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WORKING DOCUMENT

on the democratisation of the European Union: improving the accountability,
transparency, capacity and responsiveness of the Union's institutions

Committee on Constitutional Affairs

Rapporteur: Sven Simon

A. Overview of Parliament's proposals

Introduction

1. This working document aims to contribute to the debate and reflection in the context of the Conference on the Future of Europe on reforming the functioning of the Union's institutions and relations between them, building on the reports previously adopted by Parliament. Parliament has emphasised the important role of the Conference on the Future of Europe in the debate on institutional matters, and has recalled the commitment by the Commission President to addressing topics specifically related to democratic processes and institutional matters in this context. The Conference should provide an inclusive framework for the consultation of citizens, while respecting the principles of representative democracy.
2. The EU institutions are generally perceived to be unable to cope with the deep and multiple crises that the Union has faced in the recent past and continues to face. These crises have led to collective responses from the Union but, in many cases, criticism has been levelled at such responses, in terms of both speed of action and their effectiveness.
3. In this regard, Parliament has called for a profound reflection on how to address the shortcomings of EU governance by analysing the issues underlying such shortcomings. Parliament considers it vital to strengthen not only institutional transparency and openness in the EU, but also the way in which political decision-making in the EU is communicated. The democratisation of the EU can only succeed if the role and responsibilities of the only EU institution whose representatives are directly elected, the European Parliament, are strengthened. Parliament is the key lever in facilitating a more democratic EU, as it is the only institution directly elected by the citizens of the Union.
4. Parliament takes the view that the Union needs to deliver on its democratic mandate, given that more voters than ever went to the polls in 2019, by enhancing the transparency of its decision-making and the accountability of its institutions, agencies and informal bodies. It is also necessary to strengthen cooperation among institutions and improve the Union's capacity to act. Parliament itself also needs to strengthen the use of its existing powers, such as its budgetary powers, in order for it to become a proper parliamentary watchdog. Future reform is sorely needed, but Parliament cannot wait for such a reform to take on a more assertive role in the EU institutional and political space.
5. In order to address the challenges facing the Union and strengthen its integration with a view to improving its functioning for the benefit of citizens, Parliament has explored possibilities both within the framework offered by the Treaties in force, with a view to making full use of the framework's potential and, where solutions cannot be reached using the tools currently provided for in the Treaties, through future Treaty change.

Institutional set-up, democracy and accountability

6. As the institution democratically elected by direct universal suffrage, and as such at the heart of democracy at Union level, Parliament plays an essential role in ensuring the legitimacy and accountability of EU decisions. In the context of the institutional architecture of the Union and its principles, Parliament's legislative powers and control

rights must be further consolidated and strengthened. In a multi-tier system of governance like the Union, the European Parliament is key in effectively ensuring democratic legitimacy and accountability at the EU level of decision-making.

7. Parliament has carried out an in-depth and extensive analysis of the institutional set-up of the Union and proposed specific measures across all levels and modes of governance, and most policy areas.
8. In this context, Parliament has consistently pleaded for the preservation and strengthening of the Community method. This method would ensure proper parliamentary scrutiny over the executive at Union level and through the ordinary legislative procedure.
9. Parliament has assessed the institutional set-up within the Union, and its links with democracy and accountability, in relation to the Union institutions and bodies and the way in which they relate to each other.
10. With regard to the European Council, Parliament has recalled that, according to the Treaties, the European Council defines the general political direction and priorities of the Union but does not possess legislative functions. Parliament is concerned that, in recent years, the European Council has, however, taken a number of important political decisions outside the Treaty framework, thereby de facto excluding those decisions from the oversight of Parliament, and thus undermining democratic accountability. Parliament maintains that the European Council's working methods should be more transparent, and that it is necessary to improve the scrutiny of the European Council and its conclusions through democratic accountability.
11. With regard to the Council, Parliament has called for the institution to be transformed into a true legislative chamber by transforming the current specialised Council configurations into preparatory bodies, similar to Parliament's committees, thus creating a genuinely bicameral legislative system involving the Council and Parliament, with the Commission acting as the executive.
12. With regard to the Commission, Parliament has focused in particular on the need to improve its own role in the election of the Commission President, but also in the examination of declarations of interests and in the hearings of the Commissioners-designate, as important steps in increasing the Commission's accountability. In order to enhance the political legitimacy of the Commission, Parliament considers that it is fundamental that the President of the Commission is chosen through a clear and well-understood procedure during the European elections, and has always expressed its determination to strengthen its role, in order to ensure that the European Council takes full account of the election results when presenting a candidate for Parliament to elect.

