



BACHELOR THESIS

The European Parliament and national parliaments in the EU Treaty reform process

A comparative analysis from the Treaties of
Rome until Lisbon

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Summary

This bachelor thesis presents research on the question “*How has the EU Treaty reform process evolved in integrating the European Parliament and national parliaments*”. A historical and comparative analysis is used to compare the Treaty reform process since 1958 as identified by Treaty provisions with the actual legal mandates in the reform process. The study will examine how the European Parliament (EP) and national parliaments were integrated and pushed for reform themselves. The upcoming Conference on the Future of Europe and the possibilities it presents for the EU’s constitutional development are analysed. It is found that Treaty reform evolved dominated by the member states with an integration of the EP through them as well as through its strategic behaviour. The findings are contextualised considering the EU’s democratic legitimacy, constitutional development, and referring to the Conference on the Future of Europe.

List of Abbreviations

AFCO	Committee on Constitutional Affairs
CoR	Committee of the Regions
EESC	European Economic and Social Committee
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EEC	European Economic Community
EMU	Economic and Monetary Union
EP	European Parliament
EU	European Union
EWS	Early Warning System
IGC	Intergovernmental Conference
IIA	Interinstitutional Agreement
MEP	Member of the European Parliament
NGO	Non-governmental Organisation
QMV	qualified majority voting
RoP	Rules of Procedure
SEA	Single European Act
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

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1. Introduction

The process of European integration advanced through several changes of the Treaties, beginning with the Treaties of Rome in 1958¹ creating the European Economic Community (EEC). It was followed by the Single European Act (SEA) in 1987 and the establishment of the European Union with the Maastricht Treaty in 1993. With changed geopolitical conditions and the prospect of enlargement, the Treaties of Amsterdam and Nice followed in 1999 and 2003. To involve a broader range of actors in the preparation of reform, the Convention on the Future of Europe was established and drafted a Constitutional Treaty. After the rejection of the Constitutional Treaty through national referenda, the proposed institutional changes were comprised in the Lisbon Treaty in 2009, leaving out the symbolic language (Craig & De Búrca, 2015). The Lisbon Treaty aimed at enhancing the Union's efficiency and democratic legitimacy and created the dual Treaty base of the TEU and the TFEU. Since then no major Treaty reform has taken place, but possible improvements to the EU's institutional architecture remain a debated issue.

Given the launch of the Conference on the Future of Europe in autumn 2020, the question arises, whether a possibility for Treaty reform and a reform of the process itself arises. The Conference will last for two years and will involve citizens in the debate on the EU's future. Its work shall include the EU's future priorities as well as questions on democratic processes and institutional matters. A Joint Declaration by the European institutions is supposed to ensure their commitment to follow up on the Conference's results (European Commission, 2020). The question emerges, in how far the European Parliament, as the only directly elected supranational institution of the EU plays a role in Treaty reform. Together with national parliaments, the EP is vital for the EU's democratic legitimacy. It is therefore relevant to examine how their role evolved throughout the integration process.

The EU's democratic legitimacy as well as its Treaty reform process have been discussed in the literature but focusing on democratic legitimacy in Treaty reform is different from regarding the democratic legitimacy of the EU's policy making. This study will examine the six major Treaty reforms from the Treaties of Rome until the Lisbon Treaty to evaluate two elements. Firstly, whether and to which extent the EP and national parliaments were formally involved in the Treaty reform process. Secondly, whether past Treaty reform processes corresponded with the Treaties' formal provisions. Furthermore, it will provide an early assessment of the Conference on the Future of Europe and its legal mandate and the role of parliaments within it will be analysed and compared to those of former Treaty reform processes. Ultimately, this study aims at answering the following research question:

How has the EU Treaty reform process evolved in integrating the European Parliament and national parliaments?

1.1. Societal and Scientific Relevance

Discussions about the EP's lacking powers and the democratic deficit of the EU are everlasting. A closer involvement of parliaments in the Treaty reform process has been debated at times but their role in Treaty reform is still less influential than in policy making. As the Treaties constitute the EU's structure and determine policy making with an influence on a vast area of citizens' lives, it matters that Treaty reform involves parliaments representing them.

¹ The year refers to the date when the Treaty entered into force.

1.2. Methodology and Research Design

The overall topic of this thesis is the evolution of EU Treaty reform from the 1950s until today. The general framework is marked by the Treaties and their provisions for reform. Research on the formal amendment process as well as Treaty texts and institutional documents will help to analyse how the process dominated by the member states evolved in integrating and expanding the powers of the EP and national parliaments. This is embodied by the first sub-question:

How did the formal Treaty amendment process evolve in integrating the European Parliament and national parliaments?

The relation of the EP and national parliaments as two different but still indispensable and non-excludable fora of representation will be discussed, as democratic legitimacy in the EU cannot only be thought from either a European or a national perspective. Therefore, the evolution of the EP's and national parliaments' role in comparison to the formal process will be evaluated. Examples of how the EP pushed for reform and acquired a more influential role by acting strategically will be analysed, which leads to the second sub-question:

To what extent did the actual legal mandates for the reform of the Treaties correspond with the formal reform process identified by the Treaties?

To relate the historical process to current debates and the possibility of Treaty reform, the Conference on the Future of Europe will be examined. The Conference might produce an outcome where to direct the EU in the coming years while simultaneously strengthening the parliaments' role in the entire process. This is incorporated in the third sub-question:

To what extent does the legal mandate of the Conference on the Future of Europe strengthen the participation of the EP and national parliaments in Treaty reform?

The key concepts in the next section provide the framework for assessing the integration of the EP and national parliaments in the reform process. The reform process will also be related to the most common theories of European integration. Neofunctionalism views the integration process as driven by functional and political spill-over during which legitimacy is mainly constituted by outcomes. Liberal Intergovernmentalism argues that the member states are the driving forces behind integration and that supranational actors have only little independent impact. Recognizing the fact that member states were until now central to the pace and the direction of Treaty amendment, this study will examine the influence of the EP's participation as a supranational actor as well as of parliaments on the national level and therefore evaluate in how far this confirms the integration theories (Craig & De Búrca, 2015).

The research follows a comparative approach and will be conducted by analysing academic literature, Treaty texts, and textbooks on the formal reform process. To compare the formal process with the actual legal mandates in Treaty reform, sources like legal and policy documents by EU and national institutions such as EP resolutions or Council decisions will be examined. The postponement of the Conference on the Future of Europe presents a challenge to this thesis, as the Joint Declaration was not negotiated before this research's scope ended.

1.3. Body of Knowledge and Key Concepts

In what follows, the relevant concepts will be introduced, accompanied by a short overview of the body of knowledge. This research is about the evolution of Treaty reform in the EU – the first concept will

therefore be Treaty reform and to what extent it is seen as constitutional change. As the EU acquired more competences over the years, there is a demand to democratise reform mechanisms to reduce the democratic deficit (Sverdrup, 2002). The concept of democratic legitimacy will be introduced, summarising components building the EU's legitimacy.

