

„Old letter in a new envelope!“

EU Constitution is now called „Lisbon Treaty“

*An Information Brochure from Attac Stuttgart and Region
and Ecumenical Network Württemberg*

“All dangers come from the people“

- They only changed the envelope, so as to make the treaty „easier to swallow“ and to „avoid referendums“. „The letter in the envelope is still the same.“ By way of the EU Treaty, the EU citizens „will unknowingly agree to a number of decisions that the European politicians do not even wish to present openly to their people“ (Giscard d'Estaing, former French President, president of the EU Constitutional Convent).¹
- „They (EU leaders) decided that the document should be unreadable. If it is unreadable, it is not constitutional, that was the sort of perception.“ „Nothing (will be) directly produced by the Prime Ministers because they feel safer with the unreadable thing. They can present it better in order to avoid dangerous referendums.“ (Guiliano Amato, former Italian Prime Minister)²
- „It is questionable, whether the citizens in the respective countries will let themselves be dissuaded about the fact, that a large part of the Constitutional Treaty has been put into the new treaty. The new primary law might be unveiled as a cheat package.“ (The Centre for Applied Policy research (CAP) close to the Bertelsmann Foundation on the Reform Treaty 2007)³
- „France was just ahead of all other countries in voting no. It would happen in all countries if they had a referendum. There is a split between people and governments.“ (Nicolas Sarkozy, French state president, in a closed session of the EU Parliament, following Telegraph, 14 November 2007)⁴

From the EU Constitutional Treaty to the Reform Treaty

In October 2004, after much back and forth, the governments of the EU signed, in Rome, a Constitutional Treaty for the European Union. This treaty should then have been ratified in the EU countries, in a number of them by way of referendum and have entered into force that way. The citizens of France and the Netherlands in 2005 thwarted this plan: they voted no. Also in countries, where the population was denied the right to a referendum, as in Germany, opinion surveys showed that the attitude of the people became increasingly negative the more information filtered through about the contents of the treaty.

The EU governments failed to draw the conclusion that there is no future for Europe without real democratic participation of the citizens, despite the criticism and failure of the Constitutional treaty. On the contrary, the governments looked for a way to save „the substance of the reforms“ and to avoid new referendums.

What is the Reform Treaty? - Current state –Process⁵

In order to circumvent troublesome democratic resistance, the “old wine” of the constitutional treaty was simply poured into the new flasks of a treaty that is now called in turn „Reform Treaty“, „EU Basic Treaty“ or „Treaty of Lisbon“. A more detailed examination shows: The text that is now on the table is, largely, identical with the EU Constitution, which, in other words, is supposed to be introduced through the back door – without a referendum. We need to prevent this and demand public referendums. This information brochure provides arguments for this.

The Reform Treaty had been worked out behind closed doors in a government conference. Only three EU-Parliamentarians, among them the Bertelsmann lobbyist Elmar Brok, were admitted. After the treaty was signed in December 2007 by the heads of state and government, it needs to be ratified in all 27 countries. It is supposed to enter into force on the 1st of January, 2009. The tight schedule, besides circumventing any referendums, serves the purpose of implementing the treaty, before people realise that it is almost the same as the rejected EU Constitution. On approx. 150 pages plus additional protocols and declarations, changes are listed to the still valid Nice-version of the EU Treaty and the EC Treaty, the latter being renamed „Treaty on the Functioning of the Union“. For smaller changes, only references can be found, new regulations are reprinted as new articles. The text is complicated, but not incomprehensible! We should not let ourselves be taken for fools!

¹ <http://derstandard.at/?url=/?id=2921126>

² <http://euobserver.com/9/24481?rk=1>

³ <http://www.cap-lmu.de/publikationen/2007/cap-analyse-2007-05.php>

⁴ www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/11/14/wfra114.xml

⁵ You will find the text of the treaty under this internet address: <http://www.consilium.europa.eu/uedocs/cmsUpload/cg00014.en07.pdf>

Why should we get involved?

