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The Conclusions of the ‘Dialogue on the future of Europe: How to build a more effective and genuinely strong Union?’ Conference Organised by the Ferenc Mádl Institute of Comparative Law and the Ministry of Justice and the Process So Far in the EU Dialogue on the Future of Europe

- **ABSTRACT:** *This article concludes the presentations made at and the main lessons drawn from the international conference held on 21 September 2020, within the framework of the pan-European dialogue on the future of Europe, co-organised by the Ferenc Mádl Institute and the Ministry of Justice. It also presents the EU context and background of the debate, the role of the EU institutions, and the evolution of their position. The event was attended by representatives of the EU, Hungarian politicians, and representatives from academia and civil society. With this event, Hungary officially launched a series of conferences on the future of Europe. The presentations in these conferences reflected the crises facing the Union, including the institutional challenges posed by the COVID-19 pandemic, and the effectiveness of the EU and its Member States’ responses to them. The speakers considered the involvement of and consultation with citizens important to the process. In the context of disputes over competences between the EU and the Member States, some speakers drew attention to the spillover effect, and others called for the strengthening of the supervisory role of constitutional courts and the need for more effective involvement of national parliaments in subsidiarity control, with regard to the sovereignty of the Member States and the primacy of EU law. Critical remarks were made on the limited nature of civil society representation at the EU level. The article reflects on the main events on thinking about the future of Europe over the last four years, including the main initiatives and positions expressed by the European Commission, the European Parliament, the Heads of State and Government, citizens’ consultations, and institutional competition in relation to the thematic and organisational issues of the EU-level conference. Whereas the European Commission*

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and European Parliament, which has an ambitious position and has already proposed concrete solutions to organisational and governance issues, were the first to formulate their vision, the position of the Council, representing the Member States, will not be established until June 2020. Thus, no joint declaration on part of the institutions has been adopted thus far and no conference has been hosted, either. In view of all this, the organisation of the international conference by the Ferenc Mádl Institute of Comparative Law and the Ministry of Justice can be considered timely and proactive.

- **KEYWORDS:** conference on the future of Europe, position of EU institutions, primacy of EU law, constitutional review, subsidiarity test, participation of civil society.

The Ferenc Mádl Institute of Comparative Law (FMI) and the Ministry of Justice organised an international conference titled ‘*Conclusions after the coronavirus pandemic with regard to the Conference on the Future of Europe*’, on 21 September 2020.³ High-level EU and Member State politicians, and acknowledged representatives of academia and civil society participated in the conference. With this, Hungary officially launched a series of conferences on the future of Europe that reflected the impact of the pandemic in the way it was organised, wherein foreign speakers were able to follow the event online, and the audience watched the live broadcast on the website of the Hungarian Parliament, and later on social media platforms. The preparatory event for the international conference was held on 25 June 2020 by the FMI and the Ministry of Justice electronically in the form of a webinar.

The webinar on 25 June 2020, titled ‘Discussion on the Conference on the Future of Europe: Perspectives of the Interinstitutional Agreement, Member States and Institutional Expectations’⁴ aimed to facilitate discussions among Member States on the future of Europe and to prepare for an exchange of views among governments. It outlined the interests and aspects of the institutions participating in the series. The representatives of civil society were included to ensure balanced and diverse participation. The views expressed at the webinar reaffirmed the need for common thinking on the future of Europe, which is essential both to reduce the gap between the EU institutions and its citizens and to preserve the EU’s credibility. However, the process should focus only on issues of strategic importance that can be addressed at the EU level, without reducing room for manoeuvre and power of the Member States.