1.3.1. Treaty Reform

The current legal framework for Treaty reform is laid down in Art. 48 TEU which entails provisions for an ordinary as well as a simplified revision procedure. The ordinary revision procedure requires a Convention to adopt recommendations for an IGC and unanimous decision making of member state governments during this IGC as well as approval through the constitutional requirements of each member state. With the EP's agreement, the process can proceed without a Convention. The simplified procedure however can only be used for the "*less fundamental parts of the Treaties*" and allows amendment by a unanimous decision of the European Council followed by the national process of approval (Tilindyte & Chahri, 2019, p. 2). It can only be used if the planned changes do not increase the EU's competences and when they are limited to the Union's internal actions and policies. Looking at the EU's history of Treaty amendment, it becomes apparent that formal amendment has not been spread evenly, but that since the SEA a time of continuous Treaty revision began.

Different academic views on the Treaties and their reform will be considered. Biesenbender (2011) elaborates that the Treaties can be regarded as the EU's constitution. They have primacy over secondary law and assign the EU institutions as well as the member states competences – establishing a system of checks and balances for the exercise of power (Biesenbender, 2011). Regarding the reform process per se, Sverdrup (2002) challenges the assumptions of liberal intergovernmentalism and proposes to regard Treaty reform as a contextual process that creates possibilities for deliberative choice. Falkner et al. (2002) consider Treaty reform as a path-dependent process and consider that EU-level actors do matter in Treaty reform. The path-dependency of the process is illustrated by the fact that IGCs were facing the existing framework of Treaties and agreements (G. Falkner, Christiansen, & Jorgensen, 2002).

1.3.2. Democratic Legitimacy

The EU is a political system *sui generis* and does not fit the nation-state definition of democratic legitimacy. Its multi-level system and the complex decision-making involving national, intergovernmental, and supranational institutions pose challenges to democratic legitimacy and makes it difficult for citizens to locate responsibilities. The three dimensions of democratic legitimacy – identity, representation/accountability, and performance – relate to the question of the EU's "lacking" demos, the institutions' representativeness, and the importance of the EU policies' success for their legitimacy. Holzacker (2007) analyses that supranational representation in the EU is incomplete because of the EP's limited powers and because European elections are widely perceived as second-order elections. He identifies the fundamental legitimacy problem of the EU as the lack of a transnational discourse on EU policies and concludes that representative and deliberative mechanisms in the member states and the EU need to be improved. Deliberation on multiple levels fosters the identification with a political system and therefore strengthens the EU's democratic legitimacy (Holzacker, 2007, p. 262).

Hurrelmann and Debardeleben (2009) describe the EP, national democratic processes, and input by civil society organizations as three channels of democratic input in the EU and consider all of them as vital for the EU's democratic legitimacy. Schmidt (2004) also emphasises the need for deliberative forms of de-

mocracy as a supplement to representative processes on national and EU level and points to the problematic fact that at the EU-level there is a lack thereof (Schmidt, 2004).

2. The Evolution of formal Treaty Provisions

2.1. The formal Treaty Amendment Process

This chapter will lay out how the EP and national parliaments were integrated into the formal Treaty amendment process. Treaty reform in the EU is performed by the adoption of revision Treaties by the member states during IGCs within the framework of the current Treaty (de Witte, 2004). Member states, the Commission or the EP can submit proposals for amendment to the Council. If the European Council agrees after consulting the EP, a Convention is established preparing recommendations for the IGC. During the IGC amendments can be made unanimously by member state representatives and enter into force after the ratification in all member states. IGCs are chaired by the member state holding the Council Presidency and comprise meetings on different levels: heads of state, foreign ministers, and working groups composed of civil servants. The conclusions are however adopted at the heads of state level. Besides a Council decision, an IGC can also be convened by a binding commitment within a former Treaty which occurs when unresolved issues were carried over to the next conference. This supports the conception of Treaty reform as a path-dependent process not only consisting of IGCs but also the periods in between those (de Witte, 2004, p. 59). Given that IGCs are meta-institutions – thus institutions themselves setting the rules for the actual EU institutions, it is remarkable how little is generally known about their internal workings (Christiansen, Falkner, & Jorgensen, 2002, p. 25).

2.2. The Role of International Law

The revision Treaty, which is the main instrument of constitutional change in the EU is an international agreement between the member states in which amendments to the founding Treaties are made. Like most multilateral agreements the EU Treaties have special amendment clauses. Art.48 TEU provides for stricter procedures than international law because amendments can only be made unanimously whereas in international law the parties can agree on how to amend their treaty which can also be by majority. It furthermore provides checks and balances like the ratification requirements according to national constitutional orders. Treaty reform in international law remains dominated by governments and is therefore insufficiently democratic, but as questions of constitutional relevance are discussed, there is a need for public deliberation (de Witte, 2004, pp. 56-66). That Treaty revision lies under the scope of international law is not a problem for democratic deliberation per se, as the member states are parties to the Treaties and are free to involve non-state actors or give parliaments a greater say in the process. Therefore, international law cannot necessarily be blamed for the democratic deficit of EU Treaty reform (de Witte, 2004, p. 83).

2.3. The Evolution of the Process

Formal Treaty amendment has not been spread evenly over the EU's history. The period between Rome and the SEA was relatively stable but since then almost continuous Treaty revisions have taken place. Each successive round presented an increase in the area over which the EU has competence (Craig & De Búrca, 2015). The EP's and national parliaments' involvement in the formal process will be analysed below, highlighting the dichotomy between the EP's continuous legislative empowerment in contrast to its competences in Treaty reform.

2.3.1. The Treaties of Rome

European integration began with the establishment of the European Coal and Steel Community (ECSC) in 1952. The Treaty of Paris establishing the ECSC put the IGC at the centre of future amendment. Member state governments and the High Authority could table amendments to the Council which would decide to convene a conference. The Common Assembly composed of national parliamentarians did not have any say in the amendment process (Art.96 EGKS-Vertrag). During the Messina Conference in 1955, the responsibility to prepare the Treaty on the European Communities was delegated to the Spaak Committee composed of member state delegates. The Common Assembly however neither played a role in the Spaak Committee nor the subsequent IGC. The Rome Treaties concluded in 1957 showed the unwillingness to accord power to parliamentary institutions but represented the establishment of a powerful institution. The Assembly had only a bare right to be consulted and this only when a particular Treaty article mandated such a consultation (Craig & De Búrca, 2015, p. 5). Compared to the Treaty of Paris, the Assembly acquired a marginal formal role in the process as the Council would hear its opinion on the establishment of a conference after receiving proposals for amendments from the member states or the Commission. National parliaments were involved in the ratification according to national constitutional requirements (Art.236 EWG-Vertrag). In 1965 the Merger Treaty united the institutions among the ECSC, Euratom, and the EEC. For almost 30 years the legal framework of the European Economic Community (EEC) was provided by the Rome Treaties. This illustrates the Common Assembly's weak position at the beginning of European integration within the EEC's institutional framework which lasted until the 1980s. The Assembly began calling itself European Parliament in 1962.

2.3.2. From Rome to the SEA

The EP's empowerment began with the first direct elections in 1979 and the *draft Treaty on European Union* it issued in 1984 which is examined in the following chapter. The Dooge Report in 1985 published by the Ad Hoc Committee on Institutional Affairs composed of member state representatives presented willingness to empower the EP and integrate it in reform. It declared the EP a "*guarantor of democracy*" and proposed to associate the next IGC closely with the EP (Report to the European Council 1985, pp. 30-32). It was however only agreed to keep the EP informed during the negotiations and EP delegates met with members of the IGC. Although the Benelux countries advocated it, there was no formal role for the EP, but after the Italian parliament declared to tie its ratification to the EP's consent, also the Italian government did so, which gave the EP's position some weight (Corbett, 1998, p. 224). Despite reservations expressed by MEPs on the powers of the EP and the effectiveness and democracy of the decision-making process, the modifications to the EEC Treaty were adopted. The provisions for amendment remained the same as in the Treaties of Rome (Hodson & Maher, 2018). The most significant institutional change was the transformation of the EP's role by the introduction of the legislative cooperation procedure.

