

Towards The Conference On The Future Of The EU

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On 15th January the European Parliament adopted a "Resolution on the Conference on the Future of Europe". In it the Parliament describes its ideas on the scope, concept, structure, procedure and timetable of this conference, which was convened by the new Commission President Ursula von der Leyen. These proposals are, in terms of scope, differentiation, transparency and participation requirements, among the best ever decided by an EU institution. One might almost say that if even a fraction of them were to be implemented, it would be a giant step forward in the culture of participation at EU level. Moreover, these proposals also set standards for the participation culture in those member states where the participation culture is still relatively underdeveloped, such as Germany.

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1. A challenge for participation culture

Let's leave aside the fact that the "future of the EU" and the "future of Europe" may not be quite identical. To organise a participation process on such a wide range of issues for such a large number of citizens in 27 member states and 24 official languages is completely new territory for democracy. Nobody has ever done anything like this before, nobody knows exactly how it can be done. The project is so gigantic in scale and complexity that one should not expect the resolution of the EU

Parliament to have solved all the problems. One should hold back with nasty comments about the "remoteness of the Brussels EU bureaucrats". They are understandable given the fact of the rather acclamative citizen participation formats we have been used to from the EU Commission in former times. Nevertheless, we should be open to the opportunities provided here to stand up for more citizen participation and thus promote a more democratic EU. It is one of the rare situations in politics where it is the "good will" which counts. We should take this up.

Less good starting points are offered by the communication of the EU Commission "Shaping the Conference on the Future of Europe". The old image of a pure citizens' consultation as a stakeholder event still shines through. Very little is read about citizens' councils elected by sortition and deliberative processes. It is hopeful, however, that Commissioner Dubravka Šuica is currently travelling through various EU countries to get a concrete picture of participation processes. She has, for example, described the Belgian citizens' councils that have been drawn by lot as a model for the Conference.

1.1 Dialogue between Citizens' agoras and Conference plenary

From the perspective of the EU parliamentarians, the Future Conference should be organised as a "mixed conference". The core structural element of the two-year conference process is the dialogue between themed **Citizens' Agoras**, in which two to three hundred citizens are to be drawn by lot, and the **Conference Plenary**, which is roughly composed of representatives of all relevant institutions at EU level and national parliaments and should also have around two hundred fifty to three hundred participants. In addition, there is a **Youth Agora**, in which 16- to 25-year-old EU citizens are expected to participate.

The process will be steered by a **Steering Committee** composed of representatives of all three EU institutions. The Steering Committee elects an **Executive Coordination Board**, which organises the entire conference process and is supported by a **secretariat**.

1.2 Meetings and procedures

The Parliament resolution proposes that the Conference plenary should meet twice every six months in the European Parliament. The meeting place will therefore be in Brussels (or Strasbourg), and if the conference process is scheduled for a duration of two years, the plenary will have met eight times, finally.

The Citizens' Forums, on the other hand, will be held at different locations across the EU. Each forum will deal with a specific topic. They will have their individual composition of citizens drawn by lot, which should not change throughout the conference process to ensure coherence and consistency in the debate. As far as the frequency of the meetings is concerned, it is said that at least two sessions are needed to prepare a contribution to the conference plenary and to receive feedback from the conference plenary "in dialogue format". The Youth Agora should also meet at least twice, once at the beginning and once at the end of the conference.

1.3 The main topics

The Parliament proposes the following topics for discussion:

- European values, fundamental rights and freedoms
- democratic and institutional aspects of the EU

- ecological challenges and the climate crisis
- social justice and equality
- economic and employment issues, including taxation
- digital change
- Security and the role of the EU in the world

