

# LEGAL AND CONSTITUTIONAL REFLECTIONS ON THE CONFERENCE ON THE FUTURE OF EUROPE

Federico Fabbrini

*Dublin City University*



**REGROUP**

REBUILDING GOVERNANCE AND  
RESILIENCE OUT OF THE PANDEMIC



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Culminating more than a decade of crisis in Europe, the Covid-19 pandemic has opened an important window of opportunity for institutional and policy change, not only at the “reactive” level of emergency responses, but also to tackle more broadly the many socio-political challenges caused or exacerbated by Covid-19. Building on this premise, the Horizon Europe project REGROUP (*Rebuilding governance and resilience out of the pandemic*) aims to: 1) provide the European Union with a body of actionable advice on how to rebuild post-pandemic governance and public policies in an effective and democratic way; anchored to 2) a map of the socio-political dynamics and consequences of Covid-19; and 3) an empirically-informed normative evaluation of the pandemic.



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### Executive summary

The Conference on the Future of Europe is an innovative deliberative process that European Union (EU) institutions established to reflect on the future of the EU through bottom-up engagement with the citizens. The Conference took off, with delays due to the COVID-19 pandemic, on 9 May 2021, and came to a close a year later on 9 May 2022, when the war in Ukraine was already raging. The Conference ended with a final report that laid out 49 proposals and 326 detailed recommendations for reforming EU policies and institutions. The Conference's final outcome clearly identified the existing weaknesses of the EU and unequivocally mapped a path to address them, including by recommending treaty changes in a number of key areas related to the governance and the resilience of the EU. The follow-up to the Conference, however, has so far been underwhelming; while a number of institutions and member states have openly called for amending the treaties, other actors have dragged their feet. As a result, the reform process has stalled, and whether the prospect of enlargement may revive it remains to be seen. If the EU can mobilise the political will to change the EU treaties, however, the recommendations of the Conference can serve as a valuable blueprint for needed constitutional adjustments.

# Introduction<sup>1</sup>

The Conference on the Future of Europe is an innovative deliberative process that European Union (EU) institutions established to reflect on the future of the EU through bottom-up engagement with the citizens. The Conference took off, with delays due to the COVID-19 pandemic, on 9 May 2021, and came to a close a year later on 9 May 2022, when the war in Ukraine was already raging. The Conference has clearly identified the existing weaknesses of the EU and unequivocally mapped a path to address them, including by recommending treaty changes in a number of areas. Its follow-up, however, has so far been underwhelming; while a number of institutions and member states have openly called for amending the treaties, the reform process has stalled, and whether the prospect of enlargement may revive it remains to be seen.

This focus paper examines the Conference of the Future of Europe. It provides an overview of its functioning (Section 2), presents the final outcome (Section 3) and offers a follow-up (Section 4), conclusively considering its legacy (Section 5).

## Functioning

The Conference on the Future of Europe—originally envisaged by French President Emmanuel Macron in March 2019<sup>2</sup> as a way to relaunch the project of European integration in the aftermath of Brexit<sup>3</sup>—lasted a year, from 9 May 2021 to 9 May 2022.<sup>4</sup> This innovative process was organised as a citizen-focused, bottom-up exercise designed to obtain input from citizens on the key questions facing the EU. While the Conference built on the examples of citizen assemblies convened at the national and local levels in some member states, it attempted to achieve something unprecedented, namely, to create a forum for participatory democracy on a transnational scale. From this point of view, the Conference constituted a novel experiment for the EU, going beyond prior models of technocratic or deliberative constitutional change.

As I have explained elsewhere,<sup>5</sup> the mission and governance structure of the Conference on the Future of Europe were outlined in a Joint Declaration adopted in March 2021 by the three presidents of the European Parliament (EP), Council and Commission, which agreed to act as co-guarantors of this initiative.<sup>6</sup> With regard to its remit, the Joint

1. Federico Fabbrini is Full Professor of EU Law & Founding Director of the Brexit Institute & Dublin European Law Institute, Dublin City University

2. French President Emmanuel Macron, *Lettre Pour Une Renaissance Européenne*, 4 March 2019.

3. Federico Fabbrini, *Brexit and the Future of the European Union: The Case for Constitutional Reforms* (OUP 2020).

4. See also Conference on the Future of Europe digital platform, available at <https://futureu.europa.eu/>

5. Federico Fabbrini, 'The Conference on the Future of Europe: Process and Prospects' (2021) 26 *European Law Journal* 401

