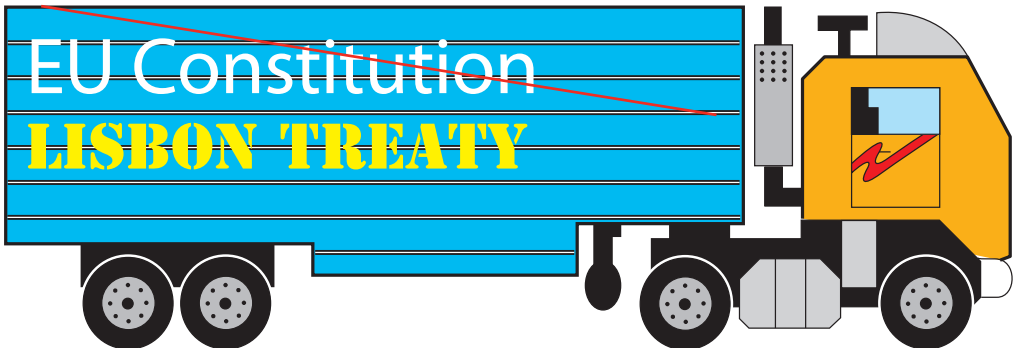


Jonas Sjöstedt

The Lisbon Treaty

– Centralization and Neoliberalism

“We’ll see if it goes better this time. The content is the same, but this time there won’t be any referendums to get in the way.”



GUE/NGL

Gauche Unitaire Européenne/Gauche Verte Nordique
European United Left/Nordic Green Left

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Respect the Will of the People!

In the summer of 2005, the voters of France and the Netherlands said no to the proposed EU Constitution. In both countries debate had been intensive and voter turnout was high. After the vote in the two countries, most other countries discontinued their efforts for ratification of the proposed constitution. Public opinion surveys indicated that voters in several other members of the EU, including those of Sweden, would have rejected the proposal had they been given the chance.

The referendums on an EU constitution provided the EU with the opportunity for debate and self-criticism. We were hopeful that consideration would be given to criticism of the proposal, which, to a large extent, had come from the left. It was a criticism focused on the EU's democratic weakness, its altogether too centralized power structure and its neoliberal character. The referendums gave those in power within the EU the chance to show sensitivity and create a better Union. Unfortunately this has not happened. The proposed Lisbon Treaty that this document describes has, for all practical purposes, the same content as the rejected constitution. Few changes have been made, and where they have, they are most often symbolic. For example, the paragraph concerning EU laws' precedence over national laws has been transformed into a binding protocol. The title for the Union's foreign minister has been changed, but the position remains. The name for the text itself has been changed from constitution to treaty. But the content is the same. These changes have been made in order to be able to claim that the content has been changed and to make it easier to ride roughshod over public opinion in the member countries. The powers that be within the EU do not want to hear whether or not their voters want the new treaty this time either. They are doing everything in their power to avoid referendums and, thereby, serious debate on the issue.

In different countries the new treaty is described in different ways. In most quarters, not the least of which is in EU institutions, it is admitted that the new treaty is to a large degree identical to the rebuffed constitution. In France

and the Netherlands, on the other hand, the governments maintain that significant changes have been made in the new text. For the ordinary voter it is not that easy to judge the content of the text that is to be the EU's new constitution. The text is very nearly indecipherable, detailing changes in previous treaties, protocols and waivers and with references to other texts. It is a democracy problem in itself when a text that is to take precedence over our national constitutions is a virtual textual morass. Therefore, documents like this one are needed to clarify what the text actually means. We hope that this document will be a guide for citizens who want to understand what the new treaty really means.

Just as was the case with the previous proposal for a constitution, the Lisbon Treaty is a text that magnifies the EU's failings. The text's proposals add to the EU's problem of deficient democracy. Still more power is concentrated in the hands of the Union's institutions and more populous Member States. The EU is militarized in a manner that is contrary to Swedish policy of being free of military alliances. The treaty makes the market economy pre-eminent over other political concerns such as the environment or workers' rights. It eliminates Sweden's waiver of participation in the EU's single currency, the euro. The list of the disadvantages of the new treaty is long. By comparison the few positive aspects are easily outweighed.

All in all, the changes proposed in the reform treaty are the most far-reaching to have been put forward since Sweden became a member of the Union. They break many of the promises concerning the right of veto, freedom from military alliances, intergovernmental agreements that those in favour of membership gave prior to the vote on joining the EU. We want a referendum to allow the voters to be able to decide whether or not they want this new EU treaty. The arguments for a referendum now are even stronger than they were during the debate on the EU Constitution. It is also a question of respecting the outcome of the previous French and Dutch votes. It is about respect for democracy – respect for the will of the people.

Jens Holm and Eva-Britt Svensson

From Constitution to Lisbon Treaty

Early on the morning of October 19, 2007, the champagne corks were popped at the EU summit in Lisbon. A new treaty for the European Union, the Lisbon Treaty, was finally negotiated. The treaty is to replace the proposed constitution for the EU that was rejected by the voters of France and the Netherlands in a referendum in the summer of 2005. The new Lisbon Treaty is difficult reading. It consists of a considerable number of changes, often devoid of context, in existing EU treaties. In addition there are protocols and provisions. One must read the new treaty proposal together with the earlier treaties to get the complete picture. The main focus is on the changes that the proposal makes. But it even touches upon rules from earlier treaties that continue to be valid under the Lisbon Treaty. All in all, 95% of the content of the Lisbon Treaty is identical to the rejected proposal for a constitution. The changes are small and often symbolic.

Treaties determine the power the EU has over the Union's Member States. The treaties' texts are comparable to a constitution for the EU. They determine what decisions the EU can make and how they are to be made. The treaties also delineate the course of EU policies. The EU Commission, which proposes new laws for the Union, does so on the basis of the treaties. The European Court of Justice also issues its judgements on the basis of the treaties. Experience of the EU's evolution demonstrates that the Union's institutions generally make use of the increased powers that changes in the treaties give them.

