

THE EUROPEAN PARLIAMENT AND THE FUTURE OF EUROPE

In June 2022, the European Parliament instructed its Constitutional Affairs Committee to draw up draft revisions of the Treaty of Lisbon signed in 2007 and entered into force in December 2009.

The Treaty has been divided into two parts:

- The **Treaty on European Union** (TEU), which is based on the draft Constitutional Treaty drawn up by the Convention on the Future of Europe and subsequently amended by the Intergovernmental Conference (55 articles);
- The **Treaty on the Functioning of the European Union** (TFEU) - which incorporates all the articles of the previous treaties as decided by the governments of the member States, (355 articles) - to which the protocols and declarations are added, together with the Charter of Fundamental Rights, which became legally binding with the Treaty of Lisbon.

The work of the Committee on Constitutional Affairs - entrusted to **six rapporteurs**¹ from the EPP, S&D, Renew Europe, Greens, ECR and Left groups with the exclusion of the ID Group and the “non-attached” - was flanked by the work 'by opinion' of the thematic committees.

Guy Verhofstadt, who led the European Parliament delegation to the Conference on the Future of Europe, was given the task of coordinating the work of the rapporteurs and helping to find compromises between all the groups to facilitate the adoption of the report first in the committee and then in the plenary.

The initial idea of the Committee on Constitutional Affairs, expressed in a document in May 2022 that was inspired by the work and recommendations of the Conference on the Future of Europe, was to limit the changes to the treaties to some thirty essential issues relating to the division of competences, the simplification and the extension of majority voting in the Council, the transparency and the democratic nature of the European system in compliance with the modalities and procedures laid down in Article 48.4 TEU.

In addressing the issue of the revision of the Lisbon Treaties (TEU and TFEU), the six rapporteurs decided to go beyond the initial mandate of the Committee on Constitutional Affairs and came to the conclusion that the coherence of the parliamentary work, the recommendations of the Conference on the Future of Europe and the opinions of the thematic committees called for a broader revision, to which the political and cultural orientations of the rapporteurs and the groups naturally added.

At the current stage of the rapporteurs' work, which might conclude with a compromise text to be submitted to the Committee on Constitutional Affairs at the resumption of the autumn meetings

¹ Guy Verhofstadt (Renew Europe): Executive rapporteur, Decision making & EP rights
Sven Simon (EPP): Defence, Foreign Policy, Enlargement
Gabriele Bischoff (S&D): Social, Monetary Union
Daniel Freund (Greens/EFA): Rule of Law & Fundamental Rights, Climate
Jacek Saryusz-Wolski (ECR): Subsidiarity, role of national parliaments
Helmut Scholz (The Left): Youth & Culture, citizens participation

and in view of its discussion and possible approval in plenary, **24 proposals to amend articles of the Treaty on European Union (out of 55) and more than 80 proposals to amend articles of the Treaty on the Functioning of the European Union (out of 355) have been drafted.**

The work of the AFCO or, rather, of its six rapporteurs falls within the framework of Article 48 TEU, which provides for proposals to amend the treaties, the obligation of the Council to transmit them without debate and without amendments to the European Council, and the decision of the European Council by a simple majority (which is not subject to time constraints) to convene or not to convene a convention for the revision of the treaties.

Overall, the rapporteurs' proposals thus provide for almost one hundred new or amended articles to be submitted for revision of the two treaties, which can be summarized as follows:

- a **different division of competences** between the States and the European Union by giving the Union new competences, either shared or concurrent, in the fields of foreign policy and defense, infrastructure for the protection of external borders, health, civil protection, industry and education, or exclusive competences in the fields of environment and biodiversity,
- the **generalization of qualified or simple majority voting** in the Council and the European Council with a few exceptions as in Art. 22 TEU devoted to the EU's strategic objectives decided by the European Council,
- the **generalization of the ordinary legislative procedure**, of the power of co-decision - also in the formulation of the broad economic policy guidelines, which is now the strictly reserved domain of the Council with the provision for the constant consultation of the social partners, in the adoption of emergency measures to help member States in serious difficulties as is now the case with the pandemic, the rules laid down in the Protocol on the Stability and Growth Pact and the guidelines on employment policies - and the legislative initiative of the European Parliament together with its right to express its agreement on actions in foreign and security policy and to decide on its composition, with the exclusion of certain cases such as the appointment of the members of the Court of Justice,
- the intervention of **regional parliaments with legislative powers** at the same level as the intervention of national parliaments in the application of the principle of subsidiarity,
- the **guarantee of transparency** and the right of access to documents as guaranteed by the Charter of Fundamental Rights,
- the re-introduction of a **Commission composition** of fewer members than Member States as was foreseen in the initial text of the Lisbon Treaty,
- a **process of 'ordinary' revision of the treaties** by super-qualified majority voting with the introduction of the confirmatory referendum while maintaining the confederal power of governments to return competences from the European Union to the Member States,
- the **strengthening of European citizenship** and the fight against all kinds of discrimination with special reference to minority rights,
- the guarantee that state aid respects **environmental neutrality**, environmental protection and the Pillar of Social Rights,

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- a **new vision of fiscal policy** in which the Council votes by a majority in co-decision with the European Parliament,
- a **five-year multiannual financial framework** coinciding with the duration of the European legislature,
- the emphasis on a **high level of employment**, the social market economy and the European Pillar of Social Rights,
- the introduction of the idea of a **Social Progress Protocol** based on the revised European Social Charter signed in Strasbourg on 3 May 1996, the 1989 Community Charter of the Fundamental Social Rights of Workers, the Gothenburg Social Pillar and the Charter of Fundamental Rights,
- the principle that European social measures **cannot be the basis for reducing the level of protection** offered to workers in the member States,
- the confirmation of the target of **limiting the temperature increase to 1.5 °C** above pre-industrial levels.