6. Joint Declaration on the Conference on the Future of Europe, 10 March 2021, available at <https://>

Declaration struck a compromise and maintained a constructive ambiguity as it stated that the Conference could focus on ‘what mattered to the citizens’<sup>7</sup> and reported a wide-ranging, non-exhaustive list of topics to be considered. In practice, however, also on the basis of the input received through a multilingual digital platform, the Conference came to address a broad set of topics, which were then clustered into nine groups, namely, (1) climate change and the environment; (2) health; (3) a stronger economy, social justice and jobs; (4) EU in the world; (5) values and rights, rule of law, security; (6) digital transformation; (7) European democracy; (8) migration; and (9) education, culture, youth and sports.

In terms of organisation, the Conference unfolded through a multilayered structure designed to channel and filter from the bottom up the output of the democratic deliberations. The Conference’s core was represented by four European citizens’ panels of 200 participants each, selected randomly to reflect the sociodemographic reality of the EU. The European citizens’ panels were thematically divided along four cross-cutting clusters, focusing on (I) a stronger economy, social justice, jobs; education, youth, culture and sports; digital transformation; (II) European democracy; values and rights, rule of law, security; (III) climate change, environment; health; and (IV) EU in the world; migration. European citizens convened for three panel sessions, both in person and online, over a span of six months between September 21 and March 2022, and—also with the support of experts invited to speak as witnesses—deliberated on the topics at hand and advanced a number of orientations for future debate.

In addition to European citizens’ panels, member states were encouraged to establish national citizens’ panels within the framework of the Conference, again designed to facilitate deliberation and exchange. Admittedly, the national commitment proved uneven, as only six member states—including five of the six founding members of the EU and the three largest EU countries (Germany, France and Italy)—effectively hosted national citizens’ assemblies, while the others limited themselves to organising more traditional engagement and dissemination events. By far the most articulate national citizens’ panel on the Future of Europe took place in France, the member state that had championed the whole initiative with President Macron. Here, the authorities organized in fall 2021 18 panels of randomly selected citizens, involving more than 700 participants, which provided input (in the form of 101 aspirations and 1301 specific proposals) for a final *Conférence Nationale de Synthèse*, hosted in Paris in October 2022, which drafted a final list of 14 priority recommendations.<sup>8</sup>

The input from the European citizens’ panel—together with that resulting from an analogous national process—was then reported to the Plenary of the Conference on the Fu-

[www.europarl.europa.eu/sed/doc/news/flash/25243/JOINT%20DECLARATION%20ON%20THE%20CONFERENCE%20ON%20THE%20FUTURE%20OF%20EUROPE\\_EN.pdf](http://www.europarl.europa.eu/sed/doc/news/flash/25243/JOINT%20DECLARATION%20ON%20THE%20CONFERENCE%20ON%20THE%20FUTURE%20OF%20EUROPE_EN.pdf) [hereinafter: Joint Declaration]

7. Ibid.

8. Contribution citoyenne à la Conférence sur l’avenir de l’Europe, 29 November 2021.

ture of Europe. This large 449-member body—which included representatives from the EP, national parliaments, the Council and the Commission, as well as representatives from the European and national citizens’ panels, and delegates from the Committee of the Regions, the European Social and Economic Committee, civil society organisations and social partners—met seven times over 12 months. To facilitate its deliberation, the Plenary structured its work into nine working groups, corresponding to the nine topics addressed by the Conference. Representatives from the European citizens’ panel were selected as chairs and spokespersons of the working groups, and with the support of the Common Secretariat (a technical body with staff from the Commission, EP and Council), they prepared elaborated proposals.