Role of the Member States

13. Member States have the primary responsibility for transposing, applying and implementing EU law correctly, and thus play a fundamental role in ensuring its application and implementation, and are key for the Union's responsiveness and credibility. Parliament has recently noted the significant number of transposition infringement proceedings brought against Member States, and that the average transposition time has increased. In this regard,

Parliament emphasised that the timely, correct and effective application of EU law in the Member States remains a serious challenge and a priority.

Specific policy areas

14. As far as specific policy areas are concerned, Parliament has addressed in particular the Economic and Monetary Union (EMU) and its institutional structure, which should be made more effective and democratically accountable. In the medium term, it is essential to look at the measures that can be taken to enhance the democratic and social dimension of the EMU within the framework of the existing Treaties, in particular within the EU's social policy competences under Article 4(2) of the Treaty on the Functioning of the European Union (TFEU). It has also asked for increased effectiveness, coherence and accountability in the area of the common foreign and security policy.
15. As regards control of international agreements, Parliament has reiterated time and again the need to fully uphold its right under Article 218(10) of the TFEU to be fully and immediately informed at all stages of the procedure for negotiating and concluding international agreements, to enable it to exercise its powers with full knowledge of the Union's action as a whole. Improved practical arrangements for interinstitutional cooperation and information-sharing in the context of international agreements are still expected, and may have become more pressing in the context of the relationship between the EU and the UK.
16. Parliament attaches great importance to its budgetary powers, and has consistently asked for their reinforcement, in both the decision-making procedures for own resources and the multiannual financial framework (MFF), and for the effective supervision of the institutions' and bodies' implementation of the EU budget. With regard to the Next Generation EU programme in particular, Parliament's democratic oversight should be enhanced. Parliament considers that all EU institutions and bodies should be obliged to cooperate fully with Parliament, and in particular that the Council should share the necessary information with Parliament in the framework of the discharge procedure concerning the European Council and the Council. Moreover, the democratic governance of the EMU should be strengthened through a parliamentary dimension for the Eurogroup.

Right of inquiry and electoral law

17. As an important aspect of democratic accountability, Parliament attaches great importance to its right of inquiry, which it believes should be reinforced. In this context, Parliament considers that it should be granted specific, genuine and clearly delimited inquiry powers in line with its political stature and competences. It has called on the Commission and the Council several times, in accordance with the principle of fair cooperation, to establish a political dialogue on Parliament's proposal for a regulation on the right of inquiry, in order to entrust Parliament with effective powers enabling it to exercise this basic parliamentary instrument for controlling the executive, which is absolutely indispensable in parliamentary systems all over the world.
18. Finally, given that democratic legitimacy and accountability are closely related to the participation of citizens in the formation of political will and the normative space, Parliament has reiterated the need to ensure an effective reform of the electoral law that

leads to unified and equal rules with a view to improving citizens' participation in EU matters and voter turnout in the European elections.

B. Observations and avenues to be further explored

I. Objectives

The objective of this working document is to provide suggestions for making European policy-making **more accountable, responsive and transparent to the European electorate**, as well as **more able to meet voter's expectations**. Eleven years after the entry into force of the Lisbon Treaty, the institutions of the European Union **lack democratic accountability in the eyes of many voters**. The European Union today suffers from profound national fragmentation of political discourse. There is inadequate responsiveness by political representatives to the will of the electorate. This problem is compounded by a lack of transparency in the Council and a lack of publicity for Parliament. Moreover, it is significantly more difficult to amend or revoke pieces of legislation at European level.

This perceived democratic deficit has been the subject of continuing academic, legal and political debate. Voter choice in the European elections needs to have a **greater impact on actual policies, as well as on the choice of the political leadership** of the Union. Currently, several factors diminish the democratic responsiveness of the EU:

- **Diffusion of responsibility for political decisions** among the institutions, as well as between the European and national levels of government, makes it difficult for voters to attribute outcomes to specific actors. Hence, many voters perceive that there is too little electoral accountability, with regard not only to the proceedings of the Council but also to the appointment of the President and the Members of the Commission. The link between their electoral choices and European policy-making and politics is not sufficiently self-evident. Parliament lacks the democratic and political tools to facilitate debate and obtain clarity on the political positions of key actors in the EU political system, such as Member State governments in the Council. Within the European Parliament, broad coalitions facilitate a depoliticised decision-making culture.
- **As a common European public sphere is not fully developed**, there is a lack of public awareness of and debate about European policy issues in many Member States. Therefore, instead of enjoying EU-wide public scrutiny, the EU often serves as a scapegoat for national political debates. European elections tend to be overshadowed by national political issues, and awareness of pan-European parties and candidates remains low. In fact, there is even a lack of a pan-European public sphere in Parliament's plenary due to the practice of giving one-minute statements before an empty plenary chamber.
- The EU's polity **has proven slow to react to major events**, in particular to crises. Most often heads of national governments coordinate European responses on an ad hoc basis. Regrettably, since the financial crises of 2009, and despite the ambitions of the Lisbon Treaty, the **EU has become more intergovernmental** in many key policy areas, such as public finances. This and an overemphasis on consensus favours transactional dealings between Member States to the detriment of the common European good. The excessive

