

**German Bundestag**  
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## **Motion**

by the SPD and BÜNDNIS 90/DIE GRÜNEN parliamentary groups

### **Reform through a constitution: towards an effective, democratic European Union based on solidarity**

50 years after it was founded, the European Union stands at a defining moment in its history.

The unification of Europe is now tangibly within reach, signalling an end to the artificial division of the continent that followed the Second World War. At the same time, the current international situation presents the European Union with major new challenges, both within and beyond its borders.

It is against this backdrop that, on December 15th 2001, the European Heads of State and of Government issued the Laeken Declaration, laying the foundations for the most extensive and most ambitious reform process since the establishment of the European Communities. Europe has now been given a unique opportunity to develop the Treaties in a new way, establishing the basis for a political union that is in principle open to all nations of Europe and in which both small and large member states seek to achieve a fair reconciliation of interests through cooperation based on equality.

For the first time in the history of European integration, representatives from the national parliaments and from the European Parliament have been given a key role in a major reform project from the outset. The Convention has been charged with working with the representatives of the Heads of State and of Government and with representatives of the applicant countries and of the European Commission to map out the future structure of the European Union. After the convention that was entrusted with drawing up the Charter of Fundamental Rights demonstrated what can be achieved by such an organ, the German Bundestag has high expectations of the new Convention. Its task should be to draft a European Constitution, not simply to draw up options for the reform of the European Union. By the early summer of 2003, the Convention should reach agreement on a single, coherent proposal that is supported by a broad consensus. Only this will give its work a political weight

that it will hardly be possible for the Heads of State and of Government to ignore at the subsequent Intergovernmental Conference, which is also to be attended by representatives from the Convention. The German Bundestag will actively contribute to the Convention's work by submitting its own proposals and will help ensure that the reform of the European Union becomes part of a broad social debate on its future structure.

Citizens must know why nations have joined together in a European Union. Even now, we cannot take peace, freedom, security and prosperity in a healthy environment with cultural diversity for granted. These are and remain the major challenges facing us today. Only by working together can the nations of Europe regain their scope for political action that has in particular been lost as a result of globalisation. Only by uniting and can Europe exert an influence on world politics as a powerful actor on the international political stage. Only by joining together can the nations of Europe make their contribution in helping secure a peaceful world and ensuring a just framework for globalisation. Only by uniting together can Europe retain and consolidate its unique social model and assert itself internationally as a community based on social values. The capacity of the European institutions to act and take decisions must therefore be significantly enhanced. This is a vital prerequisite if we are to provide a sustainable constitutional basis for European unity.

The German Bundestag welcomes the fact that, working to safeguard the interests of its citizens, the European Constitutional Convention first intends to clarify the future international role of the European Union before moving on to define its tasks and therefore its future policies. The German Bundestag believes that the European Constitutional Convention must focus on three main priorities for reform:

- Further development of the European Union through greater democratisation and increased emphasis on solidarity when shaping its policies within a constitutional framework.
- Reform of the European institutions and their legislative and decision-making procedures, ensuring that European power is exercised more democratically, more transparently and more efficiently. The principle of the separation of powers must be applied more effectively and greater democratic responsibility must be secured at European level. This

includes committing the organs of the European Union to the Charter of Fundamental Rights.

Clear allocation of responsibilities between the European Union and its member states. Where political responsibility is being assumed, it is vital to clarify at the outset who is to decide what in individual policy areas.

The Laeken Declaration specifically calls for an increase in the democratic legitimacy of the European Union. This applies equally to the road towards a European Constitution, which must have its roots in the wishes of the participating nations. The German Bundestag welcomes the establishment of the Civil Society Forum and the appointment of a Youth Convention as important steps that will enable the opinions and ideas held by citizens to be reflected in the Constitution. It calls on the social partners, associations and non-governmental organisations to join together and make their voices heard in the Convention. The German Bundestag affirms that it will support civil society and participate in the broad social debate. The new Constitution should form a lasting foundation for the European Union. The Convention should therefore examine possible options for a referendum to enable citizens to decide directly on acceptance of the European Constitution. The Convention should address this issue in its final document.

