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Institutional Reform Plans in the European Union

Hungary will hold the rotating presidency of the Council of the European Union in the second half of 2024. While institutional reform is not a priority in the programme of the Spanish–Belgian–Hungarian trio presidency – and thus is not expected to be in the programme of the Hungarian Presidency – political debates are expected to continue in the second half of 2024. The four proposals currently on the table – the institutionalisation of the Spitzenkandidat system, the introduction of transnational party lists, the abolition of unanimity in the Council and the extension of the powers of the European Parliament (EP) – all point to a deeper European integration. Hungary, while disagreeing with these aspirations, would like to maintain the status quo in some areas, while in others it would like to see a more limited cooperation in the future. Most of the proposals would require treaty amendment, but such a reform is unlikely to take place during the Hungarian Presidency, given that the focus of attention will be on the formation of the new European Parliament and European Commission. Besides, it would not be in Hungary’s interest to convene an Intergovernmental Conference, as experience shows that they have either led to deeper integration or to the preservation of the existing legal framework but have in no way loosened the cooperation between Member States. Having said that, I see three possible courses of action for Hungary, which, if not fully, will enable it to achieve its objectives during and even after its Presidency: 1. Adoption of a Parliamentary resolution on Hungary’s position; 2. Acquiring new allies by offering package deals; 3. Developing reform proposals that can be implemented within the current legislative framework.

Introduction

In the more than seventy years of European integration, the functioning of the Community institutions and the need to reform them has been a recurring topic of debate among Member States. In all cases, behind the pros and cons, diverging views on the future of integration are emerging. Through institutional reforms, Member States can strengthen their cooperation, move towards

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a more federal Europe, and they can also strengthen the intergovernmental nature of the Community, focusing on the importance of national advocacy. So, the debate between leaders of Member States is also about what kind of Europe they want in the future. The issue of the future of the Community institutions has become a priority today.

There are proposals to organise the 2024 European Parliament elections according to new rules, with the introduction of transnational party lists.¹ The possible introduction of a top candidate – or “Spitzenkandidat” – system could also be back on the agenda with the new European Commission next year. In addition, the EP formally initiated a revision of the Treaties in June 2022, proposing changes, inter alia, to the Council’s decision-making rules and an extension of its own powers.² These themes were also among the proposals of the Conference on the Future of Europe (CoFoE) held in 2021–2022,³ which task was to lay the foundations for the renewal of the European Union (EU).

The concept of a sovereign Europe, which is currently prominent, and which is mainly promoted by Emmanuel Macron, President of the French Republic, could also be another argument for reforming the functioning of the EU institutions to make the Union more united and efficient. In addition, the future enlargement of the European Union may also be a factor that provides a good basis for change. The need for institutional reform is increasingly being raised in the context of preparing the Union for enlargement.⁴

The shape of the future of the European Union is of importance to all of us. Indeed, the possible reforms would not only bring about changes in national sovereignty and opportunities for asserting interests, but through changes in the European Parliament election procedure or the introduction of the top candidate system, citizens would also directly perceive their effects.

This paper analyses the EU institutional reform proposals described above, the debate about them and the impact the amendments would have on integration. The paper also shows what Hungary’s interests are in each of the topics, as well as what room for manoeuvre the country has, and finally it formulates recommendations on how Hungary can enforce its interests either during its Presidency in 2024 or in the longer term.

¹ European Parliament 2022c.

² European Parliament 2022b.

³ Conference on the Future of Europe 2022.

⁴ See, for example, the Report on the Franco–German Working Group on EU Institutional Reform 2023.

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The European Parliament is one of the most important institutions of the European Union, together with the European Commission and the Council. The Commission – also often referred to as the government of the Union – represents the Community interest in its decision-making, policy-making and executive activities. The Commission is the only institution in the EU that has the right of legislative initiative. The other two bodies – the EP and the Council – are co-legislators on an equal footing in most policy areas, in which the European Parliament, as a directly elected institution, traditionally represents the interests of European citizens and the Council represents the interests of the Member States.

The powers of these institutions, their functioning, their interrelationship and the changes that occur within them have an impact on the depth of integration, so that one area of debate on the future of the cooperation between European nations is usually the possible reforms of these institutions.

