

***New Initiative for a Federal Europe: 'The Treaty of Bozar'***

Based on the following source: 'A Fundamental Law of the EU', The Spinelli Group, Bertelsmann Stiftung,

On 4 October, four MEPs from the so-called Spinelli Group (Guy Verhofstadt, Andrew Duff, Jo Leinen and Roberto Gualtieri) and the Executive Director of the Bertelsmann Stiftung (Thomas Fischer) presented a 300-page proposal: 'A Fundamental Law of the European Union' – called the 'Treaty of Bozar' after the *Palais de Beaux-Arts*, in Brussels, where it was presented. The proposal revives the idea of a federative Europe and tries to galvanise the waning debate on the EU's institutional and political future. It comes at a time of growing euroscepticism, and even of increasing anti-European sentiment, both of which threaten next year's European Parliament elections.

The 'Bozar' federal proposal is presented as having drawn lessons from the Eurozone-crisis. It is aimed at terminating the inefficient, un-workable 'intergovernmental ruling of the EU' through the current loose Confederation. Its authors – chiefly Andrew Duff, UK MEP, expert on Constitutional Law – got inspiration from the German '*Grundgesetz*'. The draft's ambition is to go beyond a list of changes to the Lisbon Treaty by trying to set a 'fundamental framework for the efficiency of the EU'.

**Headline Proposals**

The institutional and political framework proposed defines the EU as a federation of member states deriving legitimacy from popular sovereignty. It requires its members to include the Union's values in their constitutions.

As regards the institutional setting, the Commission becomes the EU government, appointed by and answerable to the legislature of the European Council and the Parliament. The Council itself functions as a second chamber of the Parliament.

Politically, the European Council and the European Parliament obtain a right of limited legislative initiative and the rotating Presidency is abolished. The number of Commissioners – all nominated by the President of the Commission – is reduced. Some MEPs are elected by a pan-European electoral district, on the basis of transnational lists.

From an economical point of view the proposal includes a separate Eurozone budget. This creates a *de facto* second-class member: an "Associated Member [State]" is therefore foreseen. The common budget is accompanied by a reinforcement of the powers of the ECB. The much debated mutualisation of the debt becomes structural within a framework of strict budgetary discipline. But national parliaments get a say in excessive deficit procedure. The EU tax revenue funds the Union's expenditure.

Governance is enhanced by widening the extension of ordinary legislative procedure and by suppressing the unanimity requirement for treaty change. The opt-outs in justice and home affairs are no longer allowed. The prohibition on approximation of national laws is lifted.

The European justice system is enhanced with a wider jurisdiction of the Court of Justice while citizen's access to it is facilitated. The Parliament has a right of assent on all international agreements.

## **Comments from the Public on the Internet**

As one could expect, the draft treaty has generated a negative reaction on internet sites in Ireland and the UK. As on other occasions, the people in favour seem to be more silent. Comments range from "At last a beginning of debate" to "This is the final nail in the coffin of democracy", but the trend presented by the latter seems to be much more prevalent.

In such a context, some specific points are especially criticized. The fact that the Commission is becoming the *de facto* governing body of the Union is perceived to grant it too much power. Neither is there great enthusiasm for having a President of the Union who is not democratically chosen by the electorate.

Numerous comments point to the idea that such a Treaty would deepen the gap between citizens and institutions, further feeding the surge of anti-European sentiment.

A commentator assesses precisely the opportunity for publishing the draft now: reforming the treaties today carries too high a political risk. From a pragmatic point of view this qualitative push towards a federal EU denies the influence that the current return to the notion of national sovereignty is having in Europe. A threshold of distrust has been reached which makes this political suicide.

A UK citizen argued that the proposal's agenda goes against the UK opt-out plans: if a convention were to start to work in spring 2014 (as it is foreseen), then a new Treaty would be ready by spring 2018, which would make the UK's referendum plan impracticable.

## **Bertelsmann Stiftung Analysis**

The co-presenting Bertelsmann Stiftung points out some of the virtues of the proposal in the 9-page 'Commentary' of the document. It considers that the 'Bozar Treaty' provides for democratic reform because it ensures a proper separation of powers, renders the Commission Presidency more accountable, and contributes - by creating a pan-European constituency - to the emergence of European political parties.

Democratic legitimacy is also fostered by integrating the European Charter of Fundamental Rights into the Treaty, simplifying the access of individuals to the European Court of Justice, granting voting rights to citizens residing outside their own countries at parliamentary elections, and widening the scope of the European Citizenship's Initiative to include political agenda-setting.

However, it likewise raises a complicated dilemma inherent in the document. On the one hand, efficiency needs require the granting of more powers to Brussels; but on the other, granting extra power to the EU institutions will diminish, even further, the public's acceptance of the Union's institutions.

Likewise, the authors' plea to replace the intergovernmental model of decision-making with a federal government does not address the problem of subsidiarity as it is perceived at national level (the British and the Dutch 'devolution lists' are good examples of this).

One way to overcome these difficulties would be to enhance the role of national parliaments in EU policy-making and enhance any potential inter-parliamentary collaboration towards such an aim.

## **Conclusions**

The European public has little interest in considering qualitatively new steps in European integration. Yes, some politicians, including Prime Minister Letta, are advocating bold steps to develop a new model for Europe. The immediate task is, however, how to head off the increasing challenge of euroscepticism in the run-up to the EP elections. The concept of a federal Europe - if ever gaining in

dynamics – poses as evidenced in the ‘Treaty of Bozar’, a clear problem for the future of the Council of Europe.

The self-sufficient and omnipresent European Union would push the Council of Europe even further to the margins of European politics.

If, as proposed by the Federalists, a Treaty was to enter into force, the Council of Europe would then either critically lose relevance or be obliged to merge some of its institutions and mechanisms into the European Union’s.

The proposed widening of jurisdiction and the facilitation of citizen’s access to the Court of Justice would presumably have implications for the ECtHR, for its functioning and – if overlapping is to be avoided – for its jurisdiction. Would it be possible to co-ordinate the European Court of Justice’s jurisdiction and the substantive work of the ECtHR in order to avoid duplication or two levels of rights for EU and non-EU citizens in such a system?

The ‘Associated Member’ status could attract the Council of Europe’s member states which are not EU members. But should, say, a further 10 countries accede to the new status, this would threaten the Council of Europe’s political role and activities related to any aspect of its mandate.

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