Ultimately, at its last meeting in April 2022, the Plenary endorsed 49 proposals with a list of 326 detailed recommendations, which were submitted to the Executive Board.<sup>9</sup> This body—composed of three commissioners, three MEPs from the main political groups and three representatives from the Council Presidency troika—was tasked by the Joint Declaration to steer the work of the Conference and to ‘draw and publish the conclusions of the Conference Plenary’.<sup>10</sup> The Executive Board accepted the input from the Plenary and in a final report published on 9 May 2022, it reaffirmed its commitment to follow up on it. As it stated, ‘The Conference has provided a clear direction in these areas and the three EU Institutions now need to examine how to follow up on the concerns, ambitions, and ideas expressed. The next step in this process is to come up with concrete EU action building on the outcome of the Conference, contained in this final report. EU institutions will now therefore examine this report and its follow-up, each within the framework of their competences and in accordance with the Treaties’.<sup>11</sup>

## Final outcome

The final outcome of the Conference on the Future of Europe explicitly addressed the main structural weaknesses of the EU and pointed to a roadmap for reforms. To begin with, from a substantive point of view, the Conference called for an expansion of EU powers, for instance, in the field of health, by ‘includ[ing] health and health care among the shared competencies between the EU and the EU member states by amending Article 4 TFEU’<sup>12</sup>; in the field of climate, by ‘increas[ing] EU’s leadership and taking a stronger role and responsibility to promote ambitious climate action, a just transition and support the loss and damages’<sup>13</sup>; and in the digital space, by strengthening the ca-

9. Conference on the Future of Europe, Draft Proposals, 27 April 2022.

10. Joint Declaration p 3.

11. Conference on the Future of Europe, Report on the Final Outcome, 9 May 2022, p 93 [hereinafter: Final Report].

12. Ibid., Proposal 8, recommendation 3.

13. Ibid., Proposal 3, recommendation 11.

capacity of Europol to combat cybercrime<sup>14</sup> and establishing a common European digital identity, among others.<sup>15</sup>

The Conference also strongly pushed for the EU to have a more prominent role in Common Foreign and Security Policy (CFSP) not only by reducing the EU's dependency on foreign actors in energy<sup>16</sup> but also by expanding its capacity for action and its ability to speak with one voice. In particular, the Conference called for the EU to play 'a leading role in building the world security order after the war in Ukraine building on the recently adopted EU strategic compass'<sup>17</sup>, to 'strengthen the operational capabilities necessary to ensure the effectiveness of the mutual assistance clause of Art. 42.7 [TEU], providing adequate EU protection to any member state under attack by a third country'<sup>18</sup> and to 'make greater use of its collective political and economic weight, speaking with one voice and acting in a unified way, without individual Member States dividing the Union through inappropriate bilateral responses'.<sup>19</sup> At the same time, in the field of energy, the Conference explicitly called for 'pursuing common purchases of imported energy'.<sup>20</sup>

Similarly, the Conference acknowledged that important changes had to be implemented in the field of migration. In this domain, the approved proposals included the request to 'develop[] EU-wide measures to guarantee the safety and health of all migrants'<sup>21</sup>; to 'increas[e] EU financial, logistical and operational support, also for local authorities, regional governments and civil society organizations, for the management of the first reception which would lead to a possible integration of refugees and regular migrant'<sup>22</sup>; and to 'adopt[] EU common rules concerning procedures for the examination of claims for international protection in Member States, applied uniformly to all asylum seekers'.<sup>23</sup> In this context, the Conference also explicitly called to 'revisit[] the Dublin system in order to guarantee solidarity and fair sharing of responsibility including the redistribution of migrants among Member States'.<sup>24</sup>

The Conference also made ambitious proposals in the field of finances, which effectively acknowledged the limitations resulting from the current EU fiscal arrangements. In this respect, the preface to the Conference's final input on 'A stronger economy, social justice and jobs' stated that 'Outstanding transnational challenges, such as inequalities, competitiveness, health, climate change, migration, digitalisation or fair taxation,

14. Ibid., Proposal 33, recommendation 1.

15. Ibid., Proposal 35, recommendation 10.

16. Ibid., Proposal 3, recommendation 3, and Proposal 18.

17. Ibid., Proposal 23, recommendation 2.

18. Ibid., Proposal 23, recommendation 4.

19. Ibid., Proposal 24, recommendation 1.

20. Ibid., Proposal 18, recommendation 7.

21. Ibid., Proposal 43, recommendation 1.

22. Ibid., Proposal 43, recommendation 2.

23. Ibid., Proposal 44, recommendation 1.

24. Ibid., Proposal 44, recommendation 2.

call for proper European solutions'<sup>25</sup> and clarified that 'Some elements of this strategy can be found in already existing policies and can be achieved by making full use of the existing institutional framework at European and national level; others will require new policies and, in some cases, treaty changes'.<sup>26</sup> Concretely, the Conference proposed to 'take into account the example[] of Next Generation EU [...] by strengthening [the EU] own budget through new own resources'<sup>27</sup>, including by 'introducing a common corporate tax base'<sup>28</sup> and by 'giv[ing] further consideration to common borrowing at EU level'.<sup>29</sup>