The issue has been a renewed focus of political attention in the last few years, and the reform proposals on the agenda would significantly transform the way the European Union works.

Introduction of transnational party lists

Members of the European Parliament have been directly elected by citizens for a five-year term since 1979. There is no completely uniform electoral system in the Member States, there are common principles, but other regulations are left to the national governments. Common principles include, for example, the principle of proportional representation, the rules on conflicts of interest for MEPs and the rules on thresholds.⁵ It is also common that voters can choose between national parties when they go to the polls. Other elements, such as the minimum age for suffrage, the number of constituencies and the way seats are counted, are left to the Member States.

The conditions for changing the electoral system and procedure are laid down in Article 223 of the Treaty on the Functioning of the European Union (TFEU). Under this article, the Council, acting unanimously on a proposal from the EP and after obtaining Parliament's consent, adopts the changes, which

⁵ Council Decision (EU, Euratom) 2018/994.

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must be ratified by all Member States before they can enter into force.⁶ Most recently, in 2018, the Council adopted a Decision on the reform of the European Parliament elections, harmonising national rules on, among other things, the presentation of party lists, the avoidance of double voting and thresholds.⁷

Although the entry into force of the decision is still pending, due to the missing ratification by some nations, the European Parliament presented a new proposal in 2022, the elements of which it wants to apply for the 2024 elections.⁸

Compared to the previous ones, the newest – and most important – part of this proposal is the idea of introducing transnational party lists. The EP would strengthen the European dimension of voting and the importance of European parties by adding 28 MEPs to the Parliament, elected by citizens with a second vote in an EU-wide constituency through transnational party lists. In each case, the list leaders would be the candidates for the Presidency of the Commission of the European parties.

The European Parliament's efforts to introduce transnational party lists are in line with the recommendations of the Conference on the Future of Europe, which also proposed such a reform of EP elections.

Institutionalisation of the Spitzenkandidat system

Under the current legislation, the President of the European Commission is proposed by the European Council, acting by qualified majority, and the European Parliament decides whether to approve or reject the nomination. Heads of State or Government enjoy considerable freedom in the nomination of the potential President, limited only by the requirement that politicians must consider the results of the European Parliament elections since the entry into force of the Lisbon Treaty in 2009.⁹

With this amendment, the EP saw its ambition to have a role as the only directly elected EU institution in choosing the future head of the Commission confirmed, so in 2014 and 2019 – as the European People's Party had done in 2009 – each European party family put forward a so-called top candidate for election. In 2014, the Member States nominated Jean-Claude Juncker based on

⁶ TFEU Article 223 (1).

⁷ Council Decision (EU, Euratom) 2018/994.

⁸ European Parliament 2022c.

⁹ TEU Article 17 (7).

the Spitzenkandidat system, but in 2019, the Heads of State and Government bypassed the top candidates and negotiated again only among themselves. The failure of the Spitzenkandidat system is due to two factors. On the one hand, there were actual political reasons, such as the divisive personalities of the 2019 top candidates and the lack of leadership experience of Manfred Weber, the candidate of the European People's Party for the top job. On the other hand, it also reflected the will of the Member States to keep the choice of the person who holds one of the most important posts in the European Union within their own competence and not to delegate it to a supranational institution.

Although political will would be sufficient to institutionalise the Spitzenkandidat system, the European Parliament would like to see it enshrined in the Treaties, strengthening with this the legitimacy of the Commission and making the European Union more democratic. In its 2022 initiative, the EP proposed the compulsory application of the top candidate system, with each top candidate, as I have written above, leading the transnational party lists. The introduction of this procedure was also called for in the final report of the participants at the Conference on the Future of Europe.

Extension of the powers of the European Parliament

In the European Union, changing the powers of an EU institution requires a treaty change and unanimous support. In the process, Member States can decide either to extend or to reduce the powers.¹⁰ The European Parliament – formerly the Common Assembly – has undergone several structural and jurisdictional changes in its history. It has evolved from a body of government delegates to an institution with direct powers from the electorate, and nowadays, having moved from its consultative role, it is an equal partner of the Council in most areas of Community legislation. The last time political leaders decided to give up some of their sovereignty and transfer powers to the EP was in 2007 during the Lisbon Treaty negotiations, which has further increased the institution's importance in EU decision-making. The European Parliament is now, with a few exceptions such as taxation and competition law, an equal co-legislator with the Council in almost all policy areas. However, despite its increasingly important role, the institution still lacks the right of legislative initiative – only the European Commission has this right – and has

¹⁰ TEU Article 48 (2).

