a constitutional nature, relating mainly to the composition of Parliament, the election of its members and their Statute, the Statute of the European Ombudsman and the right of inquiry. In other areas, Parliament has an indirect right of initiative ([Article 225 TFEU](#)) that empowers it, by a decision of the majority of its component members, to ask the Commission to submit a legislative proposal in a specific area. According to Rule 47(2) of Parliament's Rules of Procedure any member may table a proposal for a Union act on the basis of the right of initiative granted to Parliament according to Article 225 TFEU. Although the Commission is not obliged to act on Parliament's request, it is required to give reasons for such a decision not to make a proposal. According to the [2010 framework agreement](#) between Parliament and Commission, the latter must report to Parliament within three months of Parliament's resolution on the follow up to be given to any Parliament request to submit a proposal. The Commission may come forward with a proposal within one year of Parliament's request or include the proposal in the new year's work programme.

The AFCO draft report proposes granting a right of legislative initiative to Parliament with the Commission retaining a concurrent right of initiative or even a monopoly in certain areas (e.g. the budget), as these are the institutions representing the EU as a whole. The draft report rules out a generalised right of initiative for the Council, as this institution represents the interest of the Member States. The proposal however does not rule out Council having an exclusive right of initiative in a few exceptional cases. Commission President Ursula von der Leyen has [openly](#) supported the direct right of legislative initiative for the European Parliament, and has committed the Commission to submit a legislative proposal when Parliament, acting by a majority of its members, adopts resolutions requesting it to do so.

Similarly, Parliament has also tried to strengthen its [inquiry prerogatives](#) since the entry into force of the Lisbon Treaty. As provided for in [Article 226 TFEU](#), the European Parliament's oversight power includes the right to establish temporary committees of inquiry to investigate 'alleged contraventions or maladministration in the implementation of Union law'. The **European Parliament's right of inquiry** is currently governed by [Decision 95/167/EC](#), which limits the scope of the inquiries Parliament can deal with, and grants Parliament limited powers to enforce its investigative rights. Aiming to address the shortcomings of the current legal framework, Parliament adopted a proposal for a new regulation on the right of inquiry on 23 May 2012 ([2009/2212\(INI\)](#)). However, the proposal needs the consent of the Council and the Commission to be adopted and

both institutions have taken the view that political and legal concerns prevent them from giving their consent to Parliament's proposal. The rapporteurs in charge of the file during the 2014-2019 parliamentary term (Ramón Jáuregui Atondo, S&D, Spain) and the current term (Domènec Ruiz Devesa, S&D, Spain) have presented several working documents proposing various strategies to secure the Council's and the Commission's consent, including a [non-paper](#) with a new wording for Parliament's proposal.² However, none of these strategies has been successful yet, although both the Commission and the Council have recently expressed their openness to a constructive dialogue with Parliament on the file.³

The Spitzenkandidaten procedure: Electing the President of the Commission

Echoed in the citizens' suggestions on the need to 'Europeanise' the European elections and increase electoral turnout, the [Spitzenkandidaten](#) or 'lead candidate' process is a method for **electing the president of the Commission**, whereby European political parties nominate their lead candidate ahead of the European elections. This allows the electorate to vote not only for members of the European Parliament but also for a candidate to the presidency of the EU's executive. By allowing the public to cast their votes to influence the choice of the future president of the Commission, the *Spitzenkandidaten* process represents a move towards a more democratic way of filling the EU's top positions. The *Spitzenkandidaten* process was also thought to be a method to increase turnout, make the European elections more visible to the general public and boost debates on Europe-related topics ahead of the elections.

The [Spitzenkandidaten](#) process arose from rules that entered into force with the Lisbon Treaty, aiming to enhance the link between European elections and the appointment of the president of the European Commission. Under [Article 17\(7\)](#) of the Treaty on the European Union (TEU), the European Council – acting by a qualified majority and taking into account the European election – proposes a candidate for president of the European Commission, who should thereafter be elected by Parliament by a majority of its component members. Although not expressly provided in the Treaties, the lead candidate process therefore derives from an extensive interpretation of the role of the European elections in the appointment procedure leading to the investiture of the Commission president. Although materially implemented only in 2014 following **Parliament's [calls on European political parties to elect their lead candidates ahead of the 2014 European elections](#)**, the idea of the *Spitzenkandidaten* has been circulating in EU political and academic circles since the 1990s. Strongly supported by Commissioner Barroso already in 2012, the *Spitzenkandidaten* system was implemented at the European elections in 2014. Although the *Spitzenkandidaten* process did not fully succeed in increasing the electoral [turnout](#), it was considered to have positively contained the downward trend. In any case, it increased the visibility of European elections, which came to the fore with open debates on EU issues representing a novelty in the history of European elections. As a result of this process, the [European Council](#) appointed the candidate of the political party that prevailed in the 2014 elections, Jean-Claude Juncker, who was duly voted into office by the European Parliament.