2.3.3. From the SEA to Maastricht

Commission president Delors issued a plan to complete the Economic and Monetary Union (EMU) as well as the political Union, pushing for an IGC. During the Maastricht negotiations, the member states updated the cooperation with the EP to a more frequent and in-depth interinstitutional preparatory conference (Hodson & Maher, 2018). The most important change was the EP's legislative involvement by the introduction of the co-decision procedure. Nevertheless, the Maastricht Treaty preserved the provisions on amendment from the Rome Treaties. The negotiations were criticised for lacking transparency as well as the complexity of the new Union's structure (Craig & De Búrca, 2015, p. 12). National parliaments were still only integrated via their role in the ratification process.

2.3.4. From Maastricht to Amsterdam

The time after the Maastricht Treaty was characterised by an increasing debate about the EU's legitimacy. During the 1990s the Benelux countries and Italy proposed to make the EP a permanent observer at the Amsterdam IGC, but France and the UK rejected this. French President Chirac advocated an increased involvement of national parliaments in EU affairs (Hodson & Maher, 2018, p. 76). The EP was granted a co-agenda-setting role as two MEPs were invited to participate in the Westendorp Group which laid the basis for the Amsterdam Treaty which will be examined in the following chapter. Considering the upcoming IGC, member states in 1995 agreed that "*The European Parliament will be closely associated with the work of the Conference so that it is both briefed [...] and can give its point of view*" (Council, 1995, Section IV). IGC members were willing to discuss reform proposals put forward by MEPs and the EP president was invited to exchange views with the IGC's participants (Hodson & Maher, 2018). The institutional changes presented an extension of the reform process since the SEA. The election of Tony Blair with the Labour Party in 1997 allowed for an agreement on the extension of the EP's powers. The UK government in office until 1997 had opposed this. After pressure from their national parliaments, the Italian and Belgian governments declared to ratify the reform only if the EP would give its consent which put considerable pressure on the other governments (Maurer, 2006, p. 124).

The co-decision procedure was amended to increase the EP's power and its assent was made necessary to elect a Commission president (Craig & De Búrca, 2015, p. 14). The EP's requests for a formal role in reform were not supported by the member states, but its co-agenda-setting role was formalised by its participation in the reflection group (Devuyst, 1998, p. 628). The member states' different positions show that there partly was willingness to provide the EP with a more influential role in Treaty reform, but due to disaccord, there were no major changes. The Treaty was supposed to prepare the Union for enlargement and enhance its democratic legitimacy but did not resolve either issue. The debate was therefore postponed to subsequent Treaty revisions and discussions about legitimacy continued. The improvement of the EP's powers through the co-decision procedure and the vote on the Commission contrast the still non-existent role of the EP during the actual negotiations.

2.3.5. From Amsterdam to Nice

The concerns on the EU's legitimacy intensified and member states agreed to involve national parliaments and the EP in Treaty reform. During a speech in the Bundestag in 2000 Chirac proposed to establish a Convention like the one that drafted the Fundamental Rights Charter and called for the participation of citizens directly and via their elected representatives. The forum that drafted the Charter consisted of MEPs and national parliamentarians, the Committee of the Regions (CoR), the Economic and Social Committee (EESC), the Ombudsman, the ECJ and social groups and served as a blueprint for future reform in a more participatory way than an IGC (Hodson & Maher, 2018, p. 62). Chirac furthermore demanded a more democratic EU and remarked that the work of this forum would produce a European Constitution (Chirac, 2000). His change of mind possibly relates to the cohabitation with the socialist Jospin as prime minister and a socialist majority in the Assemblée Nationale since 1997, establishing a favourable attitude towards EU integration and the role of parliaments.

Issues that could not be resolved during the Amsterdam reform and the prospect of enlargement led to another IGC in 1999 which granted the EP observer status, taking into account its threats to veto such enlargement (Hodson & Maher, 2018, p. 73). The Nice Treaty accomplished the envisaged institutional reforms but there was dissatisfaction with the late-night wrangling during the IGC and insufficient trans-

parency. This presented an impetus for the European Council in 2001 to decide on the establishment of an open and representative Convention to prepare the next IGC and further legitimise the process (Craig & De Búrca, 2015, p. 16).

The Declaration on the Future of the Union annexed to the Nice Treaty “*calls for a deeper and wider debate about the future of the European Union*” and states that the Presidencies “*involving the European Parliament [...] encourage wide-ranging discussions with all the interested parties: representatives from national parliaments and all those reflecting public opinion*” (Treaty of Nice, 2001, p.85). Furthermore, the declaration states that the process should address the role of national parliaments and recognises “*the need to improve [...] the democratic legitimacy and transparency of the Union*” (Treaty of Nice, 2001, p.86). Thereby, the member states acknowledged that the EU’s legitimacy had to be improved, also by using another forum than an IGC to negotiate reform. Compared to previous rounds of reform, the observer status for the EP was a major improvement, following up to its increased scrutiny and legislative powers. National governments came to understand that actors such as national parliaments and the EP had to be empowered to account for democratic legitimacy in times of ever-increasing competences on the EU level.

2.3.6. The Convention

Given the success of the Convention which drafted the Fundamental Rights Charter, the European Council formally approved the establishment of a Convention with the Laeken Declaration. It was launched in 2002, composed of member state representatives, national parliamentarians, MEPs and Commission representatives. Working groups were created and decisions were taken consensually. By drafting a constitutional Treaty the Convention stepped over its mandate which was to issue “*recommendations for the next IGC*” (Beach, 2007, p. 1283). A debate on how Treaties should be amended was triggered and the involvement of national parliaments was demanded.

In the subsequent IGC, the EP was involved in an unprecedented way. EP president Cox attended all meetings at the heads of state level, MEPs participated in ministerial meetings, and EP officials attended IGC working groups. In the end, the EP did not decide on the final text but it was present at its creation (Hodson & Maher, 2018, p. 63). In 2004, the European Council adopted the Constitutional Treaty and 15 member states ratified it until it was rejected in referenda in the Netherlands and France in 2005. This failure meant that the legal order of the EU was still based on the Rome Treaties as amended during rounds of reform. The member states were not willing to let the work of the Convention be lost and agreed on a reflection period (Craig & De Búrca, 2015, p. 19).

The Convention strengthened the EU’s legitimacy upon its citizens and member states (Beneyto, 2008, p. 3). It was the very first deliberative forum on the European level with its broad range of participants. The notion to establish such a forum including parliaments was made by the member states considering legitimacy concerns that had been present for over a decade with the French presidents Mitterand and Chirac as key figures (Hodson & Maher, 2018, p. 79). The Convention did not repeal the existing reform procedures but was simply added as a phase preceding the IGC. Furthermore, the involvement of national parliaments made the ratification more secure. In terms of legitimacy, the Convention’s work was more accessible than that of an IGC. However, attempts to include the broader public and NGOs were mainly unsuccessful. NGOs and citizens howsoever had not been involved in Treaty reform before, so the Convention still represented a success regarding legitimacy concerns through the involvement of parliamentarians (de Witte, 2004, pp. 69-70).