Otherwise, from an institutional viewpoint, the Conference explicitly tackled the governance shortcomings of the EU, calling for reforms of its decision-making processes to enhance Europe's democracy. In the field of CFSP specifically, the Conference called for 'issues that are currently decided by way of unanimity to be changed, normally to be decided by way of qualified majority'<sup>30</sup>, and it also asked to 'strengthen[] the role of the High Representative to ensure that the EU speaks with one voice'.<sup>31</sup> More generally, the Conference called to 'improve the EU's decision-making process in order to ensure the EU's capability to act'<sup>32</sup>, proposing that 'all issues decided by way of unanimity should be decided by way of qualified majority', save for the admission of new member states and changes of the fundamental principles of the EU.<sup>33</sup> In fact, the Conference also underlined that the EU should enhance its capacity to protect the rule of law and in this regard, it stated that 'Any necessary legal avenues, including Treaty changes, should be considered to punish breaches of the rule of law'.<sup>34</sup>

Also, from an institutional viewpoint, the Conference proposed—unsurprisingly, given its participatory outlook—to periodically convene citizens' assemblies<sup>35</sup> and to 'conceiv[e] an EU wide referendum, to be triggered by the EP in exceptional cases on matters particularly important to all European citizens.'<sup>36</sup> Moreover, the Conference echoed some widely known proposals, such as the creation of transnational lists for the election of the EP<sup>37</sup> and either 'the direct election of the Commission President, or a lead candidate system' to select the head of the European Commission.<sup>38</sup> Crucially, however, the Conference pleaded for 'reopening the discussion about the [EU] constitution'<sup>39</sup> on

25. Ibid., p 53.

26. Ibid.

27. Ibid., Proposal 16.

28. Ibid., recommendation 2.

29. Ibid., recommendation 5.

30. Ibid., Proposal 21, recommendation 1.

31. Ibid., recommendation 3.

32. Ibid., Proposal 39.

33. Ibid., recommendation 1.

34. Ibid., Proposal 25, recommendation 4.

35. Ibid., Proposal 36, recommendation 7.

36. Ibid., Proposal 38, recommendation 2.

37. Ibid., recommendation 3.

38. Ibid., recommendation 4.

39. Ibid., Proposal 39, recommendation 7.



the understanding that ‘A constitution may help to be more precise as well as involve citizens and agree on the rules of the decision-making process’.<sup>40</sup>

## Follow-up

The proposals of the Conference on the Future of Europe identified the sources of weaknesses of the current EU—including its limited substantive powers and its byzantine governance structures—and advanced clear recommendations on how to address these. The outcome of the Conference, from this point of view, aligns with the views advanced by academics and think tanks on the need to make the EU fit for times of permacrisis<sup>41</sup> and reflect several governance lessons learned during the COVID-19 pandemic.<sup>42</sup> The implementation of the most relevant Conference recommendations, however, requires changes to the EU Treaties, as neither the expansion of the EU competences nor the revision of the EU decision-making processes can occur *à traité constant*. The Conference therefore revitalised the debate about the future constitutional outlook of the EU,<sup>43</sup> forcing member states and EU institutions to take a stand on the matter.<sup>44</sup>

On the one hand, in a speech delivered on the Conference’s concluding event, on 9 May 2022, French President Macron explicitly endorsed ‘the convening of a convention to revise the treaties,’ expressing himself in favour of a treaty amendment.<sup>45</sup> This echoed the statement made a week earlier by then Italian Prime Minister Mario Draghi in a speech at the EP, where he openly stated that ‘We not only need pragmatic federalism; we need a federalism based on ideals. If this means embarking on a path that leads to a revision of the Treaties, then this must be embraced with courage and with confidence’.<sup>46</sup> Moreover, six member states—Belgium, Germany, Italy, Luxembourg, the Netherlands and Spain—indicated on 13 May 2022 their ‘open[ness] to necessary treaty change’<sup>47</sup>, a position also shared by Ireland<sup>48</sup> and France, which, while holding the rotating presidency of the Council of the EU, quickly advanced debates in May 22 to follow