The EU's treaties have been changed several times. Since the Maastricht Treaty was ratified in the early 90s, treaty changes have come considerably more often than previously. The evolution of the EU has picked up pace and that evolution has led in a particular direction. The EU has received power over more and more policy areas. At the same time the EU is becoming more and more supranational. The possibilities for trampling on individual Member States that oppose a given decision have increased with each treaty change. The EU has taken over policy-making in more and more areas that can be seen as the core of an independent state: monetary policy, foreign policy, bor-

der control and judicial systems. Step by step the EU has been transformed from a system of cooperation between states to a union that more and more resembles a United States of Europe. The Lisbon Treaty is clearly a step in that direction. It is the biggest change in the EU since Sweden became a member in 1995. The Lisbon Treaty means an increase in the EU's power in a number of areas. At the same time, there is a total lack of proposals that would transfer power from the EU to the Member States.

In a country's constitution, the main focus is generally on delineating the rules of democracy. But the Lisbon treaty goes considerably further than this. The text even delineates the EU's fundamental political values. In this way even the content of policy is confined to a particular political direction. The treaty states, for example, that the EU is founded on a market economy in which competition may not be impeded. This means that a Member State that wishes to have a stricter environmental policy or a more ambitious alcohol policy is not allowed to do so if it means that the free movement of goods is restricted. The Treaty contains articles on free competition and deregulation. With these as their point of departure, the European Commission is to make proposals that will encourage privatization and the dissolution of monopolies in Member States. The chapter on economic policy states that price stability is a pre-eminent goal and is therefore more important than full employment or social welfare. The EU's treaty is not merely a collection of rules concerning how decisions are to be made. The text is political and locks the EU and its Member States into a particular direction with respect to the decisions made. This is an important reason for why opposition to the EU Constitution and the Lisbon Treaty is so strong within the EU left. The Treaty locks the EU into neoliberal policy. Even many left parties who have nothing against a strong and supranational EU, as such, oppose the text on the basis of its political direction.

When the Member States have agreed to more power being turned over to the EU through a treaty change, they cannot then take back the power on their own. Adoption of the Lisbon Treaty, therefore, means that Sweden turns over considerable self-determination to the EU for the foreseeable future. The treaty can only be changed by all of the parliaments of the Union's Member States approving the changes. In some countries, notably Ireland and Denmark, a transfer of power to the EU requires, for the most part, that the decision is confirmed in a referendum. For this reason, the process of treaty changes is normally a long one, and it can take a couple of years before all of the countries have approved the new text and it can take effect. This ratifica-

tion process in the national parliaments is intended to guarantee that it is ultimately the member countries who decide about the development of the EU. However, this would be changed by the Lisbon Treaty. According to its rules, in the future it will be possible for the EU to be made more supranational by rescinding the right of veto without consulting the national parliaments or changing the treaty.

The treaty currently in force, the Nice Treaty, was adopted in 2001. The very same year, at the EU summit in Laeken, Belgium, the EU's leaders adopted a declaration identifying a number of problems that should be resolved with a new treaty. The new treaty, that became known as the EU Constitution, was worked out over the following years in an open convention. Previously, work on treaty changes and new treaties had been conducted in closed negotiations between experts who often worked with secret text drafts. This time, the idea within the EU was to have a more open process that would culminate in referendums in several Member States. The proposed constitution for the EU was approved by the Council of the European Union (aka Council of Ministers), a body consisting of the Union's prime ministers and foreign ministers. By renaming the treaty a constitution, the point was made that the character of the EU would be changed by the new treaty. A treaty is, by definition, an agreement between nations – a constitution is the fundamental law of a state.

When the proposed constitution was presented it encountered a great deal of criticism. Those with power within the EU have always been more enthusiastic than their voters about the idea of a European superstate. The proposal was criticized for not remedying the EU's shortage of democracy, for being centralistic and militaristic, and for not offering any improvements in areas such as social rights or environmental policy. A majority of the voters in France and the Netherlands voted against adoption of the treaty in the summer of 2005 after intensive popular debate. At that point, the process of ratifying the treaty proposal was terminated in most other Member States. Opinion polls indicated that more EU nations would have voted against the proposal had they been given the chance.

After the referendums in France and the Netherlands, the EU leadership decided to call for a period of reflection during which the future of the constitution would be considered and discussed. When the reflecting was over, the leadership concluded that they should push through what was basically the same text without any referendums. They also returned to the old model of closed meetings and secret texts.

At midsummer 2007, the Council of Ministers reached a political agree-

ment on the new treaty's content. The new treaty would no longer be called a constitution. Even other parts of the treaty that symbolized the EU's transformation into a state were changed: the article concerning the EU's symbols, that established the Union's flag, national anthem, motto, currency and national day, was deleted. Practically speaking, however, it is of no significance because the EU already uses the flag and anthem, has the currency and celebrates European Day on May 9.

Even other smaller changes were made, but in its entirety, the vast majority of the constitution's content remained. The final details of the treaty were negotiated in Lisbon on October 19. The Swedish negotiators had no direct opinions, demanded no waivers and made no other demands in the negotiations.

The European Council's goal is that the Lisbon Treaty will be ratified in 2008 in order to come into force in 2009. At publishing time, the Swedish government's position is that a decision on the Lisbon treaty will be made by the Swedish Parliament in the spring of 2008. It is unclear as to whether there will be any consultation process regarding the proposal. I have therefore included quotes from the points of view of different organizations given as part of the consultation process for the proposed constitution, which was the equivalent of the proposed Lisbon Treaty.

A More Supranational EU

A number of changes in the treaty mean that the EU will become more supranational. More power is given to the supranational institutions such as the EU Commission, the European Parliament (here, also, Parliament), and the EU Court of Justice. Their ability to influence and direct policy in the Member States will thereby increase. At the same time, even more decisions in the Council will be made by a qualified majority vote. The areas in which Member States retain a veto are severely limited. A majority vote and co-decision with the European Parliament becomes the rule and the normal way to make decisions in the EU. The right of veto is limited to a few areas, primarily taxation, foreign and defence policy, parts of judicial policies and certain parts of social policy. In those areas where the right of veto remains, a “pasarell” has been created, which allows the Council ministers to remove the right of veto without formally changing the treaty, the latter requiring a decision by all of the national parliaments. However, a national parliament can stop the “pasarell” from being used if Parliament does reject within six months.

When the treaty no longer needs to be changed in order to make the EU more supranational, governments can avoid referendums and the blockage of a proposal when it is to be approved in national parliaments. In the Swedish Parliament a qualified majority of 75% of the members is required to turn over more power to the EU.

The European Parliament’s power is greatly increased by the new proposal. Up until now Parliament has only had real influence, co-decision, in certain areas. Co-decision means that the ministers in the Council and the members of Parliament share legislative powers. A proposed law can only be adopted if the two bodies are in agreement. Each body adopts its own proposal. Most often the Council and Parliament then reach a compromise agreement in negotiations, a legislative reconciliation.