A similar conclusion was arrived at by high-level European and Hungarian politicians who spoke at the international conference on 21 September, as well as representatives of academia and civil society. In addition to the necessity and actuality

3 For the program and synopsis of the conference, see <https://tinyurl.com/y255wsgg> [Accessed: 20 October 2020].

4 The webinar program can be accessed here: <https://tinyurl.com/y4ep94gw> [Accessed: 20 October 2020].

of the dialogue, speakers almost without exception highlighted issues of solidarity, subsidiarity, identity, and sovereignty in thinking about the future (see below for details). However, it has become clear that they think about the specific meaning of these concepts in many ways. Thinking about the causes of crises is also multi-polar, with responses shaped by the slogan ‘unity in diversity’, sometimes emphasising unity and sometimes speaking about diversity. Several speakers identified the ‘*spillover*’ of the integration process as a basis for the political crisis in the EU, for which they outlined different solutions such as strengthening the role of the EU institutions or the stronger constitutional review of the misuse of powers by institutions in the Member States (see below for details). However, in addition to enforcing Member States’ sovereignty through the judiciary, it is equally important to make the involvement of national parliaments scrutinising EU legislation in the subsidiarity test more effective, as the Commission has failed to address the substantive concerns expressed by national parliaments thus far. A similarly selective EU institutional practice has developed in relation to European Citizens’ Initiatives, as the European Commission’s filter does not allow certain sensitive issues to become a part of the EU agenda.

1. The context of the debate on the future of Europe

The intensified reflection on the future of Europe was triggered by the decisive British referendum on leaving the EU. The first response to this was in the form of an informal session of the European Council in September 2016 under the Slovak Presidency, without the United Kingdom. The so-called Bratislava Declaration and Roadmap⁵ in addition to assessing the state of the EU at the time, seeks to *set out general principles for a common future*. The Heads of State and Government agreed on the need for more transparent decision-making at the EU level and to better serve the needs and expectations of EU citizens. The Bratislava Declaration and Roadmap provided for the *conclusion of this first phase of the period of reflection* by a declaration to be adopted on the 60th anniversary of the signing of the Treaty of Rome (25 March 1957). Before the Rome Summit, both the European Parliament and the European Commission set out their vision of Europe and conception for the future. On 16 February 2017, the European Parliament adopted an own-initiative report on the future of Europe,⁶ calling for a federalist and centralised approach, in which subsidiarity, the protection of Member States’ sovereignty, and the possibility of wider social control was completely marginalised or lacking (e.g. transformation of the Council into a so-called second chamber [Council of Nations], creation of an EU Finance Minister, etc.). On 1 March 2017, the European Commission presented conceptual material to identify the direction for future legislation, that is, the so-called White Paper outlining five possible directions for development for the

5 See: <https://tinyurl.com/y3jvr4f5> [Accessed: 20 October 2020].

6 See: <https://tinyurl.com/y4ljkufR> [Accessed: 20 October 2020].

future of the EU to achieve by 2025.⁷ In 2017, it published five additional materials for debates on topics such as the social dimension of the EU, defence policy, and the future of EU finances. However, the level of ambition in the Rome Declaration,⁸ adopted by the EU Heads of State and Government on 25 March 2017, remained low. Although it set out specific objectives like strengthening a secure or social Europe, it advocated the unity of the EU and clarified the possibility of integration at different speeds and depths.

2. Launching citizens' consultations

Emmanuel Macron, the President of the French Republic, spoke at the Sorbonne University on 26 September 2017,⁹ where, in addition to his proposals for the future of the EU such as the areas for action in *a sovereign, united, and democratic Europe*, he raised the idea of holding a *pan-European citizens' consultation*. The French initiative was discussed by the Heads of State and Government at their meeting in February 2018, who stated that the Member States would participate in the consultation on a voluntary basis and in keeping with their national rules and practices.¹⁰ In addition to the citizens' consultations, the European Commission organised civil *dialogues*, but these were not carried out specifically in the context of the debate on the future of Europe, but in connection with the '*Year of Citizens*', which began in 2013.¹¹ Dialogues on the future of the EU have been taking place since 2015 with EU Commissioners and