The European Constitution should combine the constitutional elements of current law under the various Treaties in one text and overcome the pillar structure of the Treaties. In future, the European Union should have its own legal personality. Key elements of this Constitution should include a preamble, principles and objectives of the European Union, the Charter of Fundamental Rights and Union citizenship, the relationship between the European Union and the member states, the organs of the European Union and their legal instruments and procedures, the allocation of responsibilities and the division of competencies between the member states and the European Union, constitutional rules governing public finance, increased cooperation, and concluding provisions. A second text should incorporate the policies laid down in the previous Treaties. Where the legal norms involved are not of the highest rank or order and where the transparency principle permits, the contents of the previous protocols and declarations on the European Treaties should be included, provided

they are not superseded by the Constitution. This second text should be governed by a simplified amendment procedure, but it is important to ensure that such a procedure does not enable sovereign rights of the member states to be transferred to the European Union without the participation of national parliaments.

### **I. Further development of the institutional system**

Political power within the European Union must be committed to fundamental rights and allow such commitment to be verified by independent authorities. The executive and legislative roles of the European Parliament, the Council and the Commission must be strengthened. The legislative and executive functions of the Council must be clearly separated from each other in accordance with the principle of the separation of powers. The European Parliament should be developed into a citizens' chamber. The European Commission should be built up into a powerful executive, and the European Court of Justice should also assume the role of a European Constitutional Court.

### **Fundamental Rights and Union Citizenship**

The Charter of Fundamental Rights must be integrated into the existing European Treaties and must be made legally binding. The Charter of Fundamental Rights should be placed at the beginning of the European Constitution. To ensure comprehensive protection of fundamental rights for its citizens, the European Union must also accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The high priority accorded to the fundamental principle of solidarity under the Charter of Fundamental Rights and its concretisation through fundamental social rights constitute indispensable elements of a European community of values and of the social model of the European Union. Individual citizens must have access to the European Court of Justice if their fundamental rights are violated. Depending on length of stay, civil rights bestowed on citizens of the European Union should also be extended to citizens from other countries where they are legally residing in the European Union.

### **Strengthening of the European Parliament**

As a citizens' chamber, the European Parliament must participate equally alongside the Council on legislative matters. The co-decision procedure must be simplified and made standard procedure. The European Parliament must have a right of co-decision in all areas where the Council exercises legislative rights and must be given wide-ranging responsibility for the European Union's budget. In future, the European Parliament and Council must decide jointly on all revenue and expenditure of the European Union.

With the participation of the Council, the European Parliament elects the Commission President and is able to take a constructive vote of no-confidence in the President. The Convention must examine whether a procedure for the dissolution of the European Parliament should be included in the Treaties. The European Parliament, just like the Council, should be given a right to initiate legislation. The European legislative bodies - i.e. the Council, where the member states participate in legislation, and the European Parliament - must have the same opportunities to initiate legislation as the European Commission.

A uniform election process must be developed to ensure democratic representation of all citizens within the Union. The long-term objective must be to make the allocation of seats in the European Parliament more representative, so that each Member of Parliament represents approximately the same number of citizens, with a protective clause for the smaller member states.

### **Reform of the Council**

The Council must make a clear distinction between legislative functions, which it performs in conjunction with the European Parliament, and executive tasks, which are undertaken by the member states represented in the Council.

When acting as a legislative organ during the legislative process, the Council should in future hold its meetings in public. Decisions should, in principle, be taken by qualified majority. Exceptions should essentially be limited to treaty amendments of a constitutional nature, the accession of new member states and military deployments. Decisions should be taken by a majority of the states and the populations they represent. Provisions should be adopted

introducing longer terms for the Presidency and for the chairmanship of the individual councils. The work of the expert Councils of Ministers should be better coordinated, possibly through a special Council. At the same time, the number of individual Councils should be significantly reduced.

### **European Council**

The European Council must focus on strategic and overarching issues and must adopt decisions by qualified majority. It should be examined whether a rotating presidency is still necessary. In future, the President of the European Parliament should attend and be entitled to speak at all meetings of the European Council.

### **European Commission**

The Commission must become a strong executive power, committed to European interests and independent vis-à-vis the member states. The Commission President elected by the European Parliament with the participation of the Council must be accorded authority to issue guidelines and have organisational powers. This also includes the right to propose individual Commissioners.

The number of members of the Commission must be limited. The desire of member states to be represented on the Commission could be accommodated by appointing Vice-Commissioners. To facilitate compromises between member states, the heads of the 13 European Agencies could be included in the procedure for appointing the Commissioners. Individual Commissioners should be given authority to issue instructions to the Directors General based on the principle of departmental responsibility.