Parliament’s right to co-decision is extended in the proposed treaty to about 50 new areas: among others, crucial areas of EU policy such as agriculture, judicial cooperation, criminal law, health, tourism, aid, regional development policy, deregulation of certain sectors, energy, border control,

immigration, asylum, Europol and a larger part of the EU budget. When the European Parliament is given greater power, the influence of the Member States in the Council is limited. The national governments, and indirectly their parliaments, must share power with the European Parliament. Additionally, individual countries lose power when the Union is given the right to decide in more areas and the right of veto disappears. The European Parliament is dominated by members who want an even more supranational EU; in practice, a United States of Europe. The increased powers given to the Parliament in all probability will be used to regulate in detail and exercise more control over the Member States. A more powerful Parliament is an essential step in the EU's transformation from cooperation between nations to a state of its own. Parliament does not consist of representatives of countries, but members of different political groups. If Parliament were given the same rights as a national parliament, such as full legislative rights, taxation rights, and the right to change the constitution, it would, in practice transform the EU into a state.

In public debate it is often suggested that the EU would be more democratic if the European Parliament were given greater power. Parliament is the Union's only elected body and meetings are public. But at the same time voter turnout is low in the EU's parliamentary elections and has steadily decreased since direct election was introduced in 1979. Therefore the European Parliament is not as representative as the national parliaments. Voter turnout in Swedish Parliament elections is approximately twice as high as in elections to the European Parliament. In many countries it is primarily those with high incomes and higher education who vote in the EU's parliamentary elections. This is a major contributing factor to the conservative majority in Parliament.

In the Lisbon Treaty it is also stated that EU law always takes precedence over national law. This is true without limitation: all EU laws and decisions are thereby even above national constitutions. In practice, EU law has even previously been given precedence over national laws. But, in several areas, Member States have not approved and recognized them. One example is the Swedish public access principle. It is stipulated in the Swedish constitution and was never discussed in membership negotiations because the Swedish government considered it non-negotiable. It will be difficult to maintain that it takes precedence over EU law if the Lisbon Treaty is approved.

More Power to the Large Countries

The Lisbon Treaty makes the EU considerably more supranational than it is today, but it also entails a dramatic shift of power between Member States. The large countries receive greater power at the expense of the smaller countries. Therefore, Sweden is one of the countries that loses influence by comparison to the current provisions. The background to the change is primarily the expansion of the EU. Of the twelve new members, all but Poland are small countries in the context of the EU. The large countries of the Union do not want to risk losing power to the smaller countries when the latter have become greater in number. The transfer of power to the large countries is accomplished in different ways.

As long as decisions are made with a right of veto, every country has the same weight, the same possibility of stopping a decision they are against. When the voting is done by qualified majority, both in the existing system and in the one contained in the Lisbon Treaty, the larger countries have significantly more influence.

In the European Parliament the number of members from larger countries is greater than their countries' share of votes in the Council. Therefore, smaller countries lose influence when power is transferred to Parliament. Party groups in Parliament are normally dominated by parties from the larger Member States. Divergent viewpoints of parties from smaller countries can have a difficult time being heard in debates. In the Lisbon Treaty it has been decided that the future Parliament will be limited to a maximum of 751 members. No country will have fewer than six members and none will have more than 96. According to the proposal for the new division of seats, Swedish voters will be allowed to elect 20 members.

The Lisbon Treaty states that the seat of the European Parliament is Strasbourg. At least twelve meetings per year must be held there. Parliament's committee meetings, on the other hand, are to be held in Brussels. This means that the costly moving of Parliament's operations from Brussels to Strasbourg each month must continue. The extra cost of regularly transferring operations is over two-hundred million euros per year. In addition, Parliament is

required to meet twelve times per year in Strasbourg regardless of whether or not so many meetings are really necessary.

The most important change in the balance of power between small and large countries is the new method for voting in the Council of Ministers. In the future, proposed legislation is to be voted on twice. In the first vote must 55% of the Member States vote in favour of the bill. In the second vote, countries whose populations represent at least 65% of the total population are required to support the bill in order for it to pass. At least four countries, together representing 35% of the EU's population, are required to stop a bill from passing. This means that three large countries, with the help of a fourth country, can stop all legislation to which they are opposed. In practice, the large countries are given a veto over the small ones. The new system for voting in the Council is to be implemented in stages, achieving full implementation in 2017.

Compared to large states in the U.S., the EU Member States with large populations have great influence. The U.S. Congress has two chambers, the Senate and the House of Representatives. In one chamber, each state has two senators and, in the other, states are represented in proportion to their population. In the EU the large states dominate both the Council of Ministers and Parliament. With respect to the Commission the changes are smaller. Each country has its one commissioner until 2014. Thereafter, the Commission will consist of commissioners from 2/3 of the counties. The Commission has been heavily criticized for a lack of democracy, but no democratic reform is contemplated in the treaty. In addition to proposing laws, the Commission participates in deciding on the details of the laws. The Commission also has a supervisory roll and can issue judgements in matters of competition.

The Lisbon treaty also includes the possibility of "flexible integration". This means that a smaller number of countries can go further than the rest in a given policy area. In practice, this means that a more federalist core can press ahead with developments even when they are unable to get enough of the other countries to agree with them as is otherwise called for. Rules for how and when this may occur are specified in the Lisbon Treaty.

How the EU State Will Be Built

Is the EU its way to becoming a state, a United States of Europe? In the Lisbon Treaty this development is clearly evident. Supranationalism is greatly increased and EU law is given precedence over national law. The EU is also given the ability to pass laws and control policy in more areas. Of special note is the increase in the Union's power in judicial affairs. Criminal law becomes supranational and the EU can begin to set minimum sentences for a variety of crimes.

Even the Union's influence over civil law increases, although the right of veto remains in the areas of family law and police matters. The Court of Justice of the European Communities is given authority to rule in judicial matters, something that can have major consequences for judicial praxis in national courts. Eurojust, the EU network of public prosecutors, is given the ability to initiate criminal investigations. It is also made clear that Eurojust is the basis for a future joint public prosecutor's office. Rules for asylum are to be made more uniform and the Union is to develop a common system for border control.