The same successful roll out could not be repeated at the European elections of 2019. Whereas the *Spitzenkandidaten* process had been perceived as a success by Parliament it was seen as less so by the European Council, which stressed the [lack of automaticity](#) of this process and reclaimed the ownership of the choice of candidate to be submitted to Parliament's vote. In 2019 the European Council disregarded the lead candidates proposed by the European political parties. The 2019 candidates out-numbered the 2014 candidates, as the EFD and the ECR also decided to nominate lead candidates. The European Council [proposed](#) Ursula von der Leyen as President of the Commission, and she was voted into office by Parliament on [16 July 2019](#). The *Spitzenkandidaten* process therefore remains an institutional experiment whose application in future elections remains an open issue.

Restructuring the Commission

In addition to proposals to modify the appointment procedure for the Commission president, Parliament has also put forward ideas to **restructure and strengthen the Commission** as the EU's main executive authority. In line with some of the proposals put forward by EU citizens on the conference platform, Parliament has [called](#) for a reduction in the number of commissioners and for the lowering of the number of vice-presidents to only two: a finance commissioner, who would also be [president of the Eurogroup](#), and a foreign affairs commissioner.

This proposal goes in the same direction as [Article 17\(5\) TEU](#), introduced by the Lisbon Treaty (2009) amid concerns relating to the Commission's capacity to act and adopt decisions as a collegiate body due to the increasing number of Commissioners (from 9 to 28) caused by subsequent EU enlargements and the decision to stick to the formula of 'one commissioner per Member State'.⁴ Article 17(5) TEU provided for a **reduction in the number of commissioners** to two thirds of the number of Member States from November 2014, unless the European Council decided otherwise by a unanimous decision. If the principle requiring the Commission to include at least one national of each of the Member States were abandoned, the composition of the Commission would have to guarantee an equal rotation among nationals of the different Member States, and reflect the demographic and geographical range of all Member States, as required by Articles 17 (5) TEU and 244 TFEU. However, this provision has not been applied yet, as the European Council [decided](#) in 2013 to maintain the rule of one Commissioner per Member State for the 2014-2019 Commission and the decision was [maintained](#) for the 2019-2024 Commission.

Transforming the Council

In line with citizens' contributions on the multilingual digital platform on the European Council and the Council, Parliament has [proposed](#) to **merge the Council and the European Council** and transform them into a **Council of States** that would become the second Chamber of the EU's legislature. Decisions of the new Council of States would be always adopted by a single legislative configuration and the current 10 specialised Council [configurations](#) would become preparatory bodies similar to parliamentary committees within the European Parliament. Parliament suggested leaving a wide margin of discretion to Member States to decide on their national representation in the Council, allowing them to opt between being represented by representatives of their national parliament, government or a combination of both. In addition, the **rotating six-month presidency** of the Council should be **replaced by a system of permanent chairs** similar to that used by Parliament itself.

Although Parliament's far-reaching proposal has never been seriously considered within discussions leading to prior modifications of the EU Treaties, debates regarding bicameralism within the Union are as old as the European integration process itself and multiple proposals have been put forward to either create a new institution – different from the current Council – that would become the second chamber of the EU's legislature or to parliamentarise the Council. In the drafting process of the Treaty establishing a Constitution for Europe, the Vice-president of the 2001-2003 Convention on the Future of Europe, Giuliano Amato, proposed the creation of a **Legislative Council**, composed of the ministers directly responsible for European issues within each national government and responsible for the amendment and adoption of legislative initiatives. The proposal was included in the [draft Treaty](#) adopted by the Convention (Article 23), but [was not accepted](#) by the Intergovernmental Conference after its rejection by a majority of Member States.

In addition to these structural changes and in line with some proposals received through the multilingual platform of the Conference, Parliament has also [pointed out](#) the need to **increase transparency and publicity** within the Council's decision-making procedures, and the need to switch completely to **qualified majority voting** within Council. As further explained in the following section, expanding qualified majority voting does not necessarily require modification of the Treaties, but can be achieved making use of the *passerelle* clauses already included in the

Treaties. Similarly, increasing transparency and publicity in Council decision-making procedures, especially when the Council is discussing a legislative initiative, does not necessarily require Treaty change. In this vein, several proposals have been put forward to increase [transparency and publicity](#) within the Council, including relevant recommendations from the European Ombudsman⁵ – endorsed by Parliament's [resolution](#) of 17 January 2019 – and the [Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union](#) (COSAC). Those recommendations have already had an impact on the Council's working methods, as the Council is now [committed](#) to publishing its initial mandates for negotiation with the Parliament, progress reports on legislative initiatives and documents drafted for the purposes of trilogues (initial positions), among other legislative-related documents.