In the long-term, the competent Commissioner should implement and be responsible for the Common Foreign and Security Policy. As a first interim step, the offices of the Commissioner for External Relations and of the High Representative for the Common Foreign and Security Policy should in future be exercised by one person.

The Commission's law-making powers must be judged in accordance with criteria based on the rule of law. The Commission's present autonomous law-making powers should therefore be examined and made subject to greater parliamentary control. The comitologie process must be reformed in the interests of greater transparency. To improve efficiency, the Commission should in principle be given greater scope for negotiation when concluding international treaties. The European Union needs a European diplomatic service. It should evolve from the European Union's present delegations and should, where possible, replace existing representations of the member states by means of amalgamation.

### **National Parliaments**

The Convention must consider the role played by national parliaments in European integration. Their respective powers and responsibilities must not be confused. The directly elected European Parliament must remain as the organ representing citizens at European level. At present, the systems whereby national parliaments are involved in formulating and controlling the European policy of the respective member states vary considerably. First and foremost, the national parliaments themselves must examine whether their frameworks for shaping European policy are still appropriate given its increased significance. The German Bundestag notes that in principle, the Law on Cooperation between the Federal Government and the Bundestag on Matters concerning the European Union has proven itself. However, the Convention should consider whether it might be beneficial to include national parliaments when monitoring compliance with the principle of subsidiarity. The German Bundestag expressly advocates that the convention principle should be anchored in the Constitution with regard to further development of the European Treaties.

### **II. Improving the allocation of competences**

Many people have difficulty understanding the present system of allocating competences within the European Union. Confusion often reigns as to who decides what in the European Union and thus who has political responsibility. This is primarily due to the mixing of political objectives and Treaty responsibilities, to the large number of different legislative instruments and to the lack of a clearly structured hierarchy of norms.

The principle of subsidiarity must prevail when reforming the allocation of competences: the European Union should only intervene if a task cannot be sufficiently executed by the member states and can be fulfilled more effectively at European level. Assessing the distribution of competences on the basis of the principle of subsidiarity may result in additional competences having to be transferred to the European Union, but also in greater responsibility for certain matters being restored to the member states and regions.

When examining the allocation of competences it is not imperative to examine each and every rule on jurisdiction. The principle of the European Union's restricted prerogative that has until now formed the basis for the allocation of competences at European level has proven itself in principle. The European Constitutional Convention should therefore adopt a problem-oriented approach when examining the allocation of competences, i.e. it should carry out a detailed assessment of those areas where there is considered to be a need for action and/or where specific future problems are expected to arise after enlargement if the status quo is maintained. The German Bundestag believes that the Constitutional Convention should in particular undertake a careful examination of the current system of allocating competences relating to the Common Agricultural Policy and Structural Policy, and to the law on competition and subsidies. The Convention should consider establishing a European Cartel Office and a corresponding Senate at the European Court of Justice with a view to modernising and improving the efficiency of competition law.

The German Bundestag advocates transferring additional competences to the European Union in those areas where individual member states are no longer able to carry out their functions efficiently. Above all, this includes the Common Foreign and Security Policy and/or the European Security and Defence Policy, as well as home affairs and justice policy, which should be subject to greater communitisation.

The European Constitutional Convention must also address the "integration" clauses so that their scope of application may be defined more precisely where necessary. In addition, it must be made clear that political objectives specifying the direction of action for the European Union do not represent a sufficient authoritative basis for independent action by the organs of the EU.



Regulations must also be made easier to understand. This requires clear systemisation and improved rules on exercising competences. Based on the existing Treaties, the competences of the European Union could be divided into exclusive powers of the Community, concurrent powers and complementary powers. The Constitution should also specify that in principle, the implementation of EU law is a matter for the member states. Existing parliamentary rights of control must not be surrendered as a result of the transfer of powers to European level.

Against this background, the German Bundestag considers that reforms are necessary in the following policy areas:

#### Common Foreign and Security Policy

The European Union must become able to act more effectively if it is to assume increased responsibility for stability and security in Europe and the neighbouring regions. The European Union is already playing a central role in southeast Europe and an important role in the Mediterranean region. To meet these international challenges, the European Union must develop a security concept that embraces political, military, economic, social and ecological elements and strengthens its capacities in terms of civil and military crisis prevention.

