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The Conference on the  
Future of Europe as a  
Constitutional Experiment

May 19, 2022

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# Max Steuer

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*Following the final plenary and concluding event of the CoFoE, questions remain about whether and how the substantive outcomes will be addressed. However, the experiment yields lessons for a Convention with constitution-making potential.*

With the continued prominence of Eurosceptic voices and the struggle to communicate the European Union's (EU) actions to a wider public—resulting, among other things, in the United Kingdom's exit from the EU—the Conference on the Future of Europe (CoFoE) was envisioned as a unique endeavour to reinvigorate public interest in and commitment to the EU.

Deliberative democracy was to provide the magic to make it work: unlike existing initiatives, which largely failed to attract broader attention, the CoFoE encompassed a range of interconnected forms of citizen participation: notably a digital platform with automatic translation into all EU languages where anyone could post ideas on the future of the EU, four European Citizens' Panels (ECPs) composed of randomly selected EU citizens, and national panels and events in the 27 EU member states. Subsequently, a Conference Plenary brought together members of the European Parliament (MEPs), national parliamentarians, representatives of member state governments, and a range of other stakeholders – including representatives (ambassadors) of the randomly selected citizens from the ECPs.

The final CoFoE Plenary was held on 29 and 30 April 2022. The Plenary formally approved 325 proposals advanced from 178 recommendations of the ECPs, coupled with additional ideas from the digital platform, national panels, and ideas developed by the Plenary working groups. The final report on the CoFoE was then handed over to the EU Commission, Parliament and Council at a ceremony on Europe Day (9 May).

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The proposals contain several recommendations which would require changes to the EU Treaties. Moreover, there is a commitment—albeit vague—to ‘reopening the discussion about the constitution, where applicable, to help us align better on our values [...], involve citizens and agree on the rules of the [EU] decision making process’ (39 sec. 7). This call echoes the failed process of enactment of the EU’s Constitutional Treaty rejected by referenda in two member states in 2005. That rejection was followed by the drafting and adoption of the Lisbon Treaty, currently in force, but with no public involvement.

The CoFoE suffered from a lack of media attention, exacerbated by its uncertain outcome. Even with the end of the plenary meetings and the completion of the final report, there is no guarantee that the CoFoE will become anything other than a generator of ideas. A Convention would be necessary for the most ambitious revisions of the Treaties (Art. 48 of the Treaty on the EU) as well as a key step towards an official EU Constitution. Such a Convention would offer an opportunity to address those proposals that require treaty change as well as represent a process envisioned by EU law with potentially binding outcomes.

Does the CoFoE yield lessons for a potential Convention? I argue in the affirmative, in that it offers both best and not-so-good practices of deliberation in a unique multinational environment.

### **Successes: Citizen Guardians, Small Revolutions**

The outcomes of the CoFoE mirror the EU’s pluralist architecture: as highlighted by several speakers in the final CoFoE plenary, to reach a consensus it is necessary to generate fruitful interactions between EU member state governments, EU institutions and the citizens themselves. Citizens rose to the occasion of engaging with partisan actors, considerably more trained in negotiations. Some citizens self-identified as ‘guardians’ of the ECP recommendations in the plenary, repeatedly demanding them to be in the centre of the CoFoE output, despite personal disagreements with some of them. While doing so, they saw an otherwise rarely shown ‘human face’ of the EU institutions.

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Secondly, the CoFoE, as referred to by several ECP ambassadors, facilitated ‘(small) revolutions’, with citizens playing a key role in them. They spontaneously demonstrated the emanation of interconnected (EU) values to all EU policies when bringing together areas such as environment, data protection, digital sovereignty, and education. Thereby, they transcended the boundaries set by the constraining titles of the four ECPs.

Thirdly, citizens demonstrated collaboration, not because there were no divergent views among them, but because, in the words of one citizen ambassador (10:45:40), discussions helped ‘brains to link together’ and generated ‘new energy’.

These achievements support the introduction of deliberative elements into a future Convention, such as citizen panels reflecting on its draft proposals. Moreover, randomly selected citizen representatives could be enlisted directly among the Convention members.