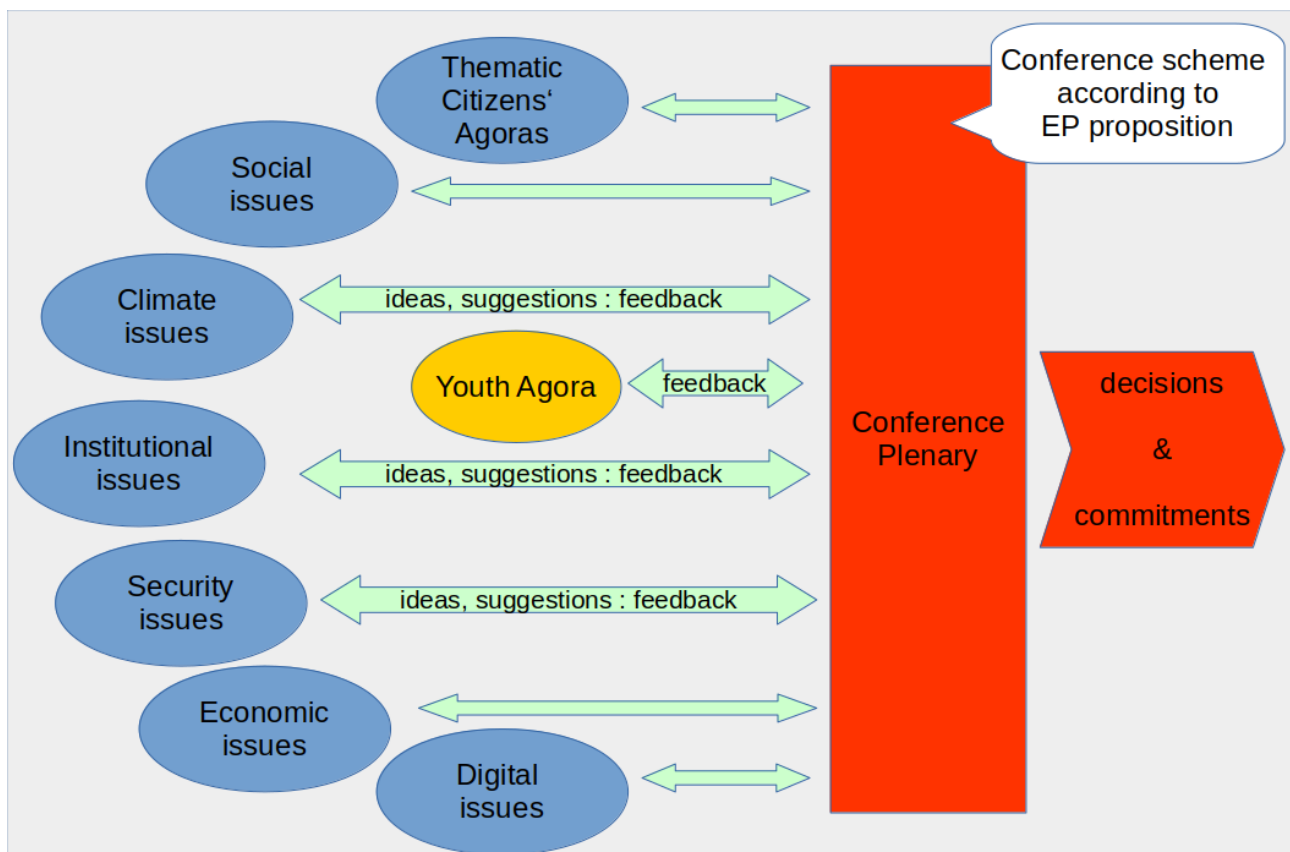
In addition, Parliament would like to see the subjects of "lead candidate procedures" and "transnational lists" discussed. It is expressly stressed that this list should not be understood as exhaustive.

1.4 Securing the results and political implementation

For the conference to be successful, it is crucial that the results are well secured. In the end, the Future Conference should make very specific recommendations which should be translated into very specific measures by the EU institutions. An inter-institutional agreement by which the three main EU institutions agree on the procedure and scope of the conference should ensure this. In the resolution, Parliament makes an exemplary commitment to follow up the results of the Conference and calls on the other two institutions to do likewise. If necessary, amendments to the Treaty will be initiated.