focus on unanimity in the Council, even in areas where this is no longer required under the EU Treaties, has a paralysing effect on EU decision-making and on democratic accountability. It leads to de facto vetoes by Member States in areas where qualified majority voting (QMV) could be used.

- Without the right of initiative for legislation, **it has proven difficult for the European Parliament to steer the political direction of the Union**. This has diminished the EU's ability to respond to citizen's concerns about legislation in a timely and effective manner, i.e. by amending legislation. Additionally, little attention is paid to the correct implementation and effectiveness of EU legislation.

In preparation for the Conference on the Future of Europe, Parliament **should explore avenues for structural reforms to facilitate a more democratic EU both within the existing constitutional framework and beyond**. Citizens expect more from the European Union today than what it is capable of delivering within the confines of the Treaties. To this effect, the Conference should aim to prepare actionable, short-term political reforms, as well as a new revision of the Treaties.

II. Increasing Parliament's accountability and visibility

As a precursor to changes in the institutional set-up of the EU, the Parliament should strive to improve its own accountability, responsiveness and capacity. Currently, political majorities in parliamentary proceedings form on an ad hoc basis. There are no government opposition structures in place, which are common in most electoral democracies. Instead, pro-European parties usually aim to find broad compromises that encompass as many political groups as possible against a backdrop of fundamental Eurosceptic opposition. While in the early stages of European integration this inclusive approach to legislation increased the acceptance of EU decisions, it has also watered down Parliament's ability to give clear answers to polarising questions. After the next European elections in 2024 and thorough discussion at the Conference on the Future of Europe, the European Parliament should **therefore reform its proceedings and introduce standing coalition majorities**. These majorities should shape the balance of power in the European Commission as well as the rapporteur system in Parliament and in return enhance minority powers to scrutinise the Commission through committees of inquiry, special committees and a more lively debating culture in plenary.

To improve parliamentary accountability to the European public, the Parliament should **reform its rules of procedure and its working methods to facilitate a better debating culture**. Not only should MEPs have the permanent option to speak from the rostrum, but speaking times should also be increased to a minimum of four minutes. Simultaneously, Parliament should **reduce debating times allocated to matters that are outside its competence (ultra vires)** as defined in the Treaties, and vote directly after important debates. Such an improved debating culture would make plenary debates more attractive to broadcasting and European media outlets. This in turn would increase the effective transparency of Parliament's proceedings and strengthen trust in institutions. In this context, **both efforts by public broadcasters and private initiatives to create pan-European media platforms that share audio-visual content** and enable transnational discourse are to be encouraged. Such efforts should receive European co-financing and additional support for multilingualism.

The revision of the electoral law provides an opportunity to address some of the aforementioned

challenges and the perceived democratic deficit of the Union. It is of crucial importance that **any revision of the electoral law takes into account the function of MEPs as representatives of the Union's citizens in defined constituencies, the equality of MEPs in terms of rights and legitimacy, and varying national electoral traditions in accordance with the Union's motto of 'United in diversity'.**

III. Strengthening accountability of EU institutions to the Parliament

Article 10(1) of the Treaty on European Union states that 'the functioning of the Union shall be founded on representative democracy'. The European Parliament is the institution that represents the will of the EU's citizens as expressed by direct universal suffrage in a free and secret ballot. Efforts to further the democratic legitimacy of the Union should therefore **primarily be aimed at strengthening the accountability of the EU institutions to Parliament.** Only through Parliament can the European electorate directly influence policy-making, as well as the choice of policy-makers. The failure of the Council to endorse a *Spitzenkandidat* as the nominee for President of the European Commission after the 2019 European elections has demonstrated, however, that the influence of voters over the European Commission continues to be limited. Parliament should therefore **strive to entrench the selection of Spitzenkandidaten in the design of the electoral system** as part of the upcoming revision of the electoral law.