40. Ibid.

41. See also Philipp Lausberg et al., ‘Making the EU Fit for the Permacrisis’, Horizon Europe Regroup Foresight Paper No. 2 (2024)

42. See also Niels Kirst, ‘Best Practices and Key Takeaways for Liberal-Constitutional Democracies after the Covid-19 Pandemic’, Horizon Europe Regroup Policy Paper No. 2 (2024)

43. See further on this Matej Avbelj, ‘Revitalisation of EU Constitutionalism’ (2021) 46 *European Law Review* 1.

44. See further, Stefan Lehne, ‘Does the EU Need Treaty Change?’, Carnegie Europe, 16 June 2022 and Eric Maurice et al, ‘Conférence sur l’avenir de l’Europe: la mise en oeuvre complexe de grandes ambitions’, Fondation Robert Schuman, 20 June 2022.

45. French President Emmanuel Macron, speech, Strasbourg, 9 May 2022.

46. Italian Prime Minister Mario Draghi, Speech at the European Parliament, 3 May 2022, official English translation available at <https://www.governo.it/en/articolo/prime-minister-mario-draghi-s-address-eu-ropen-parliament/19748>.

47. Non paper submitted by Germany, Belgium, Italy, Luxembourg, the Netherlands and Spain on implementing the proposals of the Plenary of the ‘Conference on the Future of Europe’, 13 May 2022.

48. Irish Taoiseach Michael Martin, Speech at the European Parliament, 8 June 2022.

up on the Conference's results.<sup>49</sup>

Most importantly, the idea of following up to the Conference on the Future of Europe with treaty changes has been supported by the EP,<sup>50</sup> which on 9 June 2022 put forward a proposal calling for a Convention to revise the treaties,<sup>51</sup> with a specific proposal to amend Article 48(7) TFEU to enable the European Council to trigger the *passerelle* clauses by qualified majority voting (QMV)<sup>52</sup> rather than unanimity.<sup>53</sup> In fact, in a resolution approved in November 2023, the EP proposed a detailed list of amendments to the EU treaties, dealing both with substantive competences and institutional mechanisms of decision-making, and called for the convening of a convention under Article 48(3) TEU to examine them.<sup>54</sup> Furthermore, in another resolution adopted in February 2024, the EP called for a deepening of EU integration in view of future enlargements,<sup>55</sup> stating that 'widening and deepening the EU must go in parallel'<sup>56</sup> but clarifying that 'pre-enlargement reforms are needed to guarantee the efficient functioning of the enlarged EU and its capacity to absorb new members'.<sup>57</sup>

While the European Commission as an institution has taken a wait-and-see approach on how to follow up to the Conference,<sup>58</sup> its President Ursula von der Leyen has more explicitly endorsed the idea of treaty reform. At the Conference's conclusion, the president spoke of 'using the full limits of what we can do within the Treaties, or, yes, by changing the Treaties if need be'.<sup>59</sup> Moreover, in the guidelines she presented in July 2024 to the EP for her re-election as president of the Commission, von der Leyen stated that '[w]hile reforms were necessary before, with enlargement they become indispensable. [...] I believe we need Treaty change'.<sup>60</sup> The European Council, instead, during its 23 June 2022 meeting, only remarked that 'The Conference has been a unique opportunity'<sup>61</sup> and stated that 'An effective follow-up [...] is to be ensured by the institutions [...] in accordance with the Treaties'.<sup>62</sup>

49. See Council of the EU, Note from the Presidency, 'Council methodology for the follow-up to the proposals of the Conference on the Future of Europe', 17 May 2022.

50. European Parliament resolution of 4 May 2022 on the follow-up to the conclusions of the Conference on the Future of Europe, P9TA(2022)0141.

51. See European Parliament resolution of 9 June 2022 on the call for a Convention for the revision of the Treaties, P9\_TA(2022)0244.

52. Ibid. para 6.

53. See supra section 3.3.

54. European Parliament resolution of 22 November 2023 on proposals of the European Parliament for the amendment of the Treaties, P9\_TA(2023)0427.

55. European Parliament resolution of 29 February 2024 on deepening EU integration in view of future enlargement, P9\_TA(2024)0120.

56. Ibid para K.

57. Ibid para U.

58. European Commission Communication, 'Conference on the Future of Europe: Putting Vision into Concrete Action', 17 June 2022, COM(2022)404 final.