Modernising EU decision making: *Passerelle* clauses

With respect to citizens' proposals to overcome vote by unanimity in Council, [passerelle clauses](#) are mechanisms that allow the way decision-making is achieved by the Council to be modified. There are two general *passerelle* clauses and six special *passerelle* clauses. The general ones (first and second sub-paragraphs of [Article 48\(7\)](#) of the Treaty on European Union – TEU) were a true innovation of the Lisbon Treaty. Whereas one type of general *passerelle* clause bypasses unanimity in Council decisions, shifting from unanimity to qualified majority voting (QMV), the other type of general *passerelle* allows a shift from a special legislative procedure to the ordinary legislative procedure (OLP), enhancing the role of Parliament and introducing a higher degree of transparency to supranational decision-making. The use of both types of general *passerelle* must be unanimously authorised by the European Council and need Parliament's consent, in addition to the non-opposition of national parliaments. The Treaties also contain six special *passerelle* clauses that apply to specific policy areas.

Parliament has been a steady and outspoken advocate of *passerelle* clauses over the years, calling repeatedly for these flexibility mechanisms to be applied. However, given the little power in Parliament's hands in this area, limited to consent, invitations to use these mechanisms have remained at the level of exhortations. Examples of Parliament's position are demonstrated by the [two resolutions](#) of [16 February 2017](#), clearly endorsing *passerelle* clauses and a shift to QMV. With its [resolution](#) of 14 May 2018 Parliament suggested the use of *passerelle* clauses to shift to QMV and the OLP for the adoption of the multiannual financial framework (MFF) post 2020. In a [resolution](#) of 17 January 2019 on differentiated integration, Parliament called for more frequent use of flexibility mechanisms, such as the general *passerelle* shifting to QMV in Council. A similar invitation was reiterated with a resolution of [12 February 2019](#), adding to the call for QMV another to shift to OLP and to use the special *passerelle* applicable to enhanced cooperation ([Article 333 TFEU](#)). Parliament also supported the use of *passerelle* clauses in the common foreign and security policy (CFSP) as early as 2013 and reiterated this invitation in 2018 in selected areas such as human rights issues, sanctions and civilian missions. A precise invitation to use the special *passerelle* in the CFSP field was made also in the 2019 annual report on the implementation of the common foreign and security policy. Parliament has suggested using *passerelle* clauses as a way to improve the method for adopting the MFF on several occasions since [2013](#). Most recently the [interim report](#) on the 2021-2027 multiannual financial framework contained such an invitation. Parliament's support for special flexibility mechanisms such as *passerelle* clauses also predates the Lisbon Treaty, with Parliament having endorsed them in the field of justice and home affairs, visas and police and judicial cooperation in criminal matters.

Finally, Parliament has also expressed an interest in more efficient decision making during the Covid-19 pandemic. In its [resolution](#) of 17 April 2020, Parliament highlighted the limits of the EU's current capacity to act and deemed it necessary to activate the general *passerelle* clause so as to 'ease the decision-making process in all matters which could help to cope with the challenges of the current health crisis'.

Achieving closer integration

Parliament is a clear advocate of deeper EU integration. It has taken the view that modernisation of the European project requires democratic **modification of the Treaties**, achieved through an inclusive constitutional convention, but has also pointed out that short- and medium-term solutions can be found by **exploiting the current Treaties' provisions to their full potential**.⁶

Through Treaty change?

Citizens' Panel 2 made recommendations regarding the need to achieve closer integration between EU Member States and to reopen discussions on an EU constitution. In this vein, **Parliament called for changes to the EU Treaties** in its [resolution](#) of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union. According to Parliament's proposal, any modifications should be based on an in-depth reflection on the future of the EU and on a vision for current and future generations of EU citizens.

In addition, Parliament suggested following an **inclusive procedure** to agree on any such modification of the Treaties, by establishing a **convention** composed of representatives of national parliaments and governments, the Commission, the European Parliament and EU consultative bodies. The proposal seemed to draw on previous attempts to adopt an EU constitution, namely the [Convention on the Future of Europe](#). Composed of representatives of national governments and parliaments, the European Parliament, the European Commission; and observers from the European Economic and Social Committee, the Committee of the Regions, social partners and the EU Ombudsman, the Convention on the future of Europe was tasked with considering in an inclusive an open manner the key issues for the EU's future ahead of an Intergovernmental Conference that would modify the EU Treaties. Ultimately, the Convention adopted the draft Treaty establishing a Constitution for Europe (2003), which was later modified and adopted by an Intergovernmental Conference (2004). However, the project failed after successive negative referendum results in France (2005) and the Netherlands (2005). Instead, the current Lisbon Treaty was adopted (2007).