2.3.7. The Lisbon Treaty

After the reflection period following the negative votes in France and the Netherlands, an agreement based on the Constitutional Treaty was reached, supported by the German Council Presidency in 2007. Three EP representatives participated in the IGC which formulated the Reform Treaty. In contrast to former IGCs it was less transparent and open to the public. The Lisbon Treaty was signed in December 2007 and aimed at enhancing the efficiency and democratic legitimacy of the EU (Craig, 2010, p. 22). Its ratification was the culmination of a decade of reform attempts and its content was very similar to the Constitutional Treaty but left out symbolic language (Craig, 2010, p. 6). It finally enhanced the role of parliaments in Treaty reform: the EP acquired the right to propose amendments, equal to the member states and the Commission and national parliaments must be notified by the Council of proposed Treaty changes (Art.48 TEU). The Treaty also introduces the legislative participation of national parliaments through the Early Warning Mechanism (EWS) based on objections to the subsidiarity principle. Combined with new instruments like the Citizens' Initiative this illustrates the clear attempt to promote democratic principles (Beneyto, 2008, p. 18). Lisbon made the Convention the principal method for future reform which guarantees the EP and national parliaments a seat at the table. Also, the EP has to agree to the use of the simplified revision procedure (Hodson & Maher, 2018, p. 79). The increase of the EP's and national parliaments' role in Treaty reform not only signifies that the member states have taken concerns of democratic accountability in the reform process more serious but also reduces the gap between the legislative and scrutiny powers the EP and national parliaments possess and their ability to influence Treaty reform.

2.4. Conclusion

Considering the evolution of the formal amendment process, it can be remarked that especially the EP, but also national parliaments were involved in Treaty reform, which is important pointing to democratic legitimacy. The degree to which the EP was integrated by the formal actors is however only limited. Even if it has never been a leading player in Treaty reform and was not provided with an influential formal role, paradoxically the EP benefitted from increasing powers through almost every round of reform (de Witte, 2004, p. 63). This also stems from the understanding that the only directly elected institution could not be sidelined in reform (Gerda Falkner, 2002, p. 3). National parliaments, in turn, play a rather central role during the ratification stage which reflects the fundamental starting point of the integration process – the member states. The EP's legislative empowerment since the SEA served to compensate for the domestic de-parliamentarisation, but regardless of the increased democratic involvement in reform, the member states remain central to the pace and direction of the process (Craig & De Búrca, 2015, p. 56).

Thus, the first sub-question – *how the EP and national parliaments were integrated into the formal Treaty amendment process* – can be answered by affirming that member states have taken steps to integrate the EP and national parliaments in the process. However, this depended on leadership exercised by certain political leaders. In the next chapter, the focus will be put on how the EP and national parliaments acquired a role in the reform process by themselves and influenced the outcomes in contrast to how they were integrated by the member states.

3. The Reform Process in Practice

The second chapter emphasised that member states are dominant actors in Treaty reform and eventually integrate the EP and national parliaments. Complementing this, it will be laid out in the following how the EP and national parliaments pushed for a role in reform themselves and were able to influence the process. After providing an overview of methods of how the EP influences reform and strengthens its powers, the role of the parliaments in the reform process is examined. This again emphasises the necessity of a long-term perspective on Treaty reform, as spill-overs do not only occur between IGCs but also from daily policy making to Treaty reform (Christiansen et al., 2002).

3.1. Methods through which the EP acquired Influence

Interinstitutional power plays between the EU institutions over the distribution of competences and the interpretation of Treaty provisions occur in between IGCs. The room for manoeuvre within these interinstitutional power plays is conditioned by the Treaties, procedural rules, Interinstitutional Agreements (IIAs), and informal agreements (Wiesner, 2019). The EP's preference is to maximise its role in future decision-making by linking daily political decisions with IGC outcomes (Maurer, 2006). Besides the possibilities that provisions are ambiguous or incomplete or that the EP used its formal powers as leverage, also the formalisation of IIAs in Treaty reform is considered.

Hix (2002), as well as Farrell and Héritier (2007), describe Treaty provisions as "*incomplete contracts*" and state that governments only possess incomplete information on how de jure rules will be interpreted which provides actors with discretion (Farrell & Héritier, 2007b, p. 228). Incomplete information about the impact of the delegation of powers to the institutions thus leads to consequences not intended by national governments. The EP tries to maximise its influence over outcomes by using its bargaining power and proposes reforms of de jure rules that institutionalise the de facto operations. It threatens with non-cooperation unless the governments accept its interpretation and is able to lose in the short-term for constitutional gains in the long-term (Hix, 2002). The assumption that MEPs are less dependent on performance for their re-election as assumed by the second-order election theory further supports this (Rittberger & Winzen, 2015).

Farrell and Héritier (2007) show that bargaining over informal rules that complement formal provisions takes place in practice. The bargaining power of actors increases when rights under the Treaties can be used to block, threaten, or delay legislation. Consequently, governments try to limit the EP's discretion by making de jure rules more specific (Hix, 2002). The unanimity requirement makes it difficult for member states to reverse processes of informal change ex-post because there will always be one government favouring the EP's interpretations of the rules to the status quo. Governments also formulate ambiguous provisions because of disagreements or on purpose, because they have to be applied in an environment changing in a way not anticipated ex-ante (Farrell & Héritier, 2007b). The opportunities for actors to reshape rules evolve exactly via this collision between rules and the external environment. This highlights that institutional change does not only result from member states' preferences but also from bargaining processes among the institutions (Farrell & Héritier, 2007a).

Similarly, Kietz and Maurer (2007) examine how the EP strategically uses IIAs to wrest competences from the Council and the Commission creating facts through informal but politically binding IIAs while hoping to have those codified in subsequent Treaty reform. Even though IIAs are not legally binding they grant the EP decision-making competences not contained in the Treaties. Many Treaty provisions refer to

procedures which have been decided upon in IIAs and as described before, member states have only limited options other than their formalisation. The EP's major bargaining chips are the possibility to veto the budget, a rejection of the Commission and the possibility to delay or block legislation in the co-decision procedure (Kietz & Maurer, 2007, p. 26).

Emphasising a different aspect, Rittberger (2012) describes that institutional change is triggered when a "legitimacy gap" opens and the principles of representative democracy are undermined. This occurs when legislative competences are given to the EU which are decided upon by QMV in the Council so that national parliaments lose control and legitimacy has to be restored by empowering the EP. Actors providing democratic legitimacy such as the EP thus have superior bargaining power (Rittberger, 2012, p. 29). Consequently, national parliaments are often considered the main losers of European integration only functioning as administrative extensions for the implementation of EU law (Rittberger & Winzen, 2015, p. 108).

3.2. Examples in the Reform Process

This section analyses how the EP and national parliaments acted throughout the Treaty reform process. Examples for the methods described above will be provided, by focusing on how the EP was able to translate its formal powers into leverage in Treaty reform.