59. Commission President Ursula Von der Leyen, speech, Strasbourg, 9 May 2022, SPEECH/22/2944.

60. European Commission President-elect Ursula von der Leyen, 'Europe's Choice: Political Guidelines for the next European Commission 2024-2029', 18 July 2024, 30.

61. European Council, 23-24 June 2022, EUCO 24/22, para 25.

62. Ibid., para 26.

Nevertheless, the enthusiasm for constitutional change generated by the Conference in some quarters was met with equally resolute opposition in others. In particular, in a joint non-paper released on the very same day of the Conference's conclusion, in May 2022, 13 member states from Northern and Eastern Europe clearly indicated that they did 'not support unconsidered and premature attempts to launch a process towards Treaty change'.<sup>63</sup> In fact, visions of the EU as a polity, which requires greater federalisation, are politically and institutionally contested by competing visions of the EU as a market, or an autocracy, which push in very different directions.<sup>64</sup> For instance, Hungarian Prime Minister Viktor Orban, who has recently established a new EP far-right parliamentary group named 'Patriots for Europe' (now the third largest fraction in the EP), has supported the idea to change the treaties but to re-nationalise competences and give more powers back to the member states, for instance exempting them from EU migration rules.<sup>65</sup> As a result, the implementation of the Conference's outcome has stalled; two years after the Conference's end, its most ground-breaking proposals remain on hold, and the EP request to call a convention to revise the treaties has not even been considered by the Council.

Given the obstacles to amending the EU treaties,<sup>66</sup> several alternative options have recently moved at the centre of debates on how to prepare for an enlarged EU. In particular, the use of *passerelle* clauses to change decision-making rules, notably in CFSP, has been increasingly considered.<sup>67</sup> *Passerelles* allow for a shift from unanimity voting to QMV in the Council of the EU, à traité constant. Article 48(7) TEU foresees generally that when the EU treaties provide 'for the Council to act by unanimity in a given area or case, the European Council may adopt a decision authorising the Council to act by a qualified majority in that area or in that case'. Moreover, specific *passerelle* clauses are scattered across the treaties for specific policies.<sup>68</sup> Building on this, on 4 May 2023, nine member states, namely, Belgium, Finland, France, Germany, Italy, Luxembourg, the Netherlands, Spain and Slovenia—all but the latter from Western Europe—released a joint statement launching the group of friends of QMV in CFSP.<sup>69</sup> This was followed by a supportive resolution of the EP on 11 July 2023, which called for using *passerelle* at the earliest.<sup>70</sup>

63. Government of Sweden, press release, 9 May 2022.

64. Fabbrini (n [Brexit book]).

65. See Andras Sajo, *Ruling by Cheating* (CUP 2020).

66. See also Dermot Hodson & Imelda Maher, *The Transformation of EU Treaty Making* (CUP 2018).

67. See Ramses Wessel & Viktor Szép, 'The implementation of Article 31 of the TEU and the use of qualified majority voting', study requested by the European Parliament Constitutional Affairs Committee, November 2022.

68. See art 81(3) TFEU (measures concerning family law), art 153(2) TFEU (measures concerning employment and social security), art 192(2) TFEU (measures concerning environmental policy), art 312(2) TFEU (measures related to the MFF).

69. Joint Statement of the Foreign Ministries on the Launch of the Group of Friends on Qualified Majority Voting in EU Common Foreign and Security Policy, 4 May 2023.

70. European Parliament resolution of 11 July 2023 on the implementation of the *passerelle* clauses in the EU Treaties, P9\_TA(2023)0269.

Yet the strategy to leverage the *passerelle* clauses has its hurdles. On the one hand, triggering a *passerelle* would still require unanimity in the European Council, which is not a given, due to the hold-out position of several member states. Furthermore, Article 48(7) TEU empowers a single national parliament to block the use of a *passerelle*, even if approved by heads of state and government in the European Council, within six months. Lastly, the same provision explicitly prohibits applying the *passerelle* ‘to decisions with military implications or those in the area of defence’. On the other hand, there is no escaping that the *passerelle* can achieve only so much. The EU governance structure suffers a number of shortcomings, and enhancing the legitimacy and effectiveness of the EU requires adjustments that can only be addressed through proper treaty changes. For example, a greater role for the EP in fiscal and budgetary matters is a democratic need, especially after the establishment of the NGEU, but this can be achieved only through revisions of several treaty provisions.<sup>71</sup>