Through differentiated integration?

As echoed by the step-by-step approach to integration proposed by citizens, Parliament has taken a clear stance on **'differentiated integration'** – also referred to as multispeed Europe or variable geometry. The term is [used](#) to indicate various pragmatic mechanisms that would drive European integration forward, allowing Member States who so wish to deepen or accelerate their cooperation.

For [Parliament](#), differentiated integration is an approach to be **used sparingly and within limits**, to avoid institutional fragmentation. The end goal should always be to promote inclusion and not exclusion of Member States. As Europe cannot work with a 'one size fits all' approach, it could be necessary for Member States to advance at different speeds to avoid the deadlock arising from political situations unrelated to the EU project. Parliament believes that differentiated integration should be used in full respect of the general interest of the Union, equal rights and opportunities of citizens. It should also be of a **temporary nature**. Differentiated integration should not create a parallel institutional arrangement nor should it lead to more complex undemocratic choices. Parliament, however, does not endorse the use of differentiated integration mechanisms when it comes to upholding fundamental values or in policy areas where non-participating Member States would create negative externalities such as economic and social dumping.

[Enhanced cooperation](#) is a differentiated integration flexibility mechanism provided for in the Treaties that allows a minimum number of nine Member States to establish a form of advance cooperation in areas not falling under the exclusive competence of the EU. Member States that participate in enhanced cooperation are able to achieve a common goal where negotiations could not bring all Member State to agree to that initiative.

In a [resolution of 12 February 2019](#) on the implementation of Treaty provisions on enhanced cooperation, Parliament endorsed this instrument as a tool that can solve problems while remaining within the realm of the Treaties, as opposed to other methodologies (the inter-governmental method). Parliament has therefore made a number of recommendations on enhanced cooperation, with a view to making this instrument more accessible and efficient. Parliament has for instance proposed that [Article 225 TFEU](#) should be interpreted so as to include the possibility for Parliament to initiate enhanced cooperation on the basis of a Commission proposal that could not be adopted and where no substantive progress was made for two consecutive Council presidencies. There should be however the possibility to fast-track decisions on enhanced cooperation for salient political issues in a timeframe shorter than two Council presidencies. However, enhanced cooperation should not create a parallel institutional arrangement. Enhanced cooperation has been used in few cases so far: the European Unitary Patent (26 Member States); divorce law (17 Member States); the European Public Prosecutor's Office (EPPO) (22 Member States); the property regimes of international couples (18 Member States); and permanent structured cooperation (PESCO) in the area of defence and security (25 Member States).

ENDNOTES

- ¹ European Parliament resolution of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union ([2014/2248\(INI\)](#)); European Parliament resolution of 16 February 2017 on improving the functioning of the European Union, building on the potential of the Lisbon Treaty ([2014/2249\(INI\)](#)).
- ² See AFCO's January 2015 [working document](#) on the proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry; AFCO's [second working document](#) on a proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry, November 2015; AFCO's [third working document](#) on a proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry, December 2018; and AFCO's [working document](#) on the state of play and outlook on the proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry, December 2020.
- ³ See answers to the question for oral answer [O-000030/2021](#), by Antonio Tajani and Domènec Ruiz Devesa on behalf of the AFCO committee, to the Commission: Parliament's right of inquiry (B9-0021/2021); and to the question for oral answer [O-000029/2021](#) by Antonio Tajani and Domènec Ruiz Devesa, on behalf of the AFCO committee, to the Council: Parliament's right of inquiry (B9-0020/2021).
- ⁴ See R. Böttner, 'The size and structure of the European Commission: legal issues surrounding project teams and a (future) reduced College', *European Constitutional Law Review*, Vol. 14, 2018, pp. 37-61.
- ⁵ [Decision](#) of the European Ombudsman setting out proposals following her strategic inquiry OI/8/2015/JAS concerning the transparency of trilogues; [Recommendation](#) of the European Ombudsman in case OI/2/2017/TE on the transparency of the Council legislative process.
- ⁶ See resolutions in endnote 1.

DISCLAIMER AND COPYRIGHT

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2022.

Photo credits: © vectorwin / Adobe Stock.

eprs@ep.europa.eu (contact)

www.eprs.ep.parl.union.eu (intranet)

www.europarl.europa.eu/thinktank (internet)

<http://epthinktank.eu> (blog)