1.5 Full transparency

It goes without saying that all meetings of all forums and plenary sessions will be webstreamed and that all documents and resolutions will be publicly available. In addition, Eurobarometer surveys will be included in the conference proceedings in due course. Organised civil society, universities, research centres and think tanks across Europe should be involved in the success of the conference, their expertise would be needed and included in "preparatory meetings".



2. Parliaments' proposition under careful examination

The Parliament resolution is the first official contribution to the debate in the interinstitutional dialogue between the Commission, Parliament and Council. The EU Commission published a communication on 20-01-2020 in which it sets out its own ideas on the future conference.

Unfortunately, these are much less specific than the parliamentary resolution. The ball is now in the Council's court and it must comment on them and, if necessary, present alternative proposals. The discussion on the structure and the course of the Future Conference is therefore not yet over. It is worth taking a closer look at Parliament's proposal and considering where improvements are still possible or necessary.

2.1 The process of identifying topics

The resolution identifies seven key issues that should be addressed. Thus, there should be at least seven thematic Citizens' Agoras to be working on these issues. It is also pointed out that these issues are only meant as a proposal.

Unfortunately, however, no procedural way is shown how additional topics can be introduced. Nor is there any idea how to check whether the proposed topics have any resonance at all. In my opinion, there is missing a preliminary phase in which topics can be proposed by citizens and civil society. They could then be clustered in a transparent way and condensed into packages of focus issues. This would then give rise to the thematic agoras.

At the Citizens' Council on Democracy in Germany 2019, which was carried out on the initiative and on behalf of various NGOs and foundations, the approach was to collect topics in regional agoras. This could also be a suitable way for the Future Conference. There could, for example, be a six-month preliminary phase in which **national and/or regional agoras** take place to enable the broad collection of issues.

2.2 Procedural responsibility and open debate

In this context, it should be made more explicit that the procedural sovereignty for all the Citizens' Agoras does NOT lie with the EU institutions, but with independent service providers specialised in carrying out such consultation procedures. Paragraph 11 of the resolution only mentions that the random selection should be carried out by independent institutions. In my opinion, however, **the entire participatory part of the conference** should be placed in independent hands. This is the only way to guarantee a truly independent and open-ended debate among citizens.

Nor do I think it is a good idea to propose politicians like Guy Verhofstadt as President of the Conference. In recent months, he has spoken out strongly in favour of reforming the EU in the sense of strengthening the EU institutions and weakening the power of governments. It would certainly be a great challenge for him to lead an open dialogue process, because it could be that citizens would like to propose a partial dismantling of the EU by shifting various competences closer to the member states or the regions. In my opinion, the credibility of the Future Conference depends very much on the **neutrality of the organisers**.

2.3 Broad participation and public attention

National (and in the large member states possibly also several regional) citizens' forums are also a good way of drawing public attention to this process. At the Citizens' Council on Democracy in Germany 2019, the press and television were happy to report quite extensively on the regional pre-conferences. This could also be of great advantage for the Future Conference.

One of the disadvantages of participation processes with citizens' councils by sortition is that the main process only lasts a few days and only few people are involved in it. In addition, such consultation processes are partly non-public, in order to allow for unbiased discussion and opinion-forming. It is therefore important to pay close attention during the planning phase to how to generate public attention for the process. There are a great many ideas and suggestions on this in the Commission's communication, which should definitely be incorporated into the interinstitutional agreement.

2.4 To take nationale cultures of debate into account

National pre-conferences also have the advantage that citizens and civil society organisations can debate in a familiar national context. The issues proposed in this way are precisely those that are close to their hearts. If these proposed topics coming from the various countries are then aggregated, it can quickly become visible where national differences in the perception of the problems and in the orientation of the proposed changes exist and where special moderation elements or particular efforts to reach agreement must be taken into consideration.

In my view, all these arguments speak in favour of a well-planned first phase with national preliminary agoras. I think a well six months period should be set out for this.