The (mainly) right-wing perspectives decrying the ‘overly pro-integrationist’ output do not withstand scrutiny when compared to public opinion across the EU. The ECPs were not (more expensive) public opinion polls, but represented an alternative approach to gauging citizen views, which included discussion and learning in a respectful environment, distinguishing the ECPs from polling.

Nor was the CoFoE ‘undemocratic’ merely because it did not give disproportionate voice to elected parliamentarians as opposed to the randomly selected citizens. Neither theories of democracy nor the EU treaties exclude deliberative mechanisms. On the contrary, a right to ‘participate in the democratic life of the Union’ is included in the Treaty on the EU (Art. 10 sec. 3) and is not limited to elections.

### **Drawbacks: Too Many Interventions, Limited Information and Lack of Inclusiveness**

The encouraging results, however, should not make us complacent in trying mechanically to reproduce the design and practices of the CoFoE.

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Firstly, the openness to pluralism in the CoFoE has been questioned. The arguments by some MEPs and MPs about the alleged overrepresentation of federalist views among the ECP members (leading some parliamentarians to withdraw from the process altogether) are implausible. All ECP recommendations required a 70% threshold to be accepted in the ECPs alone, so the minority of 'sceptical citizens' could have easily voted down the more 'pro-integrationist' recommendations. Nevertheless, the composition of the ECPs raised legitimate questions as to their inclusiveness – for example, the involvement of marginalized communities across the EU.

Secondly, the design manifested a degree of fear from citizens co-creating the format, instead of merely generating substantive ideas. The CoFoE posed a major challenge for EU officials involved in setting it up and would not have worked (p. 15) without them. In retrospect, however, some of the top-down interventions made by officials were unnecessary, including calling for a vote on several occasions before the final recommendation stage; leaving no role for the ECP members in selecting the experts who provided advice and insights; and limited transparency (for example, due to the removal of several segments of the private communication space for ECP members after the final session of one of the ECPs). A Convention could learn from this by spearheading more bottom-up designs.

Besides the design, random last-minute interventions on issues of substance were also detrimental to trust in the exercise. During the 'feedback event' to the ECP members on 23 April 2022, the draft proposals of the working group on European democracy were shared with a delay, and it was unclear whether the proposal to remove the unanimity requirement in Art. 7(2) of the Treaty on the EU, an idea put forward also by the representatives of youth across the EU (p. 15), would feature in the final document. While the final report contains references to removing unanimity, more transparency and publicity of such a unique collaborative structure would have prevented such doubts.

In addition, the lack of inclusiveness raises questions about whether the output lives up to (EU) values committed to

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protecting minorities. The requirement of a qualified majority of 70% for a draft recommendation to pass in the final plenary vote of the ECPs proved misplaced. Critics of the CoFoE were not appeased by this threshold, and the majority of the [25 recommendations](#) that did not make it through the ECP plenary call for improvements precisely in the areas of minority protection, asylum seekers' rights or climate change. This offers a lesson for any future Convention against voting on issues without deliberation with strong involvement of the voices of those most affected.

### Valuable Lessons (not only) for a Convention

The practices of the CoFoE surpassed [claims](#) that it is an 'institutional illusion'. It has produced a unique set of proposals with relevant support by otherwise frequently competing constituencies of the EU. It is likely to become constitutive for advancing participation in EU politics. The ambitions to develop a more participatory architecture in the EU and to initiate a Convention were also [provided](#) strong political backing in the speeches of the three Presidents (of France, the Commission and the Parliament) at the concluding event on 9 May. Thus, both in terms of its successes and its drawbacks, the CoFoE offers valuable lessons, including for a potential Convention.

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Suggested Citation: Max Steuer, 'The Conference on the Future of Europe as a Constitutional Experiment', IACL-IADC Blog (19 May 2022) <https://blog-iacl-aidc.org/new-blog-3/2022/5/19/the-conference-on-the-future-of-europe-as-a-constitutional-experiment>.

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