

A Fundamental Law of the European Union

By Anne Palmer

The Spinelli Group of MEPs is pleased to launch a new draft treaty of the European Union, published by Bertelsmann Stiftung.

'A Fundamental Law of the European Union' is offered as a major contribution to the debate on the future of Europe.

The unity of Europe is vital if global challenges are to be met and European values and interests promoted. But how should a more united Europe best be governed?

The present constitutional architecture is hardly fit for purpose. Executive authority is dispersed and political accountability weak. Expedient measures needed to address the financial and economic crisis have stretched the present EU treaties close to their limits.

The Union's system of governance must be reformed if it is to deliver much needed public goods at home and decisive leadership abroad. In the face of hostile public opinion, the national governments of its member states fear to give the EU the powers and resources it needs. National parties and parliaments fail to embrace the European dimension of politics.

So the European Union needs to assert itself. European challenges can be met only in a European way.

This proposal for *A Fundamental Law of the European Union* is a comprehensive revision of the Treaty of Lisbon. Replacing the existing treaties, it takes a major step towards a federal union. It turns the European Commission into a democratic constitutional government, keeping to the method built by Jean Monnet in which the Commission initiates laws which are then enacted jointly by the Council, representing the states, and the European Parliament, representing the citizens.

People grumble about the EU's democratic deficit - when what it really suffers from is a deficit of government. The Union reformed along the lines established in the *Fundamental Law* will be more capable and efficient, more transparent and accountable. The Spinelli Group of MEPs will recommend

the *Fundamental Law* for consideration by the Convention which be called upon, probably in spring 2015, to amend the EU treaties.

A *Fundamental Law* will also be commended to President Barroso who, in his recent state of the Union speech, promised, before the European Parliamentary elections, to 'set out the principles and orientations that are necessary for a true political union'.

Headline Proposals

1.	'Ever closer union' defined as federal union of states and citizens deriving legitimacy from popular sovereignty
2.	Constitutions of EU states must respect EU values
3.	Commission becomes the EU government, appointed by and answerable to the legislature of Council and Parliament
4.	Limited right of legislative initiative to Council and Parliament
5.	European Council redefined as the lead formation of the Council of Ministers
6.	Rotating Council presidency abolished: each formation elects its own chair
7.	Commission becomes smaller, nominated by its President
8.	Certain number of MEPs elected in pan-EU constituency on transnational lists
9.	Wide extension of ordinary legislative procedure
10.	Widen jurisdiction of Court of Justice
11.	Easier access for citizens to Court of Justice
12.	Ending rigid unanimity for future treaty change and entry into force
13.	Ending opt-outs in justice and home affairs
14.	Creation of an associate membership
15.	EU tax revenue to finance EU spending

16.	Additional budget for the eurozone
17.	Common economic policy focussed on sustainable growth
18.	Fiscal solidarity to complement fiscal discipline
19.	New powers for European Parliament in economic and employment policy
20.	National parliaments get a say in excessive deficit procedure
21.	Wider powers for European Central Bank
22.	Permit sharing of sovereign debt under strict conditionality
23.	Lifting prohibition on approximation of national laws
24.	Modernisation of common policies
25.	Right of assent for Parliament on all international agreements

Europe: an end to fallacy

Andrew Duff & Guy Verhofstadt

The European Union is put to the test as seldom before under the pressure of the financial crisis and its social, economic and political consequences. Much has been done *ad hoc* to salvage the euro but continuing structural reform at national and European levels is essential if economic recovery is to be assured. Banking union and fiscal union mean a large transfer of sovereignty from the member states to the EU. If borrowing costs are to be lowered, there will have to be a partial and conditional sharing of the burden of debt between richer and poorer states and taxpayers. Such fiscal solidarity will change the Union for good.

The importance of European integration rises, too, in other areas of policy - from immigration, border control, police and justice to energy, science and the environment. In international politics, especially in the Middle East, the unity of Europe is vital if global challenges are to be met and European values and interests promoted.

So how should a more united Europe best be governed?The

present constitutional architecture is hardly fit for purpose. Executive authority is dispersed between the European Commission, European Council, Eurogroup and European Central Bank. The duty to ensure democratic accountability is spread between the European and national parliaments. European political parties are weak. The crisis management measures needed to address the financial instability have stretched the legal bases of the present EU treaties near to their limits and exposed a lack of instruments available at the European level. Above all, the arrangements for economic and monetary union, agreed over twenty years ago, have been found wanting.

In the face of hostile and eurosceptic public opinion, Europe's national governments have tended to will the ends but not the means, ever reluctant to give the Union the powers and resources they must suspect it really needs. Instead, national policies have been coordinated by a bossy European Council in an ever tighter technocratic manner, leading to over-centralisation and a lack of democratic legitimacy.

People grumble about the EU's democratic deficit - when what it really suffers from is a deficit of government. The time has come to accept that the Union's system of governance must be reformed radically if it is to deliver much-needed public goods at home and decisive leadership abroad. Fiscal union needs federal government with a wider scope, more flexible instruments and larger powers, endowed with its own resources to match the level of its political ambition. With strong government comes strong parliamentary democracy in which EU citizens are enabled to hold to account those in charge.

Ten years on from the close of the Convention which led eventually to the Treaty of Lisbon it is time to take up the constitutional story again. The Spinelli Group of federalist MEPs propose a new Fundamental Law to replace the existing treaties.

The Fundamental Law signals federal union. It transforms the Commission from an overblown secretariat into a democratic constitutional government, keeping to the method built by Jean Monnet in which the Commission initiates laws which are then enacted jointly by the European Parliament, representing the citizens, and the Council, representing the states. We rejig the European Council to direct the affairs of the legislative Council of Ministers, returning to the Commission

responsibility for the overall political direction of the Union. The Court of Justice gains the attributes of a supreme court. And more competence is given to the Union in economic affairs, employment and energy policies. All the reforms proposed are aimed at strengthening the capacity of the EU to act effectively. The new treaty will be more permissive and less prohibitive.

A Convention made up of the Commission, heads of government, MPs and MEPs will be invited to consider this Fundamental Law. That body could start its work in spring 2015 once the new European Parliament and Commission are elected, and should be finished in good time for David Cameron's referendum in 2017. The Union so reformed will be more efficient, transparent and accountable. Those states, like the UK, which may decide not to take the federal step forward can opt for the status of associate membership. It is ironic that one of the few European leaders to call openly for a fiscal union (albeit without the UK) is Mr Cameron. Other leaders need to admit the fallacy of continuing to argue that Europe can be more united without the installation of a strong federal government.