7 The five possible directions for development are: continuing the current reform process; an EU-focused on the internal market; enhanced cooperation among the prepared Member States in certain areas (cooperation for appropriate defense policy, justice, and home affairs, and tax policy and social issues). The Commission also raises the vision of an EU that does more and more effectively in each area. In this concept, rather the EU, than the Member States would select areas that require closer integration (e.g. security, migration, border management). According to the fifth concept, the federalist vision, 'everyone would do much more', that is, the Member States would agree on an additional division of competences and resources and on extended decision-making, the EU would represent the Member States in international fora and integration would deepen in some areas. The EU would have a common position on migration, tackle legal and illegal migration, and build partnerships with neighboring countries. The single market would also cover energy policy and the digital sector and services, and there would be greater coordination in the fiscal, tax, and social fields. See <https://tinyurl.com/krcd6yw> [Accessed: 20 October 2020].

8 See: <https://tinyurl.com/y43e4gsw> [Accessed: 20 October 2020].

9 See: <https://tinyurl.com/y3mhuhkr> [Accessed: 20 October 2020].

10 See: <https://tinyurl.com/y5yhfm1n> and <https://tinyurl.com/y2t6aqeh> [Accessed: 20 October 2020].

11 The European Commission's progress report summarising the results of the citizens' consultation and dialogue is available at: <https://tinyurl.com/y3qtjwj8> [Accessed: 20 October 2020]. The consultations took place between April and November 2018 and 26 countries participated. A total of 1,700 meetings took place. The content of the consultation shows that although most citizens have a positive view of the EU, there is no concrete vision in the EU – and smaller Member States see it as a problem when the interests of large Member States guide EU policies. Citizens expressed expectations from the EU to respect their national and cultural differences, and focused on subsidiarity regarding the EU's action.

officials, as well as leading politicians from Member States, but the process has become really active since the publication of the 2017 White Paper. The Commission launched an online consultation on 9 May 2018, for which the underlying questions were already compiled by the citizens themselves.¹² The Statistical Office of the European Union also conducted a special Eurobarometer survey on the issues examined in the online consultation.¹³ The Commission's civil dialogues and online consultation continued until the informal meeting of the European Council in Sibiu on 9 May 2019,¹⁴ and the European Commission's assessment of the process also served as a basis for the development of the Strategic Agenda 2019–2024, which sets the foundation for the future of the EU27.

3. Speeches by the Heads of State and Government in the European Parliament on the future of Europe

In the European Parliament, between 17 January 2018 and 17 April 2019, the Heads of State and Government of 20 Member States¹⁵ set out their vision for the future of Europe. All Heads of State and Government paid close attention to identifying the challenges facing Europe, and set economic and social policy objectives as the direction for action in the future, mostly without formulating concrete measures. Most Heads of State and Government touched on the division of competences between the Member States and the EU, and although there were more Euro-realistic speeches, there were also highly ambitious proposals such as common European sovereignty,¹⁶ social federalism,¹⁷ and the need for a sovereign European society¹⁸ and the goal of achieving ever closer integration. Angela Merkel repeatedly and vigorously referred to the need

12 See: <https://tinyurl.com/y2dzrzs> [Accessed: 20 October 2020] To compile the questions, the European Commission and the European Economic and Social Committee (using the expertise of an external organization) convened a two-day exchange of views in Brussels with a representative group of 96 people from different EU Member States with different perspectives on the EU and socio-economic backgrounds. During this event, the citizens compiled the 12 questions that formed the base of the online consultations.

13 Future of Europe – Special Eurobarometer 479., October–November 2018. Available at: <https://tinyurl.com/y6lauolo> [Accessed: 20 October 2020]. A total of 27,339 people from all 28 EU Member States participated in this poll. The results show that responding citizens would see the ideal future of the EU, in addition to the principle of equal pay for equal work, primarily in ensuring a high level of security and greater social security (guaranteed minimum pension, healthcare, and gender equality).

14 At the meeting, the Heads of State and Government did not respond explicitly to the previous exchange of views on the future of Europe, but made 10 general commitments on the future of the EU27, see: <https://tinyurl.com/y3r7cjme> [Accessed: 20 October 2020].