The members of the EU must increase communitisation in order to strengthen their capacity for action under the Common Foreign and Security Policy and the European Security and Defence Policy. Intergovernmental elements must continue to play a role in foreign and security policy for a transitional period. The foreign policies of the member states and that of the European Union must be more closely interlinked. Greater synergies must be achieved through approximation of the different rules on competences and of the different procedures for foreign, security, defence, development and foreign trade policy.

A European Security and Defence Policy must be developed and implemented with vigour and given a new dimension. The long-term objective should be to achieve greater cooperation and integration of military structures, thereby enabling the European Union to make an effective contribution to peace, security and the protection of human rights.

In order to take account of national constitutional law, decisions on military deployments must still be adopted by unanimous decision. Specific deployment of armed forces must comply with respective national constitutional provisions. The development of the European Security and Defence Policy requires parliamentary control by the European Parliament and by the national parliaments. The European institutions with responsibility for the European Security and Defence Policy should regularly account for their activities to the parliamentary organs.

#### Development as a global structural policy

Community development policy must be strengthened if the European Union is to successfully meet the immense challenge of making an effective and sustainable contribution to a more peaceful world based on solidarity, to a just and ecological framework for globalisation. This requires clarity in the division of responsibilities to improve coordination and complementarity between the Commission and the member states. When proposing institutional reforms, the Convention should consider the need for better coherence between the different policy areas within the Community - e.g. agriculture and fisheries policy, trade and development. The European Union should adopt a more unified approach when asserting political weight in those institutions working towards a just and social framework for globalisation, and this should extend to a coherent stance by member states in the decision-making organs of international financial institutions. This also means that the European Union must assert a commitment to minimum social and ecological standards in its external relations, and particularly in its relationship with the WTO.

#### Justice policy and home affairs

Since freedom, security and justice play a key role in their lives, the citizens of Europe expect the European Union to show greater commitment in terms of justice policy and home affairs. Common external borders and the abolition of internal border controls demonstrate the need for Europe to act jointly. Any re-nationalisation of these policies represents a move in the wrong direction and ignores the realities of a globalised world. Work to expand the "area of freedom, security and justice" must be pursued with vigour on the basis of the conclusions of the European Council of Tampere. The observance of human rights, the constitutionality of all measures and democratic principles as key European constitutional traditions must be applied as the strict yardstick for sovereign action.

Freedom, security and justice do not only apply to the citizens of the European Union. Part of Europe's humanitarian responsibility is to grant protection and refuge to people who are persecuted and in need. The Union must therefore continue to develop its common policy on asylum and refugees. All member states of the European Union subscribe unreservedly to the Geneva Convention relating to the Status of Refugees. A common asylum procedure will help ensure that responsibility is shared and that appropriate common standards are secured. Also, migration in its various forms can only be successfully controlled through a common approach. There is a need for common rules governing the granting of visas, the regulation of rights, and also the integration of third-country nationals - through, for example, common standards on labour migration, reunification of families and the fight against the trade in human beings. Rules on labour migration and the protection of refugees must not be played off against each other.

Open borders should benefit citizens, but not organised crime. Europol must therefore be further developed, but not without simultaneous parliamentary and judicial control of Europol at European level. The immunity of Europol employees must end where executive functions are added. A joint European border police force could help protect our external borders. A European Public Prosecution Service is necessary to ensure control and facilitate cooperation with the police. Judicial cooperation under Eurojust and the harmonisation of standards should be extended in areas of cross-border significance. Efficient democratic control through the European Parliament must be ensured.

#### **Protection of the environment and sustainable development**

As stated in the Laeken Declaration on the Future of Europe, protection of the environment is one policy area where citizens expect a common approach at European level. An effective environment policy is also a prerequisite for sustainable development in Europe.

The European Union's competences on environment policy must therefore be retained in full and applied with vigour. All future decisions relating to environmental policy should be adopted by a qualified majority. Furthermore, in the interests of sustainable development, greater emphasis must be placed on the requirements of environmental protection when

determining and implementing Community policies and measures in areas such as agriculture, transport or energy, and the use of renewable energies must be developed.

The Euratom Treaty is no longer appropriate to the times, and the promotion of nuclear power through Euratom should be stopped. Matters that are still of relevance such as security, the protection of health, disposal, the transport of fissile material, the dismantling of nuclear power stations and the handling of waste should be incorporated into the Constitution in an appropriate fashion or dealt with by treaty. Euratom's funds must be subject to control by the European Parliament.