Compared to today, the EU's power will also increase with respect to energy, sports and space policy. These areas are to be added to all of the areas that the EU already decides on. The Lisbon Treaty also increases the Union's power over trade policy to include even matters of intellectual property. These are issues concerning such things as patents and trade marks, some of the most controversial areas of negotiations between the North and the South in organizations such as the WTO. When the EU has more power in these areas that are critical for poor countries' chances for justice and economic development, Member States' room for maneuver decreases. International agreements on the service sector can also mean that Member States can be forced to deregulate and allow competition in areas that today are protected and publicly controlled. The positions taken by the EU in the WTO have often been criticized for being one-sided and favouring the EU and big business. To make it easier for the EU to sign international agreements on behalf of the Member States, the EU becomes a legal entity in the new treaty.

The treaty's requirement of a uniform trade policy prevents more progressive Member States from acting independently within the WTO for fairer global trade regulation. The same is true of EU policy in organizations such as the International Monetary Fund and the World Bank.

From Attac Sweden's response to the Swedish government's memorandum on the EU's new constitution

Developments in the EU in recent years clearly show that the Union is taking over more and more policy areas that can be seen as the core of an independent nation. These include monetary and economic policy, foreign relations and defence policy, border controls and judicial questions. With the new Treaty the EU will have representatives that correspond to those of a state. A special foreign minister for the EU, called the EU High Representative for the Common Foreign and Security Policy, is established. The new foreign minister is to sit in both the Commission and the Council of Ministers. The European Council, composed of the Member States' prime ministers and foreign ministers, is to receive a new chairperson. The Council's chairperson is to serve two-and-a-half years, with the possibility of re-election for a second term. In many of the EU's languages this new chairperson is called President. The EU president's roll is to lead and represent the Union both internally and externally.

An area of particular conflict in the constitutional convention was the question of whether or not Christian heritage should be mentioned in the constitution. In spite of the fact that many right-wing politicians and some Member States wanted it included, no such mention is contained in the Treaty. Instead, Article 15b (formerly I 52) specifies that the EU is to have a special dialogue with the Church. This is interpreted by many as a formalization of the strong influence that, principally, the Catholic Church has in the EU.

We were very pleased to note what is said in Article I-52 concerning the roll of religious communities in Europe. The reference to dialogue is particularly significant; that it can be open and formalized, instead of merely those informal contacts we have today.

From the Catholic Diocese's response to the Swedish government's memorandum on the EU's new constitution

The Militarization of the EU

The European Union has had a common foreign policy for a number of years, and it is strengthened in the Lisbon Treaty. This is done in part by the creation of the position of Foreign Minister, who is to speak for the EU in the larger world. The foundations are also laid for a Foreign Department at the EU level.

One of the biggest changes in the constitution appears in the area of defense. The EU has had military cooperation for several years. A rapid deployment force of 60,000 soldiers has been established for operations in other parts of the world. The Lisbon Treaty goes considerably further. It states that this process is to lead to the establishment of a joint defence when the Council reaches a unanimous decision on the matter. The EU is to be able to act militarily around the world. There is no clear-cut requirement in the Treaty that deployment of EU military forces to other parts of the world would require a decision by the UN Security Council. Instead, there are a number of more or less vague formulations about acting in accordance with principles of the UN Charter and the important roll of the Security Council in this area. The vague formulations are probably intentional, made so in order to hide disagreements and to give the EU free hands in this area. In practice, it is the EU itself that decides what is considered to fall within UN principles. There is a clear risk for further weakening of the UN if even the EU begins to act more on its own initiative in armed conflicts.

The EU is also made a military alliance. If a Member State is attacked, the others are to defend it by all available means. This article means, in practice, the end of Sweden refraining from military alliances, if the Lisbon Treaty is adopted. In order to make the formulation more palatable, a sentence has been added stating that the Member States' different traditions in this area are to be respected. But the obligation to defend each other remains; the sentence simply makes it clear that some EU countries are in NATO while others are not. However, the passage does not mean that Sweden would be obliged to send troops with the EU's forces to other parts of the world without the Swedish Parliament's approval.

In practice, the EU's military will be dependent on NATO. The majority of EU Member States are also members of NATO. The EU's military needs access to NATO's resources for larger operations and it is made clear in the Lisbon Treaty that the EU's military policy must be compatible with NATO's.

The Lisbon Treaty states that the EU's military forces are to be expanded. The member states has to, step by step, improve their military capacity. In all likelihood, it is an entirely unique case of obligatory military expansion being written into a constitution. The establishment of an EU agency for armaments, research and military resources is specified in the Treaty.

In the chapter on defense it is also stated that a core of Member States can go ahead on their own with the founding of joint EU forces.

The Swedish Peace and Arbitration Society feels that the proposal for a new constitution means that the EU will become a defence alliance with mutual defence guarantees similar to those of NATO. This will entail far-reaching consequences for Swedish security and defence policies, in as much as our policy of refraining from military alliances will, in practice, cease to exist.

The Swedish Peace and Arbitration Society considers the proposal for defence measures to be completely unacceptable. It is unreasonable for the EU constitution to require Member States to improve their military capacities.

*The Swedish Peace and Arbitration Society's
response to the Swedish government's memorandum
on the EU's new constitution*

A More Democratic EU?

One of the goals of the rejected constitution was to compile the EU treaties into a single document that would be clear and easier to read than earlier treaties. This ambition has been completely abandoned in the Lisbon Treaty. The text consists of a series of detailed changes in earlier treaties. In addition there are protocols and provisions. For those lacking a great deal of patience and access to the EU's earlier treaty texts the Lisbon Treaty is virtually unreadable. The attempt to combine all of the EU's treaty texts into a single document has also failed. The EURATOM Treaty is applicable as one of the Union's founding treaties. One of the primary goals of this old and antiquated EURATOM Treaty is to favour the use of nuclear power. A very large portion of the EU's appropriation for energy research goes to nuclear energy.

Neither can it be said that power-sharing between the EU and its Member States is made clearer by the new text. Just as has been the case previously, areas are divided between those where the EU decides the policy completely (i.e. has complete authority) and those where legislative authority is shared between the EU and its Member States. The "shared authority" means that Member States may decide aspects of policy that are left over after the EU has laid down its policy. In other areas the EU lacks the right to harmonize laws in the Member States. Here, cooperation is called supportive, co-ordination or complementary steps/actions. With respect to economic policy and employment there are special rules about how decisions are to be made.