15 Speakers in order were the Heads of State and Government of Ireland, Croatia, Portugal, France, Belgium, Luxembourg, the Netherlands, Poland, Greece, Estonia, Romania, Germany, Denmark, Cyprus, Spain, Finland, Italy, Slovakia, Sweden, and Latvia. <https://tinyurl.com/y3nnwrs> [Accessed: 20 October 2020].

16 See: <https://tinyurl.com/y2cdz4rs> [Accessed: 20 October 2020].

17 See: <https://tinyurl.com/y6rl56rc> [Accessed: 20 October 2020].

18 See: <https://tinyurl.com/yxgu3v6z> [Accessed: 20 October 2020].

to bring the EU closer to its citizens as well as the need to listen to the people.¹⁹ The main challenges identified by the speakers included populism and Euro-scepticism, the threat of national egoism, climate change, cybersecurity, terrorism, and demographic change, and almost all leaders referred to the EU's democratic deficit and the need to regain citizens' trust. In addition to raising the role of national parliaments, the Heads of State and Government also proposed increasing the role and right of scrutiny of the European Parliament and giving it the power to initiate legislation.

4. Launching the idea of a conference at the European level

The idea of a pan-European conference on the future of Europe was raised by French President Emmanuel Macron in an open letter to the citizens of the EU on 4 March 2019 in line with the guiding principles of freedom, protection, and progress in the spirit of European renewal.²⁰ Based on the practice of previous consultations, it suggested setting up citizens' panels as a means of interviewing citizens. The new President of the European Commission had already embraced the initiative in his pre-election speech,²¹ when she included the issue of holding a conference at the EU level on the essential activities of the Union, the institutions, and the future of the European project as part of his political mandate for the next five years. At the same time, she envisaged the launch of the two-year conference in 2020. On 22 January 2020, the European Commission published its concept for a conference on the future of Europe,²² and in the European Parliament, the Conference of Presidents decided in October 2019 to set up a working group specifically dedicated to the conference, which developed the methodology of the conference by December 2019,²³ and the European Parliament launched the debate on 15 January 2020, and expressed its position in a resolution (see below).

In addition to the European Parliament and European Commission, the leaders of the Member States also sought to thematise the dialogue at the EU level, so that on 27 November 2019, Germany and France published a '*non-paper*'²⁴ in which, in addition to the results expected from the conference, a very specific agenda was set for the debate at

19 See: <https://tinyurl.com/y4k5yphx> [Accessed: 20 October 2020].

20 See: <https://tinyurl.com/y5gqgqxog> [Accessed: 20 October 2020].

21 See: <https://tinyurl.com/y6y5v1wp> [Accessed: 20 October 2020]. Ursula von der Leyen appointed three Commissioners in a mandate letter regarding the Conference on the Future of Europe: Věra Jourova (responsible for representing the European Commission at the conference and addressing the issue of values and transparency within the conference), Maroš Šefčovič (responsible for inter-institutional relations and follow-up after the conference), and Dubravka Šuica (responsible for preparing the conference and management of the actual work of the Commission).

22 Shaping the Conference on the Future of Europe, COM(2020) 27 final. See: <https://tinyurl.com/yyahtd8q> [Accessed: 20 October 2020].