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only limited powers on important issues such as the adoption of the multiannual financial framework. The EP can either adopt or reject the MFF regulation, but it cannot amend it.

Among many other factors, the EP would change these in a treaty amendment process. The European Parliament would like to have full co-decision powers over the EU budget and would like to have the right of legislative initiative in the future.¹¹ Some of the EP's objectives are also reflected in the CoFoE final report, furthermore, the Conference participants would like to see the adoption of the Community budget as the sole responsibility of the European Parliament.¹²

Abolition of unanimity in the Council

Since the beginning of European integration, the Council has had two main different decision-making procedures: (qualified) majority voting and unanimity. While the former does not require the support of all Member States, the latter requires the agreement of all nations. The policy areas covered by each form of voting are set out in the Treaties, although Member States still seek to reach consensus on matters requiring qualified majority voting.

As integration has developed, the number of areas where unanimity in the Council is required has decreased. Any change in the decision-making procedure requires the agreement of all political leaders in the European Council. So far, Heads of State or Government have made changes when the treaties have been amended, but this is also possible within the existing legal framework, except for military and defence decisions.¹³ Today, majority voting is the most common form of voting in the Council, with the unanimity requirement being retained only in a few cases that are sensitive to national sovereignty. These include, among others, the common foreign and security policy, decisions on EU citizenship, taxation, enlargement, EU finances, or the rules for elections to the European Parliament.

These areas would be further reduced to ensure the EU's capacity to act and to increase its effectiveness, as the participants in the Conference on the

¹¹ Conference on the Future of Europe 2022.

¹² See, for example, the Report on the Franco-German Working Group on EU Institutional Reform 2023.

¹³ TEU Article 48.

Future of Europe and the European Parliament have initiated. The CoFoE's recommendations propose the introduction of majority voting on all issues except enlargement and changes to the EU's core values.¹⁴ The EP is calling for smaller scale reforms, but on foreign policy issues¹⁵ and changes to the European Parliament's electoral procedure, the Parliament would also use majority voting.¹⁶

These institutional reform plans would not only bring about a significant change in the way the EU works but would also lead to deeper integration than at present. For example, the extension of qualified majority voting in the Council would strengthen the supranational character of the European Union. It would remove the possibility for nations to veto decisions in new areas and would allow decisions to be taken that could harm the national interests of one or more Member States. The extension of the powers of the European Parliament and the institutionalisation of the Spitzenkandidat system would increase the importance of this supranational institution in the functioning of the Union, the latter would also lead to a reduction in the powers of nations.

The final decision on any reform proposal must be taken unanimously by the Member States, but at present there is still a disagreement among political leaders, so there is little chance of substantive change in the near future. Beyond the differences of opinion on specific issues, the real cleavage between nations is over the future of integration – whether they want a more federal European Union, or one based on the will and interests of the Member States.

Hungary's national interests

In the debate on the future of the European Union, Hungary has a strong position and objectives. It agrees with the need for institutional reforms and would support a treaty amendment process, but for different reasons than the initiators of the reform proposals described in the previous section.¹⁷ Instead of closer European cooperation, Hungary would retain the Member States as the most important actors in the functioning of the Union. Therefore, taking

¹⁴ See, for example, the Report on the Franco–German Working Group on EU Institutional Reform 2023.

¹⁵ European Parliament 2022a.

¹⁶ European Parliament 2022c.

¹⁷ National Assembly Resolution 32/2022 (VII. 19.) on the Hungarian Position to Be Represented on the Future of the European Union.