2.5 Interaction between Citizens' Agoras and the Convention plenary

The experience we currently have with citizens' councils proves that they need enough time to produce really good results. The more complex the issue and the more controversial the debate, the more time resources need to be allocated. One meeting at the beginning and one at the end, as indicated in Parliament's resolution, is certainly not enough.

It must be borne in mind that the debates in these citizens' agoras are basically conducted in the 24 official languages of the EU. This alone takes up a lot of time, so it is more likely that a citizens' agora will meet at least six, and possibly even eight, weekends before it has produced an opinion. It is therefore obvious that after the presumably six-month preliminary phase with the national preliminary agoras, a six-month consultation phase should be planned for the thematic agoras.

Only now, after about a year, in spring 2021 to be precise, would the Conference Plenary come into play. It brings together representatives of all EU institutions, including the national parliaments, who examine these citizens' opinions and have to turn them into legally waterproof, institutionally operational policy proposals.

2.6 Enabling deliberative citizen participation

Reading Parliament's resolution, one has rather the impression that the Conference Plenary is the central place for negotiations and that the resolutions from the Citizens' Agoras are merely

"incorporated" somehow into the ongoing plenary debate. It is unclear how they are taken into account. In the worst case, the agora participants are explained "in dialogue format" why their proposals could not be taken into account.

The institutional actors have a clearly defined agenda. It is defined in point 14 of the parliamentary resolution. There is a great danger that the institutional representatives and the Citizens' Agoras will act past each other. In the end, the impression could be created that the citizens' proposals have not been sufficiently taken into account.

In my view, the Conference Plenary should see itself as a body of political experts that provides citizens with feedback on their opinions and the extent to which their proposals can or cannot be implemented. The issues listed in point 14 should only be used as suggestions for the phase of identifying topics and should not be given further consideration in the Conference Plenary. The plenary session should only discuss what has been decided beforehand by a thematic agora. Thus, after the phase of identifying topics and the phase of national agoras, there should be a dialogue phase in which the proposals of the Citizens' Agoras are examined by the institutional professionals for their suitability in terms of reality and politics. If necessary, they could then be modified "in dialogue format".

2.7 Implementation of the results

After that, the Citizens' Agoras have done their job and it is now up to the politicians in the Conference Plenary to put the various proposed measures into a form that can be operationalised at EU level. Basically there are three different possibilities:

a) Regulation

Certain proposals will fall within the competence of the Commission and can be implemented by way of a regulation. This should not be difficult for the Commission, since these proposals have been approved by the Conference plenary, consisting of representatives of the Council and Parliament.

b) Directive

Certain proposals will fall within the remit of the Council and Parliament. Here too, these can actually be implemented immediately, because the plenary session is, after all, nothing more than a gigantic trilogue. And since the national parliaments are also represented in this process, it should be possible for the relevant measures to be implemented quickly in national law.

c) Treaty amendment

Important changes in the institutional structure or the distribution of competences of the EU institutions require a treaty amendment. For this purpose, a Convention for the Amendment of Treaties must be convened by all member states. Depending on how small or large the proposed treaty changes are, this can be done in one of the "simplified amendment procedures" (Art. 48 para. 6-7). Otherwise, the "ordinary amendment procedure" (Art. 48 para. 2-5) must be applied.

2.8 Taking into account the Treaty amendment procedure (Art 48 TEU)

If the quality of deliberations and decision-makings in the Conference Plenary was high and produced clear results, the treaty change should be a mere formality. To prevent the debate on treaty

amendments from starting all over again, either in the Council or in the Convention on Treaty Amendments to be convened, one could proceed as follows: Parliament could submit a motion immediately after the conclusion of the conference in accordance with Article 48, and the Council could grant it immediately. The composition of the Convention could be exactly the same as the Conference plenary. All the participants know each other and know what has been discussed and decided upon in the context of the Future Conference.

Of course, this procedure would have to be fixed and laid down in advance in the interinstitutional treaty for the conference.