23 See: <https://tinyurl.com/yd6skqa> and <https://tinyurl.com/y3krk87j> [Accessed: 20 October 2020].

24 See: <https://tinyurl.com/y6j5sz6m> [Accessed: 20 October 2020].

the EU level. As a first step in implementing the agenda, the Heads of State and Government discussed and supported the objectives of the conference at their meeting on 12 December 2019.²⁵ The European Council instructed the Croatian Presidency to draw up a Council position on the content, scope, composition, and functioning of the conference, based on a broad consultation with citizens. The General Affairs Council addressed the conference twice more during the Croatian Presidency, on 28 January 2020 and in an informal videoconference on 26 May 2020,²⁶ but the planned launch of an EU-level event in May 2020 failed because of the pandemic. During their meeting in January, the Heads of State and Government reaffirmed that the conference should focus on issues that best concern citizens and – beyond contributing to the objectives of the Commission’s Strategic Agenda – also contribute to the medium- and long-term development of EU policies. There was a need to fully involve national parliaments in the process and to ensure a balance among the EU institutions. The Council, the European Commission, and the European Parliament will have to set out their standpoints in a joint declaration on the topics, organisation, structure, etc., of the conference. However, this has not taken place so far. The adoption of the joint declaration had to be preceded by the elaboration of institutional positions, which had already taken place for the Commission and Parliament in early 2020, and the Council adopted its position on 24 June 2020.²⁷ The Croatian Presidency has already included lessons to be learned from the COVID-19 pandemic, which was also addressed by the German Presidency²⁸ and, in terms of the division of competences between the EU and the Member States, by the President of the European Commission in her 2020 Annual Review of the State of the European Union.²⁹

5. The European Parliament’s vision for the European Union

On 13 February 2019, the plenary of the European Parliament adopted a resolution on the state of the debate on the future of Europe.³⁰ The European Parliament has clearly

25 See points 14-16 of the European Council conclusions: <https://tinyurl.com/y4v73nfl> [Accessed: 20 October 2020].

26 See the results of the negotiations: <https://tinyurl.com/y4u8v5vr> [Accessed: 20 October 2020].

27 See the presentation of the position: <https://tinyurl.com/yx9btbft> and <https://tinyurl.com/y3f42x4c> [Accessed: 20 October 2020].

28 See: <https://tinyurl.com/y6z2rhs6> [Accessed: 20 October 2020].

29 ‘As a third step, it is clearer than ever that we need to discuss the issue of healthcare powers. I believe that this is a noble and urgent task for the conference on the future of Europe.’ See: <https://tinyurl.com/y5snhp9t> [Accessed: 20 October 2020].

30 European Parliament resolution dated 13 February 2019 on the State of the Debate on the Future of Europe. The explanatory memorandum to the resolution states that the European Parliament’s aim is to strengthen Europeanness and avoid the dangers of nationalism, which denies the greatness of the European project. Greater political transparency, a reformed European electoral law, a system of top candidates (*Spitzenkandidaten*), and the strengthening of European political parties through the adoption of a system of transnational electoral lists can help bring the European identity and the rapprochement of institutions and citizens closer together. <https://tinyurl.com/y32nallo> [Accessed: 20 October 2020].

seen an increase in political integration and cooperation as a means to address common challenges (such as the introduction of qualified majority voting in the Council, including, for example, the field of foreign and security policy, and the shared competence of budgetary and economic policies, which have hitherto fallen within the exclusive competence of the Member States and subject to unanimity). However, it did not rule out the possibility of a differentiated integration, either. In the spirit of institutional reform, the European Parliament proposed, among other things, the transformation of the Council into a legislative chamber, and envisaged giving itself the right of legislative initiative and strengthening its powers of scrutiny.

This position was also upheld by the European Parliament in its *Resolution dated 15 January 2020 on the European Parliament's Position*³¹ on the Conference on the Future of Europe, proposing a commitment to reforms leading to an 'ever closer Union'. The European Parliament sees the debate on the future of Europe as a *bottom-up exercise* and considers it necessary for the consultation to reach all levels of the EU and for citizens to be directly involved. Under the Parliament's proposal on the rules of procedure for participation, thematic civil and youth *agora* would be set up, as well as a system of coordinating, governing, and decision-making bodies to run the consultation. Civic *agora* would have the same fixed membership (200-300 people) selected based on the principle of *degressive proportionality*, where each thematic *agora* would have to strive for a consensus. However, if this is not possible, a minority position can be formulated.

6. Presentation of the results of the conference 'Dialogue on the future of Europe: How to build a more effective and genuinely strong Union?'