Given these challenges, however, policymakers have increasingly looked at alternative options to advance European integration. In particular, a group of experts jointly appointed by the French and German governments proposed in September 2023 a series of recommendations to reform and enlarge the EU for the twenty-first century.<sup>72</sup> Their report outlined six options for reforms, including the approval of a supplementary reform treaty between willing member states if there is deadlock on treaty change.<sup>73</sup> Indeed, there are precedents of groups of vanguard member states that have concluded separate inter-se intergovernmental agreements on the side of the EU,<sup>74</sup> and differentiated integration has admittedly become a feature of the contemporary EU.<sup>75</sup> Along this line, a proposal would be to adopt a political compact to advance integration overcoming the veto of hostile member states.<sup>76</sup> Otherwise, Article 49 TEU states that institutional adjustments to the EU and its functioning can also be achieved in the framework of new accession treaties. While this provision has traditionally been interpreted to refer only to minimal changes to the institutions that necessarily result from the entry of a new EU member state, a more ambitious reading of it would be to tie enlargement and wider reforms into a single agreement.<sup>77</sup> Yet this avenue would delay EU reforms until

71. Federico Fabbrini, *EU Fiscal Capacity: Legal Integration after Covid-19 and the war in Ukraine* (OUP 2022) 141.

72. See Report of the Franco-German working group on EU institutional reform, ‘Sailing on High Seas: Reforming and Enlarging the EU for the 21<sup>st</sup> Century’, Paris-Berlin, 19 September 2023.

73. *Ibid* p 35 ff.

74. See e.g. Treaty Establishing the European Stability Mechanism, 25 March 2011; and Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, 2 March 2012.

75. See Frank Schimmelfenning & Thomas Winzen, *Ever Looser Union? Differentiated European Integration* (OUP 2020).

76. See further Federico Fabbrini, ‘Possible Avenues towards Further Political Integration: A Political Compact for a More Democratic and Effective Union’, study commissioned by the European Parliament Constitutional Affairs Committee, June 2020.

77. See also Bruno de Witte, ‘Constitutional Challenges of the Enlargement: Is Further Enlargement Feasible without Constitutional Change’, study commissioned by the European Parliament Constitutional Affairs Committee, March 2019, 4.

enlargement happens—and it remains to be seen if the accession of new member states, including Ukraine, to the EU is feasible at all.<sup>78</sup>

## Conclusion

The Conference on the Future of Europe has been an out-of-the box initiative to re-launch the project of European integration after Brexit, beyond the COVID-19 pandemic and during the war in Ukraine. The Conference constituted an experiment in transnational participatory democracy, designed to involve citizens from the bottom up in reflecting on the future of Europe. This innovative format, however, has revealed a number of weaknesses, notably in connection with the implementation of its results. While European citizens pleaded for a strengthening of the EU in a more federal and sovereign direction, the institutional follow-up to the Conference has been underwhelming, and the process of treaty change has stalled. As Andrew Duff has claimed, the Conference has been ‘inconsequential’,<sup>79</sup> and the European Council has breached ‘its obligations under Article 48(2) TEU for failing to react to proposals for amending the treaty delivered to it by the European Parliament’ after the Conference’s conclusion.<sup>80</sup>

The Conference, however, has put forward conclusions that remain relevant for the future of Europe. In fact, the Conference concluded its work at a dynamic time for the process of European integration, as the war in Ukraine revived the prospect of enlargement and consequently the issue of constitutional change.<sup>81</sup> While it is uncertain whether this experiment of transnational democracy will serve as a model in the future and be repeated again by EU institutions to spur debates on further European integration, there is no doubt that the Conference ultimately confirmed a consensus for reforming the EU, especially post-COVID-19. As a result, if the EU can mobilise the political will to change the EU treaties, the recommendations of the Conference can serve as a valuable blueprint for needed institutional reforms, as the EP and others have justly pointed out.

78. Sylvie Goulard, *L'Europe enfla si bien qu'elle creva : De 27 à 36 Etats ?* (Tallandier 2024).

79. See Andrew Duff, ‘Keeping the Promise: Reform of governance in the enlarged European Union’, European Policy Centre Discussion Paper, September 2024, 5.

80. Ibid.

81. See also Federico Fabbrini, *The EU Constitution in Time of War* (OUP 2025).