- Already 70-80% of German legislation is based on EU directives. The Federal Parliament to a large extent is simply the executor of EU legislation. This marginalisation of the national legislation shall continue.
- The Reform Treaty will have precedence over German law; however, it contradicts in essential regulations the German Constitution.
- The course has been set for a centralised EU state, which is claiming global power.
- Public services will be put under more pressure for privatisation.

The Basic Rights Charta: more promises than it can give ...

Even critics of the Reform Treaty point to the Charta of Basic Rights as an essential contribution to a democratic EU. The Charta is now no longer part of the treaty text, however, it is being declared legally binding by a reference. Great Britain, Poland, and Ireland only agreed to the treaty under the condition of being given a waiver concerning the legal status of the Charta in their country. Even although the basic rights should be individually enforceable, it is unclear how this could be put into practice. The Charta includes essential human and citizen's rights, which by now fortunately have become the legal standard in many European countries. However, language at the end of the Charta, specifies that the exercise of rights recognised in the Charta is subject to "the conditions and the limits defined" by the other treaties of the EU. This shows a tendency to reverse the relationship between Basic Rights and legislation, which is derived from them. (Charta, Art. 52). Moreover, in many parts the Basic Rights are more weakly formulated than the General Declaration of Human Rights in the UN or in the Constitution of the German Federal Republic. Social rights, insofar as they are included at all, de facto stand under the proviso of the rights of free enterprise and competition, as does the whole Charta; a clear social obligation for private property is missing.

Improvements for the EU Parliament – more transparency for the citizens...

Many policy matters, on which the ministerial council used to decide alone behind closed doors, now fall under the participatory legislative procedure, which means that the approval of the EU Parliament (EP) is needed and in that way also more public attention is drawn towards up-coming decisions. For example, from now on the EP will be able to participate in decision-making in the areas of domestic and regulatory policy, or in the area of international trade agreements (WTO). When voting on directives, the Council is supposed to meet in public. This means our ministers will no longer be able to hide their responsibility as easily.

... but traps in the small print and no direct democracy

The EU Parliament is still denied the right to enter legislative initiatives and may only vote on submissions from the EU Commission. Furthermore, even in the co-decision procedure, the executive (Council of Ministers and EU-Commission) is dominating. In significant areas, the EU Parliament continues to be excluded, for instance in the control of the border-protection agency Frontex, the Defence Agency (EDA) or the council committee on internal security. A true separation of powers still does not exist at the EU level. The extension of the possibility for "enhanced co-operation" of at least nine countries, in cases where the majority is not complying, further reduces participation rights of the EP, which had seemed to be assured (EU Treaty, Art. 10). However, the enhanced cooperation needs to be affirmed by the EP.

The citizens' petition is non-binding for the Commission. The relationship to the subject is revealed to be feudalistic: Democracy is, when citizens „receive equal attention from bodies, institutions and other agencies of the Union“ (EU Treaty, Art. 8).

More influence for the national parliaments ...

The national parliaments may object to directives proposed by the EU Commission, if they think that Brussels is assuming competences (and thereby violates the so called principle of subsidiarity). If within 8 weeks, the majority of national parliaments (with 2 votes per member state) establishes such a violation, Council and EP are required to assess the proposal under this aspect and may reject it.

... or rather EU-dominance over national-sovereignty?

It may be questioned whether in practice this means a strengthening of national parliaments or just a placebo for the national deputies who feel increasingly obsolete. Some regulations give priority to the EU level - a clear reversal of the subsidiarity-principle. For example, in all areas under shared competence of Union and Member States, the member states may only become active insofar and to the extent to which the Union is not exercising its competence. Even in areas which remain formally within the competence of the member states, the EU still has the right to intervene into national sovereign legislation by way of „actions to support, coordinate or supplement the actions of the Member States“ (compare Treaty on the Functioning of the Union, Art. 2 a – 2 e).

Improved capacity for action of the EU - for the benefit of big States and big business

Majority decisions in the Council of Ministers are to become the rule. From 2014, the double majority will be introduced (55% of the "weighted" votes of the member states plus 65% of the population). Germany's share of votes doubles, France and Great Britain gain 50% and respectively 40% in voting-power, in particular small States lose influence on decisions made in Brussels. The EU Commission will be reduced to 15 members.