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advantage of the possibility that the treaty amendment process could be aimed at both strengthening and weakening the Community dimension, Hungary has proposed that – returning to the pre-1979 situation – Members of the European Parliament should be delegated by the national legislatures rather than directly elected by citizens in future. This contrasts with other efforts to introduce transnational party lists, and although the Hungarian position currently has no supporters, the use of EU-level party lists in the 2024 elections has so far been rejected by Member States.¹⁸

In addition, Hungary would increase the importance of the role of the nations in EU law making, instead of the European Parliament, as it calls for the right of legislative initiative to be granted not only to the Commission but also to the governments and parliaments of the Member States at Community level. Hungary also does not support the abolition of unanimity in the Council.¹⁹ Among other things, for example, in the decision-making process on sanctions, our special national interest, which is also due to our geographical location, has shown why it is important for us to retain the possibility of a veto. Overall, the preservation of the veto is of particular importance for Hungary because, as one of the small countries in the EU – in terms of GDP and population – the veto is one of the most important tools for Hungary to assert its interests.

The institutionalisation of the Spitzenkandidat system is also not in Hungary's interests, given that the majority of Hungarian MEPs – thirteen out of twenty-one – are currently not members of any European political group, and in the largest parliamentary group, in the European People's Party, there is only one Hungarian politician.

Recommendations

Adoption of a Parliamentary resolution on Hungary's position

Hungary's EU Presidency falls at a time of institutional term changes. After the June elections, the new European Parliament will be formed, the hearings of the Commissioner-designates will begin, and finally the new European Commission will take office in November – or even December, as the current body is doing. This also means that the EU will have less emphasis on law-making in

¹⁸ European Council 2023.

¹⁹ ZsÍROS 2022.

the second half of 2024. Despite this, the future of the European Union is likely to remain on the agenda, in particular the use of and the need for a system of Spitzenkandidat, but little real progress is expected, because of the reasons described above. If, however, the Hungarian Parliament were to adopt a resolution in the course of the six months in which it would set out the objectives and priorities to be pursued by the government in the debate, along with the preservation of the unity of the Union and its values, it would have a significant impact on the political discourse as rotating President, and would also make clear to its partners the position of Hungary for the future.

A similar resolution has previously been adopted for the Conference on the Future of Europe.

Hungary needs to reach mutually beneficial agreements with other Member States

In three of the four main areas outlined above, and to a lesser extent in relation to transnational party lists, there is likely to be a dispute between nations during the Hungarian Presidency. Behind the divergent opinions lies a cleavage between “federalists” and “sovereignists”. Hungary, as a member of the latter group, supports the concept of Europe based on national interests. Although there are Member States with similar views, most institutional reforms require a unanimous decision, so new allies are also needed for Hungary to validate its interests. Taking advantage of the fact that states attach different importance to the same topics, Hungary should also prioritise and offer package deals by connecting several cases, through which it can make compromises with other nations.

Hungary needs to propose reforms that can be implemented within the existing legal framework

The European Parliament has initiated the convening of an Intergovernmental Conference in June 2022, which could lead to a treaty amendment. However, the Council has not yet formally notified national parliaments and the European Council, so the process has not yet started. In view of the forthcoming European Parliament elections, it is unlikely that the Spanish or Belgian presidencies will take any substantive action on the matter, which will leave Hungary with

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the task of taking the EP initiative. However, due to the change of institutional term, there is a greater chance that one of the successive presidencies will take the next step on the treaty amendment process. Hungary's ambitions for the future of integration foresee less close cooperation than at present in several areas, such as indirect EP elections and the extension of the right of legislative initiative to the nations, and these would require treaty reform. However, the results of past Intergovernmental Conferences suggest that they have either preserved the status quo or deepened integration. A process of treaty amendment would therefore not be in Hungary's interest, so rather than proposing reforms that would require this, it would be necessary to set out objectives that can be achieved within the existing legal framework, both during the Presidency and in the long term.

Preparing scenarios and impact assessments for the reform of the European Union

Today, the European Union is facing many challenges and has to adapt to changes. These include its role in world politics, strengthening its competitiveness, improving demographic indicators and preparing for possible enlargement. Maintaining the status quo will not solve these problems, and certain reforms are inevitable. Hungary, as holder of the rotating presidency of the EU Council, could develop different alternatives for the future of the EU, in line with its own objectives, even over a 5–10-year horizon. This would demonstrate Hungary's willingness to compromise, while at the same time it would be a good opportunity to base the necessary changes on Hungarian interests.

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