3.2.1. From Rome to the SEA

In the beginning of European integration, the Common Assembly called for an IGC in a position paper on the future of European integration before the Messina Conference, favouring the establishment of a unified assembly for the three European Communities. Shortly after the first direct elections in 1979, MEPs came to believe that a strategy of small steps would not suffice to amend the Treaties. The EP had avoided a high-profile approach to Treaty revision because the necessary big and public alliances contradicted the political groups' comparative nature. The catalyst for action was Altiero Spinelli who assembled the Crocodile Club with MEPs in 1980, agreeing that the EP had to debate reforms. The idea gained support among MEPs and in 1982 the EP's Committee on Institutional Affairs (AFCO) started to work. A year later a resolution was adopted including the idea to replace the existing Treaties which was transposed into a *draft Treaty on European Union* seeking to enlarge the EP's powers (Corbett, 1998). The EP planned to build up support for reform through political parties, governments, national parliaments and interest groups, NGOs, and academia. It established a dialogue with national parliaments and sent delegations to the national capitals which represented the most systematic lobbying of national elites the EP had ever embarked on. When the EP finally adopted the draft Treaty, the member states had to address the issue seriously and the Italian Presidency stated that "*the EP would be associated with the work in an appropriate manner and the conclusions of the Conference will be placed before it*" (Corbett, 1998, p. 211). By launching the draft Treaty during times in which the member states were not particularly interested in Treaty reform, the EP managed to build up support for reform and generated a momentum sufficient to stimulate those governments with a generally favourable attitude towards EU integration to take initiative in favour of institutional reform.

During the IGC the EP called for the new Treaty to be approved jointly by the EP and the IGC. When the IGC agreed to submit its results to the EP, the AFCO Committee put forward its interpretation of the word "submit". This would have involved an EP vote on the IGC's outcome and possible amendments which would then be subject to a conciliation procedure. This differed from the IGC's conception but the

IGC president allowed the EP to express its opinion. Spinelli had strong loyalties in the Italian parliament and arranged that Italy would only ratify the revision Treaty if the EP gave its approval, accompanied by a similar pledge from the Belgian parliament. This meant that the negotiations could not be closed until the EP had debated the matter and its views were considered by the IGC (Christiansen, 2002, p. 45). Several national parliaments endorsed the EP's draft Treaty. There was however no mobilisation of the general public (Corbett, 1998). After the IGC the EP could claim success because all the major areas it had proposed had been negotiated. Adopting a position on the IGC, the EP announced that it would exploit the very limits offered by the text and although it was not entirely pleased with its outcome, opted for the SEA's ratification. Lacking influential formal powers before the SEA's adoption, the EP did not possess many possibilities for leverage during the negotiations but generated attention with its draft Treaty. It pushed governments to deal with the topic of institutional reform and paved the way towards the SEA.

3.2.2. From the SEA to Maastricht

After the SEA there were concerns about the democratic deficit because QMV was introduced which had strong repercussions for the representative democracy in the member states. MEPs and national representatives demanded to extend the EP's legislative role to compensate for the loss of influence by domestic legislatures (Rittberger, 2012, p. 31). The EP aimed at allying with national parliaments to defend parliamentary democracy which also resulted in the Assizes on the Future of the EU. MEPs and national parliamentarians met in Rome 1990 and proposed specific Treaty reforms. The question who convened the Assizes was left open, most considered that it was self-convened by all the parliaments collectively. The final declaration called for the EP and national parliaments to prepare a constitution and demanded that future IGCs should include parliamentary approval (Corbett, 1998, p. 300). Its proposals were forwarded to the Maastricht IGC, but the final text of the Treaty only envisaged further meetings of this "*Conference of Parliaments*" and promised to consult the forum on the main issues of the EU (Treaty on European Union, p.226). No such conference was ever convened, but the forum was significant, also as a forerunner of the Convention method (Hodson & Maher, 2018a, p.60).

The EP was pleased that an IGC on the EMU was convened and together with the Commission called for its mandate to be extended to institutional reform (Corbett, 1998, p. 283). The EP's pressure to widen the reform agenda had been supported by the changes in Eastern Europe in 1989, creating a climate of opportunity. The EP sought to widen the EC's competences and proposed the formalisation of rights previously acquired in legislation or practice. Being the first to put detailed and specific proposals on the table, the EP was again at the forefront of agenda-setting. During the interinstitutional preparatory conference it communicated those directly to the governments. When the EP's involvement in the IGC was discussed, it remarked that although Art.236 EEC Treaty did not foresee its participation, there was no formal reason why European institutions could not be present, as the Commission already was a non-voting participant since 1985 (Corbett, 1998, p. 295). After threatening to vote against convening an IGC on the political Union, an understanding was accomplished that the EP president would be present at the start of the ministerial meetings, that there would be a trilogue of the institutions' presidents and enough time for the EP to pronounce its results. As the Italian and also the Belgian parliament again linked their ratification of the reform to the EP's consent, this was especially important (Devuyst, 1998, p. 616). The outcomes of the Maastricht IGC on the PU were a substantial step forward in the EP's legislative powers. The EP had an important agenda-setting role and influence over some of the issues negotiated, whereas the role of national parliaments did not change (Corbett, 1998).

After Maastricht, the EP updated its Rules of Procedure (RoP) to specify how it should act under the new decision-making rules. This presented a clear attempt to exercise discretion over how the procedures should work in practice. One example of this is that national governments assumed the EP would be allowed to issue an opinion on a new Commission which could then still be ignored. In its RoP 32, the EP decided to implement the procedure differently and to vote on the Commission rather than issuing an opinion. This procedure was used for the first time regarding the Santer Commission. National governments accepted it and Council president Kinkel and the nominee Santer himself clarified that he would not take office if the EP voted against him. Thus, the EP turned the *de jure* right to be consulted on the new Commission into a *de facto* veto (Hix, 2002, p. 277).

The events around the Maastricht reform, preceded by the Assizes and followed by the EP's use of discretion in interpreting Treaty provisions demonstrated that the EP was capable of cooperating with national parliaments as well as maximizing its powers. This was further illustrated by the fact that the Italian and Belgian governments linked the Treaty's ratification to the EP's consent as demanded by their national parliaments. The effective increase in its powers by a deliberate interpretation of Treaty provisions was illustrated by the Commission investiture procedure. The EP began to translate its formal powers into leverage in reform and stretched those to their very limit.

3.2.3. Amsterdam and Nice

The Maastricht Treaty had envisaged a new IGC to return to issues left open, but by 1996 it was the prospect of future enlargement which provided the main incentive, as well as the need to make the Union more democratic (Corbett, 1998). The EP threatened to veto future enlargement in 1995, demonstrating that it was able to translate its formal powers into bargaining leverage and thereby acquired a more influential role. Two MEPs, Elmar Brook and Elisabeth Guigou participated in the reflection group and expressed realistic demands which boosted their reputational capital (Maurer, 2006). As a former European affairs minister, Guigou presented the EP's proposals in a way that attracted sympathy among the participants (Corbett, 1998, p. 372). The EP's report on the reflection group was the only one that contained specific proposals to change the Treaties.

The EP demanded to participate in the IGC because the planned enlargement would require its assent. Additionally, MEPs emphasised that their participation would boost the IGC's legitimacy. As elaborated previously, France and Britain opposed granting the EP the same role as the Commission as a permanent observer. EP representatives were briefed on the progress and the EP president had an exchange of views with foreign ministers at each of their monthly meetings which constituted a significant improvement. To influence the IGC's outcomes, the EP used partnerships with national parliaments, contacts with intermediary groups, national parties, and built alliances with certain national governments. After pressure from their national parliaments, the Italian and Belgian governments declared to only adopt the reform if the EP gave its consent (Maurer, 2006, p. 124).