Instead of the half-yearly rhythm of presidencies, the European Council will have a president with a 2½ year-term. These changes meet demands by neoliberal thinktanks and business lobby groups. They want the EU to be managed in an output-oriented way like a business company. For them discussion and participation is a waste of time.

EU sets the course for global power aspirations...

The common foreign and security policy (CFSP) falls into the sole competence of the EU. The new office of the High Representative of the Union for Foreign Affairs and Security Policy will be established. For the first time, „the Union's strategic interests“ are mentioned in a treaty (EU Treaty, Art 13). The EU Council gives itself permission for world-wide interventions „to safeguard its values, fundamental interests, security, independence and integrity“ - even without UN mandate (EU Treaty Art. 10 A, 2 and Art. 28 A). The importance of the UN is further diminished, since the EU only wants to establish „appropriate forms of cooperation“ with it. (Treaty on the Functioning of the Union, 188 P) The so-called „Petersberg-tasks“ for civil and military missions are defined in that treaty. These include, for instance, „joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.“ (Art. 28 B, 1)

... and militarisation

A consistent obligation to a culture of peaceful conflict resolution and its appropriate institutions is missing. Where „civilian means“ of security policy are mentioned, this refers to the police. The member states are obliged to „progressively ... improve their military capabilities.“ This language has to be considered as an obligation for rearmament. All this is supervised by the Defence Agency (EDA), which, in the original version was called „agency for armament“. This agency is linked to the EU Council, and is financed by the member states budget. In addition, procedures are in place which would guarantee „rapid access to appropriations in the Union budget for urgent financing“ of „civilian and military assets“ and a special military budget – „start-up fund made up of Member States' contributions“ is created. (EU Treaty, Art. 28, 3). Alexander Weis, head of the „Defence Agency“ and former head of the armament-department in the German Defence Ministry, now no longer refrains from announcing the year 2008 as Europe's „year of armament“ (FAZ, 24 October, 07).

Countries which are still not satisfied by all of this, may join a Permanent Structured Cooperation (EU Treaty, Art. 27,6), a kind of coalition of the willing who „fulfil higher criteria“ with respect to their military capabilities „with a view to the most demanding missions“ (i.e. combat missions). In the case of an attack, all member states are obliged to provide unrestricted assistance. According to an assessment by Manfred Rotter, a Linz-based expert in international law, the EU, which had emerged out of a mere economic union, now turns into a defence alliance.

Domestic Military interventions

The „Solidarity Clause“ permits – even preventive – military interventions within the EU borders: „The Union shall mobilise all instruments at its disposal, including the military resources made available by the Member States, to prevent the terrorist threat in the territory of the Member States; protect democratic institutions and the civilian population from any terrorist attack; assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack“ (Art. 188 R). Does it mean that the already softened separation between the police and the military is supposed to be lifted completely?

Foreign, security and military policy without democratic and legal control

The EU Parliament is „briefed“ and „heard“ in questions of foreign, security and defence policy. Budgetary control – the „sovereign right“ of any parliament – is refused to the EP as far as the military budget goes. Military missions can be ordered without its approval. The European Court of Justice (ECJ) „shall not have jurisdiction with respect to the provisions relating to common foreign and security policy“ (TFU, Art. 240 a). The obligation to receive approval by the Bundestag (German Parliament) for foreign deployments of the Bundeswehr (German armed forces) is in question, as the CFSP lies in the sole competence of the EU. Moreover, the protocol on the Permanent Structured Cooperation explicitly provides for „reviewing their national decision-making procedure“. The lack of democratic control in this area also increases the danger that under the cloak of security policy and the >struggle against terrorism< migration and personal freedom rights will be massively restricted.

