

The Treaty of contempt

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Last July 23rd, the European Union presented a draft Reform treaty, modifying the two principal European treaties, the treaty on the European Union and the treaty establishing the European community entitled "Treaty on the Functioning of the European Union". This project is scheduled to be formally adopted by the European summit taking place on October 18 and 19, and subsequently submitted for ratification by the 27 members of the European Union, a process expected to reach its conclusion before the June 2009 European elections.

The Reform treaty is 145 pages long and contains 296 modifications. Twelve protocols, 51 declarations and various annexes are also included, all of which have the same juridical value as the treaties and form an integral part of them. Constantly referring to the already existing treaties, the whole document is clearly esoteric for most of us. We should rather consider the treaties in their modified state.

An article-by-article analysis of the project for reforming existing treaties shows that the Reform treaty changes the already existing treaties in such a way as to emulate the totality of the constitution project that was rejected by French and Dutch voters in spring 2005 – 55 and 62 % against respectively. Part I of the constitution project, which presented the values and objectives of the Union and its institutional architecture, is here present in the modified treaties; Part II, which was based on the Charter of fundamental rights is recopied word for word; Part III, which deals with the policies and the modes of functioning of the Union is also present, just as is the case with Part IV, which deals with the conditions of admission and withdrawal for potential and existing member states. The treaty is not in any way 'simplified' as it is just as long and complex as the defunct Treaty establishing a Constitution for Europe. According to Valéry Giscard d'Estaing, "in

terms of content, the propositions remain largely unchanged, they are simply presented in a different way", also adding : "the reason for this is that the new text could not resemble the old constitutional treaty too much. The European governments thus agreed on the cosmetic changes necessary for the Constitution project to be easier to swallow". The conservative European deputy Timothy Kirkhope went even further: "The comments held today by Valéry Giscard d'Estaing only reinforce what the other European leaders already think about the new Treaty, namely that the Constitution is back".

A detailed analysis is fastidious, yet necessary; it shows that the values and objectives of the Union remain the same. The press inflated the supposed disappearance of "free and undistorted competition" from the objectives of the Union. However, protocol 6, which is a text of an equivalent reach to the treaties, makes more explicit the objectives of the Union : "the interior market as it is defined in article 3 of the treaty on the European Union is equipped with a system guaranteeing that competition is undistorted". This is how undistorted competition is reintroduced in the Union's objectives from where it had seemingly disappeared.

The so-called "fundamental" rights are not addressed to the citizens of the Union as one might think, but rather to the Union's institutions and its member states once they take on the law code of the Union; these rights do not create "any competence or any novel task for the Union"; they remain subordinated to the other dispositions of the project, characterized by "free and undistorted competition". These "fundamental" rights are thus in no way fundamental. The Union recognizes and respects them but in no way guarantees that they will be applied. As concerns French

law, these take on the aspect of "rebate" fundamental rights, which do not recognize labour rights, nor the right to a minimum wage or to welfare allocations, nor the right to decent housing, nor the right to equal access to healthcare and educational systems, etc.

The European representatives that we will elect will not have the right to propose laws. They will not have the right to vote on the earnings of the Union, nor the taxes, and they will have absolutely no right to deliberate on entire aspects of European politics. They will only be able to oppose an inadmissible policy of the European government (the Commission) if they have a two thirds majority vote. These representatives will also not represent equally all of the European citizens. For example, Belgium, Portugal, the Czech Republic, Greece, which all have between 10 and 11 million inhabitants, will elect 24 representatives; but the large French regions of the South-East or the Isle-of-France, which have the same population, will elect only half as many representatives.

The Union remains a project between governments, one in which ordinary citizens have no voice. There is no separation between legislative, executive and judiciary powers: the European Commission collapses legislative (initiating new laws), executive, and judiciary (monitoring the application of laws) powers into one. The Council is the only organ that votes on all of the laws (except for monetary policies for which the European Central Bank is the only deciding body), as the Parliament is excluded from 21 of the most important domains, out of a total of 90. The Council is not elected by the citizens, but is rather formed by the representatives of the executive branches of member states. The projected treaties keep European judges dependant of the executives who name them, and in no way stipulate media independence.

Also, this projected treaty vows allegiance to NATO and forces member states to augment their military defense spending. It defines the augmentation of agrarian productivity as the first priority of the common agrarian policy, but takes no consideration of the working conditions of farm laborers nor of environmental concerns. The theme of the open market economy, where "competition is free and undistorted" is ubiquitous in the project. Following this market economy logic, any public funding given to any

economic sector, any public service, any labor code even, becomes an attack on "free competition".

Once ratified, there is little hope that the treaties will be reopened for modification, be it to prioritize environmental or social concerns, or be it to permit the construction of European policy: the mechanisms in place for revising the treaty are limited to governments. If these texts are to form a *de facto* constitution, which should be defined as that which determines how policies will be decided upon collectively by the only true sovereigns in a democracy, the citizens, then they must be revisable by the citizens. To have transformed a constitution into an intergovernmental treaty is pure trickery, which allows, through word play, to shed the rules of democracy by short-circuiting popular sovereignty.

Let us recall that the Dutch and French vote in 2005 demonstrated that these populations remained attached to their public services, to solidarity, to social justice. It also showed their defiance to the mode of construction of the European Union, to the political personnel, to the European institutions. As surveys show, the desire to construct Europe is largely shared by all, but it is juxtaposed with a refusal to construct a supranational Europe, a refusal which is based on the insufficiencies of present-day European integration.

Faced with these facts, European leaders, especially French leaders, remain deaf and desire to govern Europe as they please, even if the citizens' will has already been clearly expressed. They are attempting to bring in through the window the project that we have chased out through the door by pretending that it is a different project. What contempt! What arrogance!

This project for a modifying treaty must be abandoned.

If our leaders still wish to impose the project through parliamentary means, the French representatives must reject it, hence respecting the choice of the voters and citizens. If it is claimed that voters have changed their minds in just two years, we need to reach out to them again and ask them, through a referendum, to ratify or to reject the projected treaties.

It is today necessary to pursue European integration on different grounds, to be defined by the citizens themselves. A

fundamental reorientation in favor of a citizens' Europe is indispensable. Faced with the political class's incapacity to reconstruct Europe, it is the European citizens who must propose in the following months or years the constitutional basis of the Europe we wish to

have: united, democratic but also ecological as our contemporary mode of development is no longer sustainable. What we need is a constituency, not the contempt that this imposed project expresses.

The draft reform treaty is available at http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1317, the modified treaties at www.iece-ulb.eu/research/publications/, the modified treaties and the detailed analysis at <http://etienne.chouard.free.fr/Europe/Liens.php>, the detailed analysis at www.france.attac.org/spip.php?article7449

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