The first panel in the international conference was opened by *Judit Varga*, Minister of Justice, and *Dubravka Šuica*, Vice President of the European Commission. The panel also featured *Mark Speich*, Secretary of State for Federal, European, and International Affairs of the North Rhine-Westphalia, *Francois-Xavier Bellamy* MEP, *József Szájer* MEP, and *Antonio Tajani*, former President of the European Parliament, and the current Chair of the EP Committee on Constitutional Affairs.

Judit Varga also spoke about the necessity and actuality of the dialogue on the future of Europe, emphasising that although the pandemic has temporarily rearranged priorities, efforts to strengthen Europe remain relevant. She emphasised that the dialogue should start from self-reflection, consider the effects of the crises in Europe over the last 15 years, the economic crisis, the migration crisis, Brexit, and the COVID-19 pandemic, and draw lessons from the past. The Minister confirmed that Hungary, as it has been throughout the history of European integration, is now ready to exchange views on the principle of 'unity in diversity'. In her view, the epidemic has shown that

31 European Parliament resolution dated 15 January 2020 on the European Parliament's Position for the Conference on the Future of Europe. <https://tinyurl.com/y427nvkh> [Accessed: 20 October 2020].

Member States can deal with the crisis successfully and effectively, which highlights the importance of respecting the sovereignty and role of Member States in connecting citizens and institutions in the dialogue on the future of Europe. Hungary's proactive and committed attitude in this regard was confirmed by the organisation of this conference and the online discussion organised by the Ministry of Justice and the FMI on 25 June 2020, with the participation of Antonio Tajani, Karoline Edstadler, and Andreja Metelko-Zgombić.³²

Dubravka Šuica spoke twice in the first panel discussion, first reflecting on the Minister's speech and then answering a question on the EU's most pressing problems in current times, and the kind of solutions that could be given in her opinion. She said that in building the future of Europe, the Commission sees the Member States, including Hungary, as a link. The Vice President, as the owner of a portfolio of democracy and demography, noted that the people of Europe feel left behind and therefore blame democracy, and that remedying this will require a change in mindset. One step in this direction is the conference on the future of Europe, which can help rebuild citizens' confidence in the EU by giving them a tangible opportunity to have their say. The Vice President, in addition to the inclusiveness and openness emphasised by the Minister, made it clear that, in her view, the conference and dialogue on the future of the EU could not be expropriated. The European Parliament, Commission, and Council, as equal partners, must establish a framework for dialogue, thus paving the way for a democracy based on debate and the formation of a vision for the future. The Vice President emphasised the importance of solidarity, which is enhanced by the loneliness and isolation experienced during the COVID-19 pandemic. In the context of the Commission's work, she highlighted a draft that is considered to be the key to a sustainable, long-term growth based on a green and digital switchover, and that helps by offering a way out of the crisis, as envisaged in the form of a publication of a Green Paper on ageing and a comprehensive EU strategy on children's rights. Among the most significant challenges, she highlighted demographic change and ageing societies, as well as loneliness as a defining phenomenon across Europe. The Vice President believed that responses to demographic change can help the green and digital transition and point the way to a fair and resilient society. The Vice President saw ageing societies as an opportunity to build a 'silver economy' and intergenerational solidarity to prepare young people for the future, although the problem varies across Member States in terms of living standards and social security. In addition to the solidarity that was emphasised throughout, she saw the catching up of the countryside as a key component, in which digital development is an effective tool.

According to *Mark Speech*, the COVID-19 pandemic and the ensuing economic crisis are the worst and most unpredictable crises in the history of European integration, in which the EU – although not fully unprepared for the pandemic – had proven

32 The online discussion on 25 June 2020 emphasized that the conference on the Future of Europe must be a transparent process involving institutions and Member States, and with realistic and concrete solutions.

weak as an institution. At the same time, decentralised targeted regional measures provided good solutions in terms of the direct and indirect effects of the crisis, underlining the need for a broader interpretation of subsidiarity, and instead of hierarchy and centralisation, the necessity of sound EU mechanisms and an inclusive interpretation of multilevel, networked governance. According to the Secretary of State for North Rhine-Westphalia, the dialogue on the future of Europe should strengthen active subsidiarity,³³ where regions, as key actors in crisis management and Member States as key policymakers, work closely to develop the legal framework for the most effective protective instruments. The Secretary of State emphasised the importance of complying with the rule of law criteria, which, in his view, is particularly important in a crisis. Exceptional measures should be necessary, proportionate, lawful, time-bound, and subject to judicial review, for which, in the Secretary of State's view, the Commission's rule of law report provided a good basis.