The European Parliament should also be endowed **with a constructive vote of no confidence for individual Commissioners or the Commission President.** At the same time, Parliament should make better use of existing rights, e.g. the increased use of Question Time in accordance with Rule 137 of the Rules of Procedure. This would vastly increase the democratic accountability of the executive branch to the legislative. Moreover, it would allow Parliament to scrutinise the work of individual Commissioners more credibly, as the removal of the entire college has proven unfeasible in political practice. The **right of inquiry of Parliament** should be enhanced by submitting its definition to the ordinary legislative procedure. Like other prominent legislatures, such as the United States Congress, it should be able to **legally enforce the compliance of institutions and individuals through its investigative powers in inquiry procedures.** This would strengthen citizens' trust in Parliament as an institution that answers their concerns. Additionally, there should be a parliamentary review of current administrative procedures within the Commission regarding the creation of agencies and the appointment of high-level civil servants.

IV. Towards European bicameralism

The EU is both a Union of Member States and a Union of citizens. However, its current polity and the balance of power between the institutions are not fully reflective of this ambition. Hence, Parliament should strive for the development of a bicameral model in the legislative process of the EU. **Parliament needs to gain the full right of initiative to propose, amend or revoke all legislation.** Moreover, it should be **endowed with full budgetary rights**, giving Parliament the power to amend the Commission's budget proposals for the MFF in detail. To reduce the diffusion of responsibility among institutions and Member States, the **competence catalogue between national and European level should be more clearly defined** in the Treaties. The Council should continue to increase the use of QMV wherever possible.

In a proposed bicameral legislature, the **Council of the European Union should become an**

upper chamber in the bicameral system, as this would increase legislative efficiency, public visibility and Member States' accountability. In order to allow citizens to better evaluate the decisions and arguments of national governments in the Council, **its sessions should always be public, similarly to** those of the Parliament. The transparency and accountability of Council working groups as a core body developing and amending legislation must be increased, especially with regard to the public availability of voting records and protocols. In camera sessions should be held only on the basis of the exceptions envisaged by law. The bicameral model set out in this document **is without prejudice to questions of federalism** and national sovereignty, as the Member States would retain their competences under the principle of conferral.

C. Summary of discussions in the Committee on Constitutional Affairs

The working document was submitted and debated in the Committee meeting of 12 April 2021. The rapporteur considered that enhancing accountability, transparency, capacity and responsiveness should be the core goals of Parliament in the context of the Conference on the Future of Europe. Several democratic deficits in the current state of the Union, including a lack of a common public sphere and, most importantly, the perceived diffusion of responsibility for political decisions between the national and EU levels of governance, but also within the EU itself, were identified. Moreover, due to insufficient electoral accountability, the EU institutions are themselves held responsible for political failure. As a remedy, the rapporteur proposes that the main focus of the Conference be on making the EU structure more flexible, more accountable and more responsive, on the basis of the concrete proposals for institutional reform listed in this working document.

Members have highlighted that the European Union should not be modelled on the blueprint of centralised nation states. It was proposed that the EU be designed as a federative democracy, in which there is a balance within the dual nature of the Union as a union of Member States, which puts emphasis on the interests of smaller Member States, and as a union of citizens, which tends to give more prominence to the interests of larger Member States. In order to achieve such a balance, the interests of small, medium-sized and peripheral Member States should be given special consideration. Other Members, however, expressed a dissenting opinion, advocating a stronger parliamentary component emphasising the aspects of a union of citizens.

The debate highlighted the need for the Conference to have a strong institutional focus and that there is broad support for the rapporteur's proposals. In this context, Members recalled that the role of Parliament has been weakened by political practices over the past years, and considered that reinforcing democracy requires its role to be strengthened, as the institution representing citizens. Parliament needs to be more assertive, by using the tools already available for that purpose. Parliament should have a permanent scrutiny system in place in order to ensure the implementation and enforcement of EU law and case law.

As regards the Council, some Members view it as an undemocratic, ultimately dysfunctional body, incapable of meaningful decision-making. Transparency in the Council's working methods was also referred to as a crucial element of a future reform.

As some Members observed, in the context of a recent revival of the intergovernmental method to the detriment of the Community method, the role of the Commission has also been weakened.

In this regard, Members warn against the Commission becoming or acting as a de facto secretariat of the Council.

Members also advised adding a proposal for reducing the number of Members of the Commission to two thirds of the number of Member States, as specified in the Treaty on the European Union. However, it was also acknowledged that the Conference may not be able to respond to all these challenges, and that Parliament must use the existing framework and tools to their full potential in order to achieve some of the objectives set out in this working document.

There is general support for a strong parliamentary democracy on the basis of elements proposed by the rapporteur, such as the right of initiative, the right of inquiry, a bicameral system and the electoral law reform. Reforming the Economic and Monetary Union and the eurozone was also considered inevitable. One Member also referenced the possibility of a future EU finance minister and of a parliamentary dimension for the Eurogroup, stating that this would not be in the interest of Parliament.