In a very few areas, it is expressly stated that the EU does not have the right to interfere in national policy, but this is only the case with respect to property rights and religious issues.

There is also a special article in the Treaty that allows the EU to make decisions in areas that, in reality, it shouldn't be able to, as long as the Member States are in agreement. This article has been in use for some time and has been used regularly to expand the EU's power into new areas. Previously, it applied only to matters concerning the internal market but now it is applied in all areas. The new "pasarell" has now been added, allowing an even more supranational EU by discarding the right of veto without having to formally

change the constitution. On the whole, there is no clear power-sharing between the EU and its Member States in the Lisbon Treaty. Instead, the EU is given more power, and the ability to increase its power in more areas in the future. It is a treaty created to successively transfer more decision-making power to the EU. Considering how deficient democracy is in the EU compared to in the Member States, a transfer of power to the EU is in itself a reduction in democracy's scope.

The Lisbon Treaty makes a number of other changes that are intended to make the EU more democratic. If someone succeeds in collecting a million signatures for a particular legislative initiative, they can be turned over to the Commission. The Commission must then consider whether or not to submit a bill proposing such a law. But they are under no obligation to submit a bill. And, of course, the proposal must also be in line with the provisions of the Treaty for the Commission to submit a bill. If, for example, a million names were collected for an initiative asking the EU to institute a tax on currency speculation, what is known as a Tobin tax, it would in all likelihood be immediately dismissed as incompatible with the Treaty's provisions on the free movement of capital.

The Commission's proposals for new laws are to be sent to the national parliaments. These are then to review the proposals to see if they go too far and should not be submitted as a bill. If at least half of the parliaments object to the proposal within eight weeks, it may be withdrawn. But the Commission can choose to submit the bill even if a majority of the national parliaments are opposed. In the past, when the EU Commission has had a controversial proposal rebuffed by the EU Parliament (for example the deregulation of ports or patents on life), the Commission has chosen to submit a similar proposal again after a year or so.

The right of an individual country to leave the EU has been written into an EU treaty for the first time. If a country applies for withdrawal, an agreement must be concluded with the EU as to the conditions for continued cooperation after the country has left the Union. The Council of Ministers votes with a qualified majority on the agreement and its conditions. It has always been possible, in practice, for a country to leave the EU. Greenland, for example, withdrew from the EU in the beginning of the 80s. But the proposed Treaty makes it clearer what happens if countries wish to leave the Union. There is also a mechanism for expelling a country if it is considered to have violated fundamental democratic rights.

Perhaps the biggest positive change found in the Treaty is the provision

that the Council of Ministers meetings must be public when they pass laws. Previously the Council has passed laws behind closed doors. The Treaty would divide the Council meetings into two parts: a public part where all legislative decisions are to be handled, and a closed part where other discussions are held. Even today the Council can choose to have open meetings, but according to the Treaty it is made obligatory when laws are being passed. One problem in this context is that negotiations have generally already been concluded when laws come to the Council. In practice, compromises between countries occur in the different committees and in a preparatory organ called COREPER which includes the Member States' EU Ambassadors. COREPER meets entirely in closed sessions; not even members of the Swedish Parliament are allowed to read the government's instructions to Sweden's negotiator in COREPER. The majority of decisions that reach the Council are already completely finalized in COREPER and are routinely approved by the Council. In some other cases, disagreements remain in some of the paragraphs. In these cases the decision to hold open meetings of the Council can play a positive roll for increasing transparency and the possibility of holding lawmakers responsible. But at the same time as work in the Council becomes more open, power is shifted. With the adoption of the Lisbon Treaty, by far the greater part of laws will be passed in codecision with Parliament. Therefor it is a negotiation, a compromise, between the Council and Parliament that in the end determines what the laws look like. This negotiation is not public. So at the same time as the Council's legislative decisions become more open, the majority of the control over the formulation of the laws is shifted to negotiations in closed sessions.

The Lisbon Treaty requires the EU to sign the Council of Europe Convention on the Protection of Human Rights. The Council of Europe Convention has been signed by more than 50 countries and there is a special court in Strasbourg that individuals can turn to if their rights have been violated. In the future, even EU institutions will have to abide by the convention. Additionally an EU statute of rights has been drawn up. It is based to a large degree on the Council of Europe Convention, but the statute applies only to the EU's decisions and institutions. It is given legal status in the Lisbon Treaty. At the same time the Treaty emphasizes that the statute does not establish any new rights in the Member States.

A Neoliberal EU

The EU's treaties state that the free market takes precedence over other concerns. This is true for the free movement of goods, capital, services and labour. This has major consequences in a number of areas. A Member State finds it very difficult to implement or keep better laws if they are considered to be an obstacle to the free movement of goods. This, in turn, clearly limits laws that are intended to improve the environment or consumer protection or to limit the importation of alcohol. This is particularly serious because countries are then actively prohibited from leading the way and showing that it is possible to implement better laws in, for example, the environmental area. Before its membership in the EU, Sweden was among the first countries in Europe to require catalytic converters on automobiles and to outlaw the use of freon (CFC), which damages the ozone layer. This would not have been possible as a member of the EU. A state in the U.S. has greater freedom to take the lead in environmental questions than a Member State in the EU has. In the EU a company's right to sell goods is more important than environmental or consumer protection. The EU's internal market is considered so crucial that there is even a special article, article 297, that states that the internal market must be upheld even when the countries are at war.

The EU advocates a policy of deregulation and privatization so that the internal market will function as the leadership wants it to. An internal market with free competition is an explicit goal in the Treaty. This means that the EU assails public monopolies and demands the deregulation of sectors such as the postal system, ports, railways and telecommunications. The EU has questioned Swedish monopolies in pharmacies, gambling and sales and importation of alcohol, based on the current treaty's text. With respect to the service sector, there are several explicit demands for deregulation included in EU treaties. The EU's Services Directive, which many trade unions feel threatens union rights, has a solid foundation in the proposed Lisbon Treaty.

Even the free movement of capital is protected in the Treaty text. Capital speculation may not be limited, either between EU Member States or between the EU and other parts of the world. This means that the Commission op-

poses an international tax on currency transactions, known as a Tobin tax, to rectify harmful currency speculation.