François-Xavier Bellamy said that the EU was weak in crisis management and saw the solution to this issue not in discussing institutional and regulatory issues, but rather in launching concrete strategies. In his view, the Conference on the Future of Europe must focus on strengthening the sovereignty of European citizens and the rule of law as an opportunity for decision-making within the institutions and not as a feeling of loss of control over decision-making power. He emphasised the principle of 'unity in diversity' like *Judit Varga*, and noted that Europe comprises diverse Member States and has an independent EU that is not a superstate above the sovereignty of the Member States. According to *Bellamy*, the task of the EU in this framework is not to interfere in decision-making powers concerning migration, social, and family issues, but rather to strengthen the Member States in a global space through global dialogue.

In his speech, *József Szájer* emphasised that Europe only works well in a spirit of unity and cooperation, which is why the EU must build on mutual respect and commitment to equality, where the emphasis is on finding common ground and not stressing on differences. The MEP recalled that the EU had a 50-year history of success, and a weak face in the fight against the pandemic, as evidenced, inter alia, by the fact that the European Parliament, unlike national ones, which without exception continued to operate lawfully, was unable to establish legitimacy during the crisis. In his view, the rule of law invoked by the European Parliament primarily concerns the EU institutions, including the EP, which means that the European Parliament should seek the consent of the Member States before applying any procedural changes necessitated by the pandemic.

Antonio Tajani, former President of the European Parliament and current Chair of the Committee on Constitutional Affairs (AFCO) emphasised that the future of Europe lies in a less bureaucratic democracy with a view to developing coherent policies and strengthening the EU institutions, especially the EP, which must be achieved with subsidiarity and identity in mind. He called, inter alia, for further work on the Balkans

33 By referring to active subsidiarity, Mark Speich meant the transfer of local experience and information to the national and supranational levels.

and emphasised the need for a cooperative relationship with both the United States and Russia, particularly in the fight against illegal migration. Finally, the President summed up the need to continue working for the future of Europe and considered the current relationship between Italy and Hungary to be forward-looking.

László Trócsányi, Honorary President of the Ferenc Mádl Institute of Comparative Law, as part of the discussion leading the second panel in the international conference, drew attention to the need to accept the values and differences arising from the constitutional traditions and national cultures of the Member States and to the importance of dialogue on differences. At the same time, he recalled that the dialogue was significantly hampered by mistrust among the Member States and partly between the Member States and institutions.

Bertrand Mathieu, Professor at the Sorbonne University, Member of the Venice Commission, noted the mistrust between the EU institutions and the Member States as a result of the continuing expansion of the EU's competences which were previously linked to the Member States. In his view, the extension of powers is, on the one hand, a natural corollary of the development of the integration project and, on the other, a consequence of the legal interpretation practice of EU judicial forums. According to *Mathieu*, the influence of European political actors weakened in parallel with the strengthening of the judiciary, so the EU drifted into a power and political crisis because of the lack of clarification of competencies. Among the possible solutions, *Mathieu* suggested, among other things, strengthening policymaking at the EU level (see the European Parliament, elected as a bicameral legislature and from a transnational list, European Commission under greater control, with a precise definition of the rights of EU institutions).