### Social Europe

European unification represents a comprehensive response to globalisation. The forthcoming enlargement of the European Union will export political stability and economic growth to additional countries in Central and Eastern Europe. When this happens, it is important to retain and consolidate Europe's social model. It is imperative that the fundamental social rights set out in the European Charter of Fundamental Rights are made just as legally binding and enforceable as the Charter as a whole. This will also secure important social standards such as security in old age and in sickness, protection against dismissal, the right to collective bargaining and collective measures, and employee participation rights. Co-determination must also be ensured when pan-European company mergers take place. The concept of services of general interest is also an integral part of the European social model and must be retained.

The European Union must continue to pursue the objectives adopted in Lisbon on raising employment levels through to full employment and making Europe the strongest growth region in the world. However, to achieve this objective, it is necessary to strike a balance between economic and social policy. Employment policy must become a task that cuts across a wide range of policy fields.

The Constitutional Convention and the subsequent Intergovernmental Conference should take this factor into account.

### Economic and Currency Union

Following the successful launch of the euro, the European Currency Union has become an integral part of the European Union. The euro is increasingly becoming a symbol of European unity and will give new impetus to further integration. Europe must use all the benefits offered by the common currency to secure further growth and employment. The single market must be systematically developed. The Convention must use the experience gained during the introduction of the euro to improve coordination between economic and financial policy. This also includes adopting a unified approach when representing the euro externally, particularly in international financial institutions. In future, the European Union must speak with one voice. However, the single market and a common currency also demand greater harmonization in terms of fiscal policy, especially through a binding framework of principles for the realistic calculation of profits, common valuation standards and minimum rates for corporate taxation. The ecological element in Europe's system of consumer taxes must be further developed. Following the successful introduction of the euro, social integration must be furthered through a strengthening of European social policy.

#### Achieving proximity to citizens through strong local authorities

The process of European integration has also enlivened the discussion on decentralisation, and in those countries that desire such a system, this could result in a multi-level model comprising Europe, the member states, the regions, and local authorities. The right to local self-government should also be considered as an important factor in European policy and legislation. The provisions of the Charter on Local Self-Government represent a European political consensus emphasising the competence of the individual member states. The European Constitution must therefore ensure that in its policy-making and legislation, the European Union observes the principle of subsidiarity and gives due consideration to existing rights to local self-government.

Strengthening the individual responsibility of the member states and the regions.

In view of the forthcoming enlargement of the Union and in order to strengthen the individual responsibility of the member states and the regions, the German Bundestag believes there is a need for action above all as concerns regional structural policy and the Common Agricultural Policy.

With regard to the Common Agricultural Policy, the European Constitutional Convention should pave the way for a fundamental reform, taking the forthcoming examination of this policy area into account. Co-financing should be given greater consideration when developing funding instruments. To promote sustainability and development of rural regions, production-related subsidies should be replaced with the targeted promotion of production that is fair to consumers, the environment and animal welfare. In future, resources should be directed primarily towards structural policies supporting rural regions, and especially promoting economic strength and jobs within the meaning of the second pillar of the Common Agricultural Policy.

The forthcoming enlargement means that it is also important to undertake a fundamental reform of the European Structural Funds. However, the European Structural Funds remain an integral part of the *acquis communautaire* and express the solidarity between the member states. It is in particular against the backdrop of enlargement of the European Union, that the German Bundestag supports the principle of European solidarity. The necessary reform should strengthen the responsibility of the member states for administering the structural funds, thereby relieving the burden on the European Commission. Today's principal recipients of resources from the structural funds must realise that in future the new and in economic terms weaker member states will replace them as the principal beneficiaries of European solidarity. After 2006, the Länder, or federal states, in eastern Germany must not find themselves worse off than comparable regions in the current member states in terms of the funding instruments available to them, the funds available and the associated subsidy regime. An independent regional policy must allow the member states and their regions to decide on the appropriate use of resources from the structural funds.

The German Bundestag calls on its delegates and on the Federal Government's representatives in the Convention to incorporate its opinions in the Convention's discussions on a future Constitution for the European Union.

Berlin, 14th May 2002

**Dr. Peter Struck and the SPD Parliamentary Group**

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