The Lisbon Treaty will be an instrument for those who wish to pursue a neoliberal policy, in which corporate rights are paramount and deregulation and privatization are hastened. Even with respect to economic policy, the treaties lean sharply to the right. The rules for economic policy and the single currency have a pre-eminent goal: stable prices. This means that other goals, such as social welfare and employment always take a back seat. This EMU policy is not reformed in the Lisbon Treaty in spite of the serious economic and social problems that have been made worse by the one-sided economic policy of the EU. Neither does the Lisbon Treaty institute any democratic control over monetary policy. To fulfill the single currency's requirements, the EU virtually always demands that Member States cut their public spending.

On the whole, the Lisbon Treaty limits the possibilities to pursue a progressive policy in several crucial areas. With respect to equality, employment or the environment there are only very small or no improvements included in the text. The goal of full employment is added to the treaty's paragraph on goals, but in the chapter on employment the goal is then reduced to high employment. The Charter of Rights talks of the right to seek work, not the right to work. In practice, nothing is changed in the economic policy followed, which is so problematic in increasing employment.

– SNF greatly regrets the lack of progress and improvements with respect to the actual integration of environmental issues with other political concerns. SNF is particularly critical of the fact that several of the present treaty's outdated rules regarding agricultural, fishing and transportation policies remain in the new constitution. SNF believes that specific goals must be developed within these areas before the proposal can be ratified, and that it is urgent that environmental goals be made clearer within these political areas. SNF is positive, for example, to the fact that environmental goals receive a prominent place in the chapter on energy goals. Similar prominence should be given even in other political areas.

– SNF believes that the retention of EURATOM in the new constitution is entirely unsatisfactory. SNF stresses that the EURATOM Treaty is completely antiquated and believes that EURATOM should be

abolished. Nuclear power should not benefit from positive discrimination in the EU.

From the Swedish Society for Nature Conservation's response to the Swedish government's memorandum on the EU's new constitution.

For many right-wing politicians, part of the attraction to the EU is that the Union locks us into more neoliberal policies. But from a democratic point of view it is unacceptable that policy's content is inscribed in a constitution so that it cannot later be changed by the voters.

Two countries, Great Britain and Denmark, have special waivers from the EMU and euro written into special protocols attached to the constitution. The Swedish government has not even attempted to negotiate such a waiver, in spite of the fact that Swedish voters rejected the EMU in 2003. Together with the new members of the EU, Sweden is seen as a country with a waiver of the euro in the constitution. But, in contrast to the cases of Denmark and Great Britain, the EU can annul the waiver if it is considered that Sweden or one of the other countries fulfills the requirements for adopting the euro. The decision is made by a qualified majority in the Council. Therefore it is clear that the Lisbon Treaty does not respect the results of the Swedish referendum on joining the EMU. As it stands, the EU does not consider that Sweden fulfills the requirements for the single currency because we have not tied the Swedish crown's exchange rate to the euro via the ERM, the EU's system of exchange rates. The EU also conveys a number of points of view on Sweden's monetary policy every year, in which it details what should be changed in order for us to abolish our currency and introduce the euro: it admonishes Sweden to make the Swedish central bank more independent; it considers the transparency of the central bank to be too great; and it requires Sweden to recognize the ECB's (the EU's central bank's) right to issue money and determine monetary policy.

A particular economic policy should not be inserted in a treaty that has the pretension of being a constitution. Policy is something that voters should be able to vote on in democratic elections – and change through new elections.

From Attac Sweden's response to the Swedish government's memorandum on the EU's new constitution

Seven Myths About the Lisbon Treaty

In this section some of the most common arguments in favour of the Lisbon Treaty are analyzed and challenged.

1) The national parliaments' power is increased in the new treaty.

The national parliaments are the big losers in the new treaty. The EU's power is extended to additional areas and the Union's supranationalism increases. All of this is at the expense of influence for the parliaments in the national democracies. It is the governments, not the national parliaments, who are represented in the Council of Ministers. The Lisbon Treaty introduces the possibility for the national parliaments, during a period of eight weeks, to voice their opposition to new legislative proposals submitted by the European Commission. But even if a majority of the national parliaments oppose a proposal, the Commission can ignore them and submit the proposal anyway. This rule demonstrates the power of the officials in the Commission over the elected representatives, as opposed to the other way around.

2) The EU is made more open in the new treaty.

With this treaty, more decisions can be made at the EU level. They are transferred from the national parliaments to the EU's considerably more opaque institutions. The Lisbon Treaty does contain a clear improvement in one area. In the future, the Council of Ministers' meetings must be public when the Council legislates. One must keep in mind, however, that the real decisions about the shaping of laws will, even in the future, be made in closed meetings between the countries' ambassadors. The results of these meetings are then confirmed by the Council. Even today the Council can choose to have public meetings; there is nothing in the current treaties to hinder it. Compared with the proposal for a constitution, the passages on openness have been weakened, in as much as they have been removed from the text's first part concerning the Union's democratic life.

3) *The right to strike is guaranteed in the new text.*

It is true that the EU Charter of Fundamental Rights, where the right to strike is included, is made a part of EU law in the Lisbon Treaty. The European Court of Justice has previously taken the charter's content into consideration in several decisions. The rights in the charter have distinct limitations because the charter deals only with the EU's institutions and decisions, not rights in general. The Treaty also makes it clear that the charter does not confer any new rights. This limited protection of the right to strike will, when a case come before the Court, be weighed against passages in the Treaty about, for example, the free movement of goods and services.

4) *The EU is threatened by crisis and catastrophe if the new text is not adopted.*

If the Lisbon Treaty is not adopted, the current Nice Treaty continues to be valid. At the time of the referendums on the EU Constitution, it was said that the EU would be thrown into chaos or be paralysed if the constitution were to not be adopted. This has not happened. Two additional countries have even joined the EU since.

A rejection of the Lisbon Treaty could open the way to a truly democratic process and better European cooperation. Even at the time of the Swedish referendum on the EMU in 2003, it was threatened that Sweden would be cast into economic ruin and political marginalization in the event of a negative result. Even this was shown to be wrong.

5) *The EU will be more efficient with the new treaty.*

It is true that it will be easier for the EU to pass more laws in more areas with the adoption of the new treaty. The possibility of ignoring individual Member States with differing opinions is significantly increased. But that doesn't necessarily mean that the EU as such will become more efficient. An example of this is the agricultural area, where the EU has had a common supranational policy for a long time. The effect has been an agricultural policy that is unfair, bureaucratic and very costly. The Lisbon Treaty gives the European Parliament co-decision rights with respect to agricultural policy. Parliament's majority consistently votes in favour of increasing support for agriculture and for complicated, detailed regulation and protectionist measures against imports from other countries. Giving Parliament more power in this area will hardly make the EU more efficient. It is also a mistake to believe that joint decision-making and central control are always efficient. Different solutions adapted to different local or national conditions can often be more efficient.