The formalisation of the EP's interpretation of the Commission investiture procedure is an example of how the EP made governments accept its interpretation of Treaty provisions that increased its powers. At Amsterdam, the EP proposed to institutionalise its interpretation of the Commission investiture procedure, and governments agreed so that the EP acquired the right to veto a Commission president candidate. In addition, the EP created a procedure in 1996 to question individual nominees in front of the respective EP committee. This was not foreseen by the Treaty provisions and certainly not intended by the governments. The EP however insisted that there would be no vote scheduled on the Commission unless all

nominees were heard. In the process of appointing the Prodi Commission, the EP forced the new president to ditch individual commissioners it did not support (Hix, 2002, p. 279). Whilst the practice was never formalised in a Treaty provision, it has been institutionalised in an IIA in 2010 nonetheless (Héritier, Moury, Schoeller, Meissner, & Mota, 2015).

With the entry into force of the Amsterdam Treaty, the EP's powers were increased by the formalisation of established practices and motivated by legitimacy concerns. The real transformation of the EP's powers happened before in the practical operation of the Maastricht rules. Through strategic behaviour, the EP was able to exercise discretion in rule interpretation (Hix, 2002, p. 279). Although it had played a major role in the reform process, it did not acquire a formal role. Like in the Maastricht Treaty, also ambiguities in the Amsterdam Treaty led to bargaining and the creation of informal institutions shifting power in favour of the EP (Farrell & Héritier, 2007a).

Coming back to issues left open during the Amsterdam negotiations, another IGC was convened. During the Nice IGC, two MEPs were observers at the preparatory group. Due to opposition from France, Britain and others, the EP was still not able to participate in the ministerial, heads of state, and government negotiations. There are few if any fingerprints of the EP on the Nice Treaty, but the observer status was an improvement compared to previous IGCs (Beach, 2007, p. 1283). After its adoption, the EP issued a *Resolution on the Future of Europe* stating that to ensure democracy and effectiveness, the process of Treaty amendment would need to be reformed, referring to the Convention on the Fundamental Rights Charter (Craig, 2010, p. 5). When the European Council issued the mandate for a Convention at Laeken, the EP and national parliaments jointly elaborated ideas and requests for its set up (Maurer, 2006). The Amsterdam process illustrated that the EP was increasingly able to use its formal and newly acquired powers in bargaining situations concerning IGCs. It was also increasingly recognised by governments for its ideas, for example in the Amsterdam reflection group. By employing threats like vetoing enlargement or withholding a vote on the entire Commission, the EP made governments accept its interpretation of Treaty provisions and provide it with a slightly more influential role in reform.

3.2.4. The Convention and the Lisbon Treaty

The Convention differed from the previous mode of Treaty reform and the EP therefore benefitted from its set-up and was able to play a formal role in agenda-setting. It influenced the negotiations without linking their content to daily politics (Maurer, 2006, p. 126). For the EP it was favourable to gain seats in the Convention's plenary and that instead of civil servants most of the participants were politicians. It was furthermore beneficial for the MEPs that coalition-building tactics were employed. However, not only structural factors accounted for the EP's different level of influence. The Convention's outcome was more ambitious than what governments would have negotiated during an IGC and the EP was leading in the call to elaborate a constitutional Treaty.

The draft Constitutional Treaty strengthened the EP's legislative role and provided it with the power to appoint the Commission president. Whereas during the Nice IGC the EP had advocated ambitious proposals such as democratising Treaty reform, it turned to more pragmatic proposals within the Convention. Generally, structural factors enabled the EP to gain influence in the Convention, but most of its fingerprints were still symbolic rather than substantive changes (Beach, 2007, p. 1288). During the subsequent IGC, the EP tried to ensure that the Convention's consensus would not be unravelled and then endorsed the Constitutional Treaty in 2005 (Maurer, 2006). With the Convention, the paradox emerged that the

negotiations were more representative and open than an IGC and allowed the EP to play a key role, but strengthened Eurosceptics in referendum campaigns (Beach, 2007, p. 1289).

As the Convention was only added to the traditional IGC process, the EP in the end did not have a say during the IGC but was however present during the creation of the Constitutional Treaty. After the reflection period, an IGC was convened to formulate the Reform Treaty comprising the changes elaborated during the Convention. Three MEPs participated in this IGC. As elaborated in chapter 2, the Lisbon Treaty includes both measures to improve parliamentary scrutiny over national governments as well as other mechanisms to promote their participation and updates their role in Treaty reform (Piedrafita, 2013). This way, the EP's structural advantages within the Convention and its outcomes persisted in part in the Lisbon Treaty, even if at that occasion the EP did not seek to use formal powers as leverage.

3.3. Conclusion

Throughout the EU's democratisation process the EP has been the winner of constitutional reform even though it remains formally marginalised in the IGC process. Even if its demands were not met, the EP has not voted against any Treaty revision (Christiansen, 2002, p. 45). Treaty reform presents the most pressing opportunity for the EP to improve its situation within the institutional framework. This chapter demonstrated how the EP has shown a constructive attitude to reform and illustrated the importance of the notion that Treaty reform does not only consist of IGCs. The EP's growing capacity to sanction and reward member states through its behaviour outside constitutional negotiations has provided it with the possibility to play a more active role (Maurer, 2006, p. 132).

Even if governments retain a gatekeeping role in IGCs, there is evidence that the EP's draft Treaty in 1984 has led to the SEA negotiations. Also the Maastricht Treaty contained elements the EP had pressed for – it therefore made a significant contribution to the speed of European integration (Corbett, 1998). Its formal and informal powers have increased throughout the integration process which is partially explained by the member states' concern for democratic legitimacy as elaborated by Rittberger (2012) but also by the EP's increasing bargaining powers. A bargaining mechanism for pro-integrationist member states and the EP is the principle that a loss of control by national parliaments should be compensated by empowering the EP (Héritier et al., 2015, p. 106).

Finally, the sub-question – *to what extent the actual legal mandates for the reform of the Treaties corresponded with the formal reform process identified by the Treaties* – can be answered by affirming that whilst the member states remain the dominant actors in the Treaty reform processes, the EP has learned to translate the formal powers it acquired into bargaining leverage and thereby pushing member states to increase its influence. It also increasingly stretches its powers by interpreting the provisions to its own benefit. Therefore, Treaty reform in practice did not always correspond exactly with the ideal process identified by the Treaties, especially after the first instances of reform. The next chapter will focus on the possible mandate the Conference on the Future of Europe will have.

4. The Conference on the Future of Europe

This chapter analyses how the debate and the launch of the Conference came into being and evolved. Since Commission President von der Leyen announced the plan to open such a conference, discussions came up in the institutions, among civil society and academia on its organisation and mandate. The institutions' positions will be compared and the opportunities the initiative presents for future reform and the democratic legitimacy of the EU will be evaluated.

In 2018, a group of members of academia led by Thomas Piketty called for the democratisation of the EU's economic and social governance in a manifesto – so far signed by more than 100.000 signatories. They propose to set up a European Assembly, composed of 80% national parliamentarians and 20% MEPs to “*get Europe out of the present technocratic impasse*” (Piketty et al., 2018). The proposal puts weight on the involvement of national parliamentarians to overcome the role of the EU as a scapegoat in national politics. It does not propose an enhanced role for the EP which clarifies that the authors consider national democratic processes more important for the EU's democratic legitimacy.