Agreements are still pending between the six rapporteurs on various issues concerning

- the introduction of a **single president** of the European Union by unifying the presidencies of the European Council and the Commission
- the **composition of the European Commission**
- the introduction of the **pan-European referendum**
- the relationship between the States that will accept the revisions of the treaties and those that will not agree to ratify them and may decide to leave the European Union using the **withdrawal clause**
- the **role of COREPER** and the level of government representatives in the Council
- the **procedures for accession to the European Union**
- the respect of the **rule of law** through the introduction of qualified majority decisions in the Article 7 TEU procedure and the role of the Court of Justice together with the strengthening of the powers of the European Public Prosecutor, Eurojust and Europol
- certain aspects related to the relationship between competitiveness and **convergence of economies** where the emphasis is placed on full employment and social progress
- and last but not least the issue of **European defense** and the strategic autonomy of the European Union.

Encouraged by the more restrictive orientations of governments and the Commission on migration policies and the management of asylum flows, the rapporteurs of the Committee on Constitutional Affairs **emphasized the control of external borders** and the fight against illegal immigration rather than the protection of fundamental rights in the title dedicated to the area of freedom, security and justice that was introduced in the Treaty of Amsterdam to put the human person at the center, going so far as to delete the reference to the guarantee of the principle of non-refoulement in Article 78 TFEU and emphasizing the need to protect the rights of the individual. 78 TFEU and to

emphasize the need to set limits to the pull and push factor, to link policies aimed at economic migrants to the economic and social stability of the Member States, to the sustainability of the internal market and to the limitation of migratory flows also by the laws of the Member States, to data on crime and the minimum length of stay, to the speed and effectiveness of returns, to the relations with third countries from which migrants come and which do not respect entry conditions

It is worth emphasizing that **weighing on the negotiations and the final agreement are the reservations and hostilities of the ECR Group** - to which belong the parties that lead the governments in Italy, Poland and the Czech Republic and that have recently entered government in Finland and Sweden - on a substantial part of the proposals, concerning the set of institutional reforms, foreign and defense policy, the procedure for the appointment and election of the President of the Commission/Union, the application of the principle of subsidiarity and the procedure for the entry into force of a new Treaty through a confirmatory referendum, the procedure for the revision of the TFEU, citizenship and minority rights and family law, the strengthening of the powers of the European Public Prosecutor, majority voting and co-decision in fiscal policy, the EP's powers of enquiry (Art. 226 TFEU) and the resignation of an individual commissioner (Art. 234 TFEU), the Commission's powers to sanction a member state (Art. 258 TFEU), the Court's powers on CFSP (Art. 275 TFEU), the EP's agreement in the appointment of members of the Court of Auditors (Art. 286 TFEU), co-decision on own resources (Art. 311 TFEU), majority voting in enhanced cooperation (Art. 329 TFEU), all actions on education foreseen in Art. 165 TFEU and environmental foreseen in Art. 191-192-194 TFEU, trade policy foreseen in Art. 206-207 TFEU, the emergency clause provided for in Art. 222 TFEU, the European electoral law provided for in Art. 223 TFEU, the Social Pillar, and finally the introduction of qualified majority voting in Art. 352 TFEU.

In some cases of hostility expressed by the ECR, the **EPP** stated that the group would reserve its opinion on the final agreement to which it added its opposition to the inclusion in the Treaty (Art. 168 TFEU) of a 'one health approach' for human health, animal health and the quality of the environment.

On the other hand, the **LIBE Commission** expressed its opposition to the amendment of Articles 77-79 TFEU, which concern the area of freedom, security and justice, with the exception of the reforms aimed at strengthening the powers of the European Parliament.

The large majority of the national governments then made it known that **there were no conditions for convening a convention to revise the treaties before the 2024 European elections**, and in this spirit the Swedish presidency, which is part of the trio along with France and the Czech Republic, has moved.

The question therefore remains open as to the method and timing of the reform of the European system before the doors of the European Union open to the candidate countries, and thus

- whether it will emerge in the newly elected European Parliament or **the will to initiate a process of a constituent nature** as requested by some European Movements in a letter sent to the European Parliament on the anniversary of the initiative that on 9 July 1980 led the first European Parliament elected in 1979 to adopt the draft Treaty establishing the European Union on 14 February 1984,

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- or whether instead the idea of **submitting to the confederal rules of the Lisbon Treaty**, which would remain in force until a new treaty enters into force unanimously, will prevail, knowing that the procedure adopted by the European Parliament in 1980 was intended to avoid the stumbling block of an intergovernmental conference and to strengthen the dimension of representative democracy in the cooperation between the European Parliament and national parliaments.

Brussels, 13th July 2023