3. Intergrating an EU-wide referendum to finish the process

But what do we do if the quality of deliberation was not high enough and the institutional professionals did not let the citizens have their say? In this case, we should make provision for a referendum to be held on the proposals at the end of the process. The mere fact that all those involved know that a referendum will be held at the end of the process will provide a more reliable orientation towards the proposals of the Citizens' Forums.

3.1 Referenda and Convention under Art. 48 TEU

In the position paper "Towards a European Citizens' Convention", Mehr Demokratie advocates that the results of the deliberations of a Convention should be submitted to the citizens for their vote. However, we were thinking of a Convention that would be convened for the sole purpose of drafting a constitution. It should be composed of elected representatives and the outcome of its deliberations should have to be confirmed in an EU-wide referendum. Such a referendum would attract the greatest public attention to the Constitution and would anchor it firmly in the minds and hearts of the citizens.

In this regard, the question was irrelevant whether such a convention would be convened under Article 48 TEU or on the basis of a special agreement between the member states or by other means. The question of how a referendum could be integrated into a convention under Art. 48 TEU has therefore never been examined in detail. Art. 48 TEU only mentions that each Member State must ratify the amendments to the Treaty in accordance with its own constitutional requirements.

In most of the EU member states, the ratification processes are parliamentary processes, in some of them national referenda have to be held. Until now, an EU-wide referendum does not yet exist in the EU treaties. If one wants to combine treaty changes with referenda, the only option is to have parliaments or governments conduct national referenda, the results of which they should voluntarily commit themselves to.

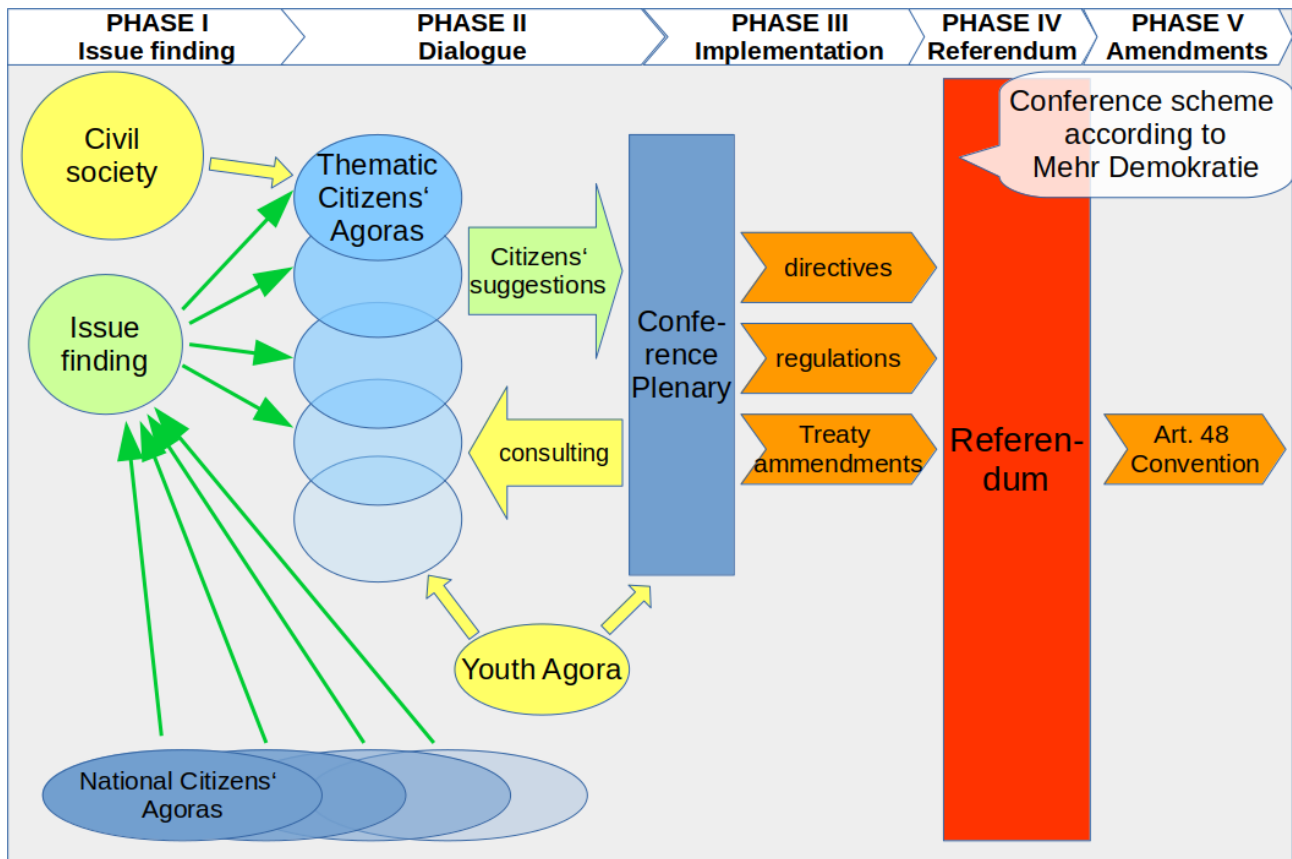
In such a setting, national referenda may not be held on the same day. It would then be not impossible, but more difficult, to experience them as an EU-wide referendum.