The first call to convene a Conference was made by French President Macron following a plurality of speeches in which he called for reform. Macron published an appeal for a “*European renewal*” in several European newspapers in March 2019. He advocated convening a conference and involving Citizens' panels as well as other actors to propose changes “*our political project needs [...] even to amending the treaties*”. One of the aims of the French president's proposal was to develop a roadmap for the EU to translate key priorities into actions (Macron, 2019). Commission President von der Leyen picked up the idea in her Political Guidelines in which she expressed she could support Treaty reform and set out the idea of the Conference more in general (von der Leyen, 2019, p.19). A Franco-German non-paper published in November 2019 on the Conference initiated discussions on its organisation and mandate. It endorses the Commission's initiative and declares the importance of a Conference with broad ownership by all EU institutions, member states, and citizens. According to the non-paper the bottom-up Conference should deal with issues related to the EU's democratic functioning, including possible Treaty change and policy priorities. Its outcome should be recommendations presented to the European Council for debate and implementation (France & Germany, 2019).

4.1. Positions of the EU Institutions

A Joint Declaration – an agreement by the Commission, the EP and the Council – will be used to define the structure, scope, and mandate of the Conference. Due to the Covid19 crisis, its start was postponed to autumn 2020 and at the time of writing, the Joint Declaration and therefore the Conference's final mandate was still pending. In the following, the institutions' positions will be compared.

4.1.1. The European Commission

The Commission's proposal consists of two parallel work strands: one on policy priorities and another on democratic processes and institutional matters such as the Spitzenkandidaten system and transnational lists for European elections. It proposes issue-specific deliberative panels gathering citizens and experts regularly throughout the Conference to hear the views of stakeholders, contributions from the Conference, and reflect on how to best follow-up with the recommendations. There should be a broader and more decentralised citizen-panel reporting to the Conference with proposals, supported by a multilingual digital platform (European Commission, 2020, p.4). The Commission wants the Conference to have a bottom-up

approach and be accessible for people beyond Europe's capitals. National and regional parliaments and actors should play an important role and hold Conference-related events. According to the Commission, it will be vital to the Conference's success to also reach citizens who are not necessarily in favour of the EU. To underline the local nature of the Conference, there shall be events outside the capitals under each Presidency. After a presentation of the results in 2022, the next steps shall be considered so that the new rules are put in place in time for the European elections in 2024. The Commission emphasises the importance to formalise the commitment to follow up on the results at the very beginning of the process within the Joint Declaration (European Commission, 2020, p.6). To many it was remarkable that von der Leyen stated in the Political Guidelines to be open to amend the Treaties and grant the EP the right of legislative initiative. The Commission can benefit from its experience with Citizens' Dialogues, but this time the participation will be embedded in the broader framework of the Conference provided with a commitment to follow-up on the proposals. The local nature of citizens' involvement and Conference-related events however is not new. The proposal underlines the Commission's understanding that the high turnout at the last elections needs to be seized to set off a broad debate on the EU's future.

4.1.2. The European Parliament

As the only directly elected EU institution, the EP demands to play a leading role in the process. It sees the Conference as an opportunity to increase the EU's capacity to act and make it more democratic. Besides the AFCO Committee, the EP set up a working group on the Conference composed of representatives from the political groups and President Sassoli. The EP's position on the Conference is very concrete and more detailed than what the Commission and the Council laid out.

Policy priorities as well as institutional issues should be identified as guidance for the discussions. To prepare for the next elections in 2024, issues such as the Spitzenkandidaten system and transnational lists should be considered. The involvement of citizens, organised civil society, and other stakeholders at EU, national, regional, and local level shall be one of the key elements. The Conference should produce concrete recommendations that will need to be addressed by the institutions. It calls for a general commitment from all participants to ensure a proper follow up of the outcome and commits itself to do so without delay and initiating Treaty change (European Parliament, 2020).

The EP already laid out concrete suggestions on the organisation and structure of the Conference. There shall be a Plenary, Citizens' Agoras, Youth Agoras, a steering committee, and an executive coordination board – all of those should be gender-balanced. The Citizens' Agoras comprise 200-300 citizens, reflect the policy priorities, and are held at different locations. Youth Agoras shall be held in the beginning and the end of the Conference, as the EP remarks that young people will be most affected by decisions on the future of Europe. The Plenary shall be constituted by 135 MEPs, 27 Council members on ministerial level, national parliamentarians, four members respectively from the EESC and the CoR as well as the Commissioners Šuica, Šefčovič and Jourová. Also, EU-level social partners shall be able to participate and representatives from the Agoras should be invited to the Plenary to discuss their conclusions. Importantly, strict parity should be ensured between the EP on the one side and national parliaments and the Council on the other side. The EP invites actors such as universities, NGOs, and think tanks to support the process. Additionally, representatives from EU candidate countries should be involved. Regarding transparency and openness, the EP demands that all meetings should be web-streamed and that all documents should be public (European Parliament, 2020).

Among most of the political groups, there is consensus that the overall aim of the Conference is to trigger reform in several governance areas. In the EP's position, there is no explicit reference to reforming the Treaty amendment process itself and strengthening its powers. However, it states that the Conference should increase the EU's capacity to act and make it more democratic. So even if there is no direct demand to amend the Treaties, one has to consider how these proposals – increased democracy and reforms in policy areas – shall be conducted within the Treaties' frame. Also, the institutional issues like the Spitzenkandidaten system would require Treaty amendment. The EP's position is neither exclusively directed at creating a new EU nor entirely democratising Treaty reform and legislation. In a pragmatic and feasible manner, it aims at involving citizens in an open debate on the future and the priorities of the EU. Institutional changes and an increased ability to act aim at making the EU more democratic. It remains to be seen how the EP behaves throughout the Conference, positioning itself as one of the major players.

4.1.3. The Council

On 24th June, the Council laid out its position on the Conference which is the least specific compared to the Commission and EP. It views the Conference as an opportunity to underpin the democratic legitimacy of the EU, to engage with citizens and other stakeholders as well as to evaluate and work on the EU's response to the Covid-19 crisis. The Council widely agrees with the EP and the Commission on launching a broad and inclusive process including a variety of actors and focusing on the participation of citizens within panels accompanied by a multilingual digital platform. Different than the Commission and EP, the Council wants the Conference to focus on policy priorities. Institutional issues are not mentioned in the note. According to the Council, the outcomes should be summarised in a report directed at the European Council which would then provide further impetus on how to follow up on them. The Council emphasises that the Conference *“does not fall within the scope of Art.48 TEU”* (Council of the European Union, 2020, p.7). This clearly illustrates that the Council does not want the Conference to be able to trigger Treaty change, as opposed to the Commission and especially the EP. Like the question who will chair the Conference, this will be a potential cause of conflict in the negotiations on the Joint Declaration. Whereas the Franco-German non-paper mentioned the possibility of Treaty reform in relation to the Conference, the Council position embodies the lowest common denominator between the member states open to Treaty reform and those opposing it.