6) *The task of fighting the greenhouse effect demands that the treaty be changed.*

A passage on the special significance of climate change has been added to the Treaty's chapter on the environment. But no new authority to make decisions in this area has been introduced in the Treaty. At the same time, the EU's agricultural, transportation and trade policies create new emissions of greenhouse gases. This fundamental conflict has not been addressed in the Treaty. On the whole, no improvements of any importance have been made in the Lisbon Treaty in the area of environmental protection.

7) *The new treaty makes the struggle against crime and terrorism more effective.*

There is already extensive international cooperation, within and outside the EU, to fight different forms of international crime. Despite the fact that decisions within the EU in this area currently have to be unanimous, a very large number of decisions have been made. In the case of fighting terrorism, so many different rules and directives have been drawn up that the system has been criticized for being difficult to grasp. The new treaty primarily lays the groundwork for a joint supranational policy in these matters, not cooperation between justice systems and police in different countries.

The EU's common agricultural policy has remained largely unchanged since the 1950s. Over the years, the goal of increasing productivity in agriculture (art. III-227.1a) has led primarily to increased large-scale farming and the use of chemical pesticides. Additionally, the agricultural policy has led to surpluses and dumping, and to skewed competition on the world market, which has first and foremost had an adverse effect on the small farmers of the developing world.

From Friends of the Earth Sweden's response to the Swedish governments memorandum on the EU's new constitution

Why a Referendum?

If the EU were to respect its own rules for decision-making, the proposal for a constitution would have been dropped. Voters in both France and the Netherlands rejected it. Now the leadership of the EU is trying to force through an almost identical proposal with as few referendums as possible. As of the writing of this document, Ireland is the only country that has decided to hold a referendum on the Lisbon Treaty. But it is possible that referendums will be held in other countries as well. Opinion polls suggest overwhelmingly that voters in the EU want to hold referendums on the Lisbon Treaty.

The reason that the people should be consulted is crystal clear: the Treaty entails major changes in today's EU and a significant transfer of power from the Member States. A vote in favour of the Lisbon Treaty cannot be taken back once the treaty has been approved and is in force. Referendums are accompanied by intense popular debate on the EU's future. That is precisely what the EU needs. It means that the those in power have to meet the voters in open discussions. If many countries hold referendums it can develop into a debate over large parts of the EU, with an exchange of arguments, thoughts and ideas. It is in and of itself something positive and desirable.

Even in Sweden there is a strong demand for a referendum. More than 120,000 names have been collected in support of the call for a referendum. The referendum on joining the EMU in 2003 showed that the political elite are considerably more EU-friendly than the majority of the population. If one wants to hear the voice of the people, then a referendum is the natural choice. The Swedish constitution says that power resides in the people. It is therefore also correct to ask for the voters consent before the right to self-determination is largely handed over to the EU. A decision made in a referendum has an entirely different legitimacy among voters than a quick parliamentary decision on such a controversial issue. A "yes" vote in the parliament will by all rights be perceived as the political majority avoiding debate, neither wanting nor daring to ask the voters for their opinion. This risks increasing contempt for politicians and mistrust of Sweden's EU policies.

It is therefore important that the Council of Legislation, which according to the constitution shall review the proposed law in light of our constitutional guarantees, comment on the proposed law and then decide if it can be adopted without changes in the constitution, something which does not appear entirely obvious.

From the Swedish Supreme Court's response to the Swedish governments memorandum on the EU's new constitution.

The referendum on the EMU demonstrated the strength of Swedish democracy. The debate was intensive and voter turnout was high, higher than in the parliamentary election. In spite of the fact that the “yes” side had nearly ten times as much money, the government’s resources and the majority of editors on their side, the “no” side won. The referendum showed that the voters are willing and able to take a stand on questions crucial to the future of the EU. In addition, many judicial experts maintain that the Lisbon Treaty is not compatible with the Swedish constitution. This is yet another argument for a referendum. If a change in the constitution is required, the decision is normally made twice with a parliamentary election between the votes. This gives voters a greater chance of influencing the decision and increases the odds of a referendum.

Sometimes it is asserted that the Lisbon Treaty is too complicated to be voted on in a referendum, but this is underestimating the voters. One doesn’t have to fully understand all of the details to be able to take a position. The main points of the Treaty are clear issues that most people have, or can form, an opinion on. The EMU question was hardly much less complicated than that of the Lisbon Treaty.

The parties in favor of the Treaty want the Swedish Parliament to decide the issue. Therefore, the Social Democrats and the right-wing parties have made a deal to make the decision in the parliament. These same parties were completely unwilling to discuss the proposal in the run-up to the 2006 parliamentary election. They gave no answer to the question of how the issue should be handled in the term of office to follow. If the Swedish Parliament votes on the Lisbon Treaty in this term of office, the voters, in practice will not have had any possibility of influencing the outcome, either in an election or in a referendum. One really has to suspect that that is precisely what the politicians have in mind. Those who wish to give the EU more power don’t dare ask the voters if they agree.

If Sweden had a Constitutional Court, it would in all likelihood maintain that an explicit approval of the principle of the Union's pre-eminence should be evident in the constitution. With anything less than a paragraph to that effect first being introduced into RF 11, Article 1–6 cannot be ratified. What is said in RF 10:5 has otherwise not been respected.

From the response of Sverker Gustavsson, Professor of Political Science, Uppsala University, to the Swedish government's memorandum on the EU's new constitution

For a referendum to be reasonably fair, those on either side of the issue must reach an agreement on the rules of the game. In the case of the EMU, those in favour of joining decided both the wording of the question on the ballot and when the referendum was to be held. It seems reasonable that there should be at least a year between the time that the decision to hold a referendum is made and when the referendum is actually held. Then there would be time for education and debate. Information provided by the government must be neutral and formulated in a way that can be accepted by both sides. Both sides must receive reasonable resources and give an accounting of all of the contributions their campaign receives from different sources. The parties must commit in advance to respecting the outcome of the referendum.

What Happens in the Event of a “No?”