Harsh policy against refugees and migrants

The regulations in Art. 69 TFU that put asylum seekers together with „illegal migrants“ and „slave-traders“, carry the signature of rejection: An integrated border protection system along the exterior border should be built up. The EU immigration policy is supposed to steer the incoming flow - in the interest of supply with cheap labour. Treaties with third countries serve to facilitate the deportation of unwanted people. In anticipation of these regulations, the border agency Frontex was founded in 2005, which patrols at the EU's foreign borders and in the Mediterranean in order to fend off so-called „illegals“. Frontex cooperates with autocratic states in North Africa, by supplying them with equipment and vehicles or finances deportation flights, so that the African states will take over part of the dirty work for Europe, proud as it is of its values and human rights. The Frontex budget is the fastest growing budget item in the EU, quadrupling its funds from 2006 to 2008 (taz, 13 November 2007).

EURATOM Treaty provides for privileged promotion of atomic energy

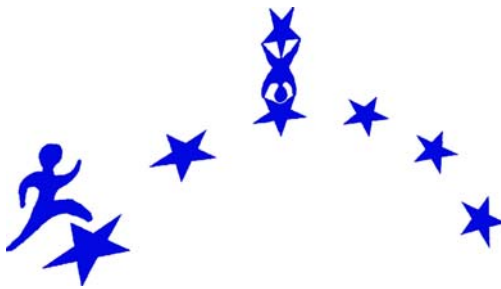
The EURATOM Treaty remains fully upheld. Its goal is to promote nuclear energy in order to „create the prerequisites for the development of a powerful nuclear industry“ (Preamble). (TFU, Art. 305). Are our politicians thwarting the exit from atomic energy by way of the EU Treaties?

Stipulations of the Nice Treaty on neoliberal economic policy remain valid

Even if, through pressure by the French president Sarkozy, cosmetic changes were made, neoliberal economic policy remains the contractual basis of the EU. On the one hand, the regulations of the EU and the EC Treaties in the Nice version apply, and remain unchanged. Even in the Charta of Basic Rights, the four „basic freedoms“ of movement of commodities, capital and services and of right of establishment for business, prevail over individual and social rights. A supplementary protocol to the EU Reform Treaty stipulates that, the „interior market includes a system ensuring that competition is not distorted.“

Danger for public services

In the Charta of Basic Rights, which is becoming obligatory through the EU Reform Treaty, the right to free education is guaranteed only in the area of compulsory education. This opens the doors for the introduction of school and tuition fees. It needs to be considered if education, including university education, will then fall under the EU definition of economic activities – and thereby under the EU competition law (anti-discrimination act, EU-wide obligation to open competitive bidding, ban on state subsidies, equal treatment of private and public providers). The Member States remain responsible for public services (Services of General Economic Interest). However, they are obliged „to provide, to commission and to fund such services“ „in compliance with the Treaties“ (Treaty on the Functioning of the European Union, Art. 16), which means they are subject to the pre-eminence of competition law. Trade in services in the social, educational and health sector (WTO-GATS) are explicitly subject to international trade agreements (WTO, EPA). Only if these agreements risk „seriously disturbing the national organisation of such services and prejudicing the responsibility of the Member States to deliver them“, the Council must decide unanimously (TFU, Art. 188 C). There is the danger that these regulations will increase the liberalisation pressure on public services.



**We resist: No Europe without us!
For a solidarity based, peaceful,
democratic new foundation of Europe!**

- We demand referendums on the Reform Treaty. Negotiating treaties behind the citizens backs and against citizens needs, is unworthy of a democratic Europe.
- In the „10 principles for a democratic EU treaty“ 17 European Attac groups demand, that a new and democratic convention should elaborate a treaty. This convention should be elected directly by the citizens of all EU member states and collaborate with the national parliaments.
- These demands are shared by civil society organisations from many EU countries (see the survey on: <http://www.erc2.org/97.0.html>)
- On the website of More Democracy e.V. you may sign: 1. for a referendum on the EU Reform Treaty, 2. for referendums also on other important topics, 3. for fair and comprehensive information before the vote (<http://www.mehr-demokratie.de/europa.html>)
- The ecumenical networks in their „Declaration of October 2007“ and the „Principles of a European Constitution from an ecumenical perspective“ demand participation of citizens and organisations in the decision-making processes at various levels and by popular vote. (<http://www.oenid.de>).

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