4.2. Conclusion

Concerning the sub-question – *to what extent the legal mandate of the Conference on the Future of Europe strengthens the participation of the EP and national parliaments in Treaty reform* – it can be concluded that the mandate of the Conference laid out in a yet-to-be drafted Joint Declaration could enhance parliamentary participation in the deliberation on possible reforms. This does not mean that parliamentary participation in the Treaty reform process in general is strengthened. It is not out of question that what happened with the Convention will repeat itself with the Conference and the possible Treaty revisions it might trigger. The Convention included a broad range of actors in the deliberations on reform, but the Lisbon Treaty was then adopted in an opaque process without their participation in the end. Given the Council's position it is however very unlikely that the Conference will be able to push for Treaty reform. The legal nature of the mandate remains uncertain at this point. The Conference will be located at the core of the conflict between intergovernmental and supranational powers in the EU and although the Commission and EP might advocate Treaty reform, the Council remains the most powerful and decisive institu-

tion in this regard. Its position shows that it will not accept any moves towards Treaty changes like the issue of transnational lists.

5. Conclusion

This last chapter will answer the research question – *how the EU Treaty reform process has evolved in integrating the European Parliament and national parliaments* – and provide an overview of implications this has for the EU’s democratic legitimacy and contextualise it with current developments. To answer the overall research question it can be stated that while the Treaty reform process was dominated by the member states, as the EP acquired more importance for EU governance it also obtained a stronger position influencing the substantive aspects of Treaty reform (Chapters 2 and 3). Conversely, national parliaments have essentially maintained their prerogatives concerning ratification, but participated in the reform process only once (Chapter 3). The preliminary analysis of the Conference suggests that there are more ways for parliaments to participate in the reform process.

Regarding the three dimensions of democratic legitimacy, it gets clear that the EP’s representativeness improved throughout the integration process by increased legislative and scrutiny powers. This does not provide Treaty reform with the same democratic legitimacy as policy making, because paradoxically the EP’s powers in Treaty reform not even begin to reach the level of the member states’ competences. Holzacker (2007) analysed that supranational representation is incomplete, also because EP elections are widely perceived as second-order elections. Even though the EP and national parliaments find themselves at the centre of the debate on the EU’s democratic legitimacy, enhancing the EP’s powers would not ensure that European elections lose their character as second-order elections (Rittberger & Winzen, 2015). That Treaty reform made the EU more efficient and democratic is a plus for its democratic legitimacy in general, however not for the reform process specifically. The EU lacks transnational discourse which poses a problem to its democratic legitimacy. Such discourse and deliberations were enabled by the Convention for the first time and now the Conference on the Future of Europe presents a chance to let citizens and institutional actors discuss policy- as well as institutional issues and therefore foster citizens’ identification with the EU. The Conference also presents an opportunity to include civil society which directly relates to the three channels of democratic input vital for the EU’s democratic legitimacy elaborated by Hurrelmann and Debardeleben (2009). This research illustrated that especially the EP and national democratic processes are vital input channels of legitimacy.

National parliaments suffered from a continuous transfer of competences to the EU-level but remain important in Treaty reform through the national ratification procedures. Instruments like the EWS and the notification requirement on planned Treaty revisions are supposed to help them exercise parliamentary powers and provide them with information on reform. It would however be naïve to suppose that national parliaments would not be aware of what is going on without these instruments. The EP benefitted from increasing powers in almost every round of Treaty reform, also to compensate for the loss of power by national parliaments. As repeatedly mentioned, its formal powers in Treaty reform are still marginal which represents a dichotomy and at the same time a problem for the democratic legitimacy of the Treaty reform process. An entirely democratic EU in which the EP would have a role in Treaty reform comparable to e.g. the German Bundestag in changing the Basic Law would however only be possible at the price of reduced democracy at the national level. There are limits to the integration process and the EU’s democratisation with national democratic processes paying the cost for this. Strengthening the oversight by national parliaments would not present a solution, as it could handicap the efficiency of EU legislation and deadlock Council negotiations.

This research illustrates that Treaty reform neither fully supports liberal intergovernmentalism nor neofunctionalism but rather contains elements of both theories. The member states are the dominant and essential actors in Treaty reform. However, it would be wrong to declare that this confirms liberal intergovernmentalism, as this research depicts the contextuality and path-dependency of the Treaty reform process. Spill-overs from daily policy making to Treaty reform as well as between IGCs played a significant role in the process and the EP's empowerment – clarifying that the reform process comprises also neofunctionalist elements. The EP's involvement in the process can therefore be explained both by elements from intergovernmentalism as well as neofunctionalism: the member states as intergovernmental actors increasingly integrated the EP and on the other side the EP used spill-overs between IGCs to extent its powers.

Although the democratic legitimacy of the EU has been improved through Treaty reform, it remains however too small – especially because the amendments and revisions agreed upon in Treaty reform guide the EU's overall actions and processes. As the Convention did, the Conference now enables a broad transnational discourse and parliamentary involvement in the preparation of Treaty reform. That there will be institutional changes and a democratisation of the reform process itself according to Art.48 TEU is however highly unlikely, especially due to the Council's position. The Council's position confirms liberal intergovernmentalism and illustrates that the negotiations on the Conference's mandate evolve in the omnipresent field of tension between intergovernmentalism and supranationalism in the EU. The fact that the Council possesses more powers in Treaty reform than the Commission and the EP will have implications for the follow-up of the Conference's results. It remains to be seen whether the EP will nevertheless push for institutional issues like transnational lists and possibly tries to generate public support. As one of the key drivers for launching the Conference was to involve citizens in questions on the EU's future, it can be criticised that the planned Citizens' Agoras will gather only 300 people out of 450 million EU citizens. It is furthermore questionable, how serious the institutions' commitment will be to follow up on the results. By stating that the Conference does not fall under Art.48 TEU, the Council clearly demonstrates that institutional changes should not be part of the Conference's mandate and pulls the brake on the issues the Commission and the EP had brought up. Supposedly, this high-level Conference which will be well-covered by the media, will not have a lasting effect for citizen participation like regular citizens' dialogues and might not be the best way to make the EU more democratic. It certainly serves as an event to raise attention and shed favourable light on the Commission as well as the EP as the major initiators. Its start during the German Council Presidency and its end during the French Presidency presents an opportunity for the French-German duo to put forward their priorities for reform and be the ones to get attention for the process and its results. That the Conference will serve to generate a more favourable attitude towards the EU among citizens in times of anti-EU and populist parties and governments in several member states and involve citizens meaningfully in the process remains improbable.

Compared to processes of constitutional change in nation states, EU Treaty reform is subject to less strict rules but compared to other international organisations its Art.48 TEU is special and ensures checks and balances. To change the constitution, for example in Germany and Austria a two-thirds majority and in France a three-fifth majority in the parliamentary chambers is necessary, whereas in the EU unanimity between member states is required. Compared to most international organisations, the EU's procedures provide for checks and balances, as amendments can only be made unanimously and are subject to national ratification requirements. Thus, the EU's process provides for more democratic accountability than in other organisations as single member states cannot be outvoted. Compared to nation states where huge

parliamentary majorities are necessary for constitutional amendment, the EU's process however still appears undemocratic, as extensively elaborated before.

Challenges to this research were the postponement of the Conference on the Future of Europe due to the Corona-outbreak and the pending Joint Declaration. The limited word count was another challenge, as more illustrations of the EP's strategic behaviour should have been included. Nevertheless, this research presents a historical and comparative analysis of the process and connects it to the current issue of the Conference.

As elaborated throughout this thesis, the EU Treaty reform process is not sufficiently democratic. While contextualising the process in the past and present, it supports those advocating a more democratic Treaty reform process with increased parliamentary involvement keeping in mind the balance between national and supranational democratic processes.

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