Popular opposition to the Lisbon Treaty is strong in several countries. Formally, the Treaty fails to pass if even one country says no. But when this has happened before, in Denmark and Ireland, the countries were, instead, allowed to vote again. Before the second vote, they received certain waivers or clarifications in order to convince them to vote in favour. Combined with strong pressure being applied, this resulted in passage of the measure in the second referendum. But if several countries reject it, or the people of one of the large countries vote against it, the chances of the proposed Lisbon Treaty surviving are virtually nil.

After the referendums in France and the Netherlands, there is yet another reason for rejecting the proposal and for not allowing a decision to be made without a referendum: rejecting the proposal is a question of respecting the democratic choice made by the voters in these two countries. The alternative is to accept that the democratic rules of the game in the EU only apply when the result is the one that the those in power hoped for. If we ignore the right of the French and the Dutch to reject an EU constitution, we can hardly expect others to respect our decision when the day comes that we hold a similar referendum.

As long as the Lisbon Treaty has not been approved, today's Nice Treaty continues to be valid. Even if that treaty is not as bad as the Lisbon Treaty, it has obvious faults. For this reason, it is likely that a whole new re-negotiation of its text will be necessary if the Lisbon Treaty fails to pass. This of course would be the best alternative. It would create a real possibility of changing the EU and moving it in a different direction, toward a more democratic Union, one that is less centralized and dominated by a market economy.

For the “no” side it is important to discuss alternatives to the EU's current direction. The most important part of the alternative must be that power should not be turned over to the EU as is now being suggested. When power remains with, or is returned to, the Member States, the democratic freedom of choice to pursue different policies is preserved. Therefore, there are more alternatives and greater freedom of choice with a “no” vote.

But this does not suffice. It is also important to point out how the EU can be changed for the better by additional changes in the treaty.

What, then, would reforms of the EU that would enjoy popular support look like? The following twelve proposals for changes in the EU treaty would lead the EU in another direction and address the criticisms. The purpose of the proposals is to democratize the EU, to create a treaty that does not, in and of itself, force a particular political direction on the countries; reforms that make it easier to fight social problems in the EU, and changes that would mean that the EU would play a more positive roll in global cooperation.

To democratize the EU, power must be demarcated and controlled by the national democracies. If the ultimate power over EU policy lies with the national parliaments, what is done in the EU can have truly democratic support and become part of the national political debate.

1) The national parliaments power must be increased and the European Commission's power cut back. The right to propose new laws in the EU should, in the future, rest with the elected members of the national parliaments, not the bureaucrats in the Commission. The Commissioners should be appointed, and be subject to dismissal, by the national parliaments. In this way power over the EU would be rooted in the national democracies.

2) All legislative processes must be public so that the national parliaments, and thereby the voters, can hold those who legislate responsible and give them a clear mandate. This means that meetings where laws are written or passed must be public, including both the Council of the European Union's meetings and those of the Member States' ambassadors, COREPER. A national government should be able to vote for a proposal only if it has support for it in its own parliament.

3) The EU's power must be demarcated and the authority of Member States be protected so that power-sharing with the EU is made clear. This requires that the "pasarell" and the flexibility clause in the Lisbon Treaty be scrapped for good. These give the EU the ability to expand its areas of authority on its own, without changing the Treaty by consulting the national parliaments. These right-wing policies must be re-examined. Decisions in the EU should be made by the popular majority, not by neoliberal policy that is inscribed in the treaty. Only if the EU treaty is made politically neutral can it be accepted by those of different political views.

4) All formulations that require deregulation and free markets to be a pre-eminent goal should be stricken from the treaty so that it is politically neutral.

5) All rules concerning the environment, consumer protection and alcohol policies must be rules pertaining to minimums. The internal market may not pose an obstacle to countries having a more ambitious policy, even if that policy limits the import of certain goods. Countries shall always have the right to implement a more progressive policy, but not one with lower ambitions. In this way countries within the EU can be leaders in the area of the environment by having more stringent requirements and developing new technology.

6) The treaty should include a provision stating that the free movement of labour must be accomplished with full respect for national laws and collective agreements which exist to protect workers and their social rights. In this way we can have a common open labour market without risk for workers being exploited by poorer working conditions, or wage-earners' rights being undermined. The monetary union must be reformed, as EMU policies have been shown to be an obstacle to the improvement of social welfare and employment.

7) Full employment and social welfare must be made pre-eminent goals for coordination of economic policy in the EU. These goals must be of at least as important as the goal of controlling inflation, when the central bank makes decisions regarding monetary policy. In this manner, monetary policy can be part of a complete policy for economic development and increased employment.

8) Democratic control of the ECB, the EU's central bank, should be instituted. It is unreasonable that so powerful an institution cannot be influenced by representatives elected by the people.

9) The monetary union is creaking at the joints. A regulated right for countries that have adopted the euro to revert to their national currency in an orderly manner should be adopted. If this cannot be done, the great differences and tensions inherent in the system risk leading to serious crises.

10) The militarization of the EU must be stopped. The plans for a joint army, mutual defence pact and obligatory rearmament that characterizes the Treaty must be scrapped. Instead, explicit respect for the UN's decisions should be the guiding principle. In this way, the EU can strengthen global cooperation for peace and disarmament.

11) The Member States and their parliaments must have stronger democratic control of the EU's actions with regard to trade policy. Global justice and development in the poorest countries should be explicit goals for EU trade policy. Today it is directed by the European Commission under the strong influence of big business, whose narrow interests are often allowed to determine the Union's position.

12) The goals for the EU's agricultural and fisheries policy must be rewritten so that the environment and fair global trade are prioritized. All export subsidies must be abolished, as they currently demolish the possibilities for developing agriculture in many developing countries. Financing and the shaping of policy, for all matters of significance, can be returned to the hands of the Member States. In this manner major savings can be realized at the same time as space for national democracy and national options can grow. On the EU level, rules for agriculture that see to it that trade is not distorted and that good environmental requirements are followed are all that is needed.

An EU that was reformed in this way would fundamentally change direction. It would be a more democratic and less centralized Union. The power of the bureaucrats would be decreased while openness and the power of popularly-elected representatives would increase. The treaty would be politically neutral and give the popular majority the possibility of determining the Union's political direction. It would be an EU that within its own countries, but even globally, could do considerably more for social justice and a better environment. It would be something entirely different from the centralized and democratically defective state based on a neoliberal foundation that the Lisbon Treaty is a step towards.



FOTO: EUROPARLAMENTET

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