The practice of the German Constitutional Court in interpreting constitutional identity was described by *Sven Simon*, a professor at the University of Marburg and Member of the European Parliament. Under the German Constitution, EU legislative acts may be subject to fundamental rights control in comparison with the inalienable elements of constitutional identity (democracy, rule of law, human dignity, and fundamental human rights), as the German Constitution derives the primacy of EU law from the provisions of German law authorising the delegation of powers to the Union. According to the German Constitutional Court, the transfer of powers over substantive and procedural criminal law, the use of state power, fiscal decisions on revenue and expenditure, elements of the welfare state, and cultural issues (e.g. family law, religious minority rights) are unfortunate, although not excluded from the possibility of revision with regard to their compatibility with EU law.

Marcel Szabó, Member of the Hungarian Constitutional Court and Professor at the Péter Pázmány Catholic University, described the case law interpreting the provision of the Constitutional Court concerning the joint exercise of powers under Article E) of the Hungarian Constitution, as the constitutional identity, which is rooted in the historical constitution and includes fundamental human rights and the inalienable right of the provision on the territorial unity, population, and state form and system of

Hungary. He noted that this constitutional identity cannot be renounced by state power. Based on this, the Hungarian Constitutional Court may judge the excess of competence by an EU legislator (as it did in its 2015 judgement on the so-called quota decision), and a possible infringement of Hungary's sovereignty or statehood and may declare the inapplicability of the EU act in Hungary.

Richárd Hörcsik, Chairman of the European Affairs Committee of the Hungarian Parliament, assessed Hungary's experience with the role of national parliaments in the subsidiarity test, and noted that one of the most striking limitations of the subsidiarity test is, on the one hand, the lack of uniform action by national parliaments, that is, the fact that national parliaments take different positions on national interests owing to the fundamentally political and non-legal nature of the procedure. On the other hand, so far, the European Commission has not taken subsidiarity concerns into account in the case of the number of supporting parliamentary chambers that would otherwise have made it necessary to launch the yellow card procedure. Instead, it decided to maintain its extant position. Third, the eight-week deadline for national parliaments to deliver opinions does not ensure effective parliamentary scrutiny of a large number of EU legislative acts in the absence of active governmental expert support.

Jean de Ruyt, former Belgian Permanent Representative and senior researcher at the Egmont Institute, suggested examining the issue of the balance of competences between the Member States and the EU institutions and further integration in the context of the dialogue on the future of Europe. In his assessment, the Union has always expanded its activities in the direction necessary for it to implement another policy and agreed upon by the Member States (see, for example, how the migration crisis necessitated the establishment of a common immigration policy), which necessarily means giving up the views of the minority Member States and winning the Union's overriding interests over national interests.

Tymoteusz Zych, Vice President of the Polish *Ordo Juris*, on behalf of civil society, proposed a return to the original meaning of civil action in which civilians are diverse and inclusive, both in an organisational aspect and in terms of the ideologies and values they represent, where bottom-up initiatives come from individuals who feel responsible for their community and have a regional and/or national identity, independent of lobbyists and large donors. In contrast, the current image of civilians in the EU institutions is selective and does not allow certain topics to be placed on the agenda of the EU institutions (for example, see the most successful European Citizens' Initiative so far, '*One of Us*' which aimed to protect human dignity and foetal life, and persecuted Christians). Thus, it does not even provide for the possibility of a genuine open dialogue. *Zych* did not consider the '*agora system*', which was proposed during the Conference on the Future of Europe as capable of restoring the lack of civic confidence in the EU.

7. Appraisal of the actuality of the conference

From the overview provided above, it can be seen that both the common thinking on the future of Europe and the development of the concrete aspects of the pan-European conference on the future of Europe can be considered a lengthy process in which the interests and perspectives of the institutions, the Member States, and the citizens are spread over a very wide spectrum. The framework of the conference and the range of topics to be discussed have not been decided in advance. Thus, the organisation of the June 2020 webinar and the international conference on 21 September 2020 as well as the choice of topics responding to the lessons of the COVID-19 pandemic can be considered timely and proactive for the Hungarian government and academia. As stated in the speech of the President of the European Commission on 16 September 2020 (see above), maintaining the regulation of healthcare within the competence of Member States or raising it to the community level unlike now, can be one of the central issues of the European conference on the future of Europe.