3.2 EU-wide referendum on the outcome of the consultation

The following option, proposed by the ECI Campaign and Meer Democratie (NL), offers a way out: an EU-wide referendum directly after the Future Conference on the outcome of the consultation. This would be a good way to attract maximum attention and increase the legitimacy of the result. In

contrast to a referendum after a convention according to Art. 48 TEU, this would also put the results to the vote, which do not have to be implemented by amending the Treaty.

Legally, this would not be a problem because the procedural design of the Future Conference is essentially freely negotiable between the EU institutions. It is not subject to the EU Treaties. It is only necessary to ensure in the interinstitutional agreement on the conduct of the conference that a treaty amendment convention, to be convened if necessary, does not reopen the debate, but that the proposals are virtually just "rubber-stamped".



4. Summary

To sum up:

- The conference process proposed by the EU Parliament is a milestone in the participation culture of the EU.
- A citizen-led process of finding issues must be made much more binding. The proposals of the EU Parliament for the issues to be dealt with must not be imposed on the Citizens' Agoras. Proposals for a partial dismantling of EU competences must not fall by the wayside.
- National and/or regional citizens' agoras could be helpful in identifying topics.
- The thematic agoras must be organised by non-institutional professional bodies that guarantee the neutrality of the participatory process and ensure sufficient deliberation.
- The Conference Plenum have a more advisory function towards the Citizens' Agoras and helps them to develop feasible proposals.

- The Commission, Parliament and Council commit themselves in the interinstitutional agreement to implement the proposals of the Conference.
- The consultation process is followed by an EU-wide referendum in which the outcome of the consultation must be confirmed by the citizens. It would be nice if this referendum took place on 9 May 2022.
- If a Treaty Amendment Convention has to be convened, the interinstitutional agreement will ensure in an appropriate form that it adopts the proposals one-to-one.

Further information

European Parliament resolution on the conference on the future of the EU:

https://www.europarl.europa.eu/doceo/document/TA-9-2020-01-15_EN.html#sdocta10

Communication European Commission „Shaping the Conference on the Future of Europe“:

https://ec.europa.eu/info/sites/info/files/communication-conference-future-of-europe-january-2020_en.pdf

MD position paper "Towards a European Citizens' Convention":

https://www.mehr-demokratie.de/fileadmin/pdf/Positions15_EN_European-Citizens-Convention.pdf

Meer Democratie (NL): „Citizens' conference must be followed by a referendum“

<https://www.meerdemocratie.nl/citizens-conference-future-europe-must-be-followed-referendum>

Information on the Citizens' Council on Democracy in Germany:

<https://www.buergerrat.de/english/>

brf.br: „Austausch mit dem Bürgerrat: Vizepräsidentin der EU-Kommission in Eupen“ (in German),

<https://brf.be/regional/1354327/>