

THE BIG EU CON TRICK

Why trade unionists should
demand a referendum on the
EU's Renamed Constitution


TUA EUC

Trade Unionists Against the EU Constitution

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After the rejection of the EU Constitution in 2005, the EU is now attempting to introduce virtually the same document under the guise of the so-called 'Reform Treaty'.

In this pamphlet TUA EUC explains why trade unionists should oppose it.



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FOREWORD

As a trade unionist you will no doubt have witnessed some pretty low-down tricks and even deceit when negotiating with management on any given issue.

It may not surprise you then to learn that despite the rejection of the EU Constitution by French and Dutch voters two years ago, the EU has presented us with the same animal under a different name.

Under its terms, member states would hand over significant governmental powers to unelected EU institutions. It would give Brussels the power to privatise any industry, force public services to be put out to 'competition', extend the unelected European Commission's exclusive right to draw up new laws and commit EU member states to joining the Euro.

It represents a new and significant threat to workers' rights to collective bargaining in the interests of creating a 'single internal market' without giving us the right to strike. It would further militarise the EU and give the EU the right to extend its own police force, whose officers enjoy immunity from prosecution.

All these measures and more are still in the 'new' treaty despite what some well-heeled politicians may tell you. In other words, it is the same treaty that TUC Congress delegates voted overwhelmingly to oppose in 2005.

So remember, if it quacks like a duck and waddles like a duck, then it is a duck.

BOB CROW

RMT General Secretary, TUA/EUC Chair



NEW TREATY AT A GLANCE

The list below gives the identical items in the original EU Constitution and those in the renamed EU Constitution, the so-called 'Reform Treaty'. Significant differences are given in brackets.

- EU given single legal personality so that it can act like a state and we are all made real citizens of this EU state
- Self-amending treaty that will then require no further treaties or referendums
- EU President
- EU Foreign Minister (now renamed as 'High Representative')
- Majority Voting in Foreign Policy
- An EU Diplomatic Service
- Sweeping powers of European Court of Justice over justice and home affairs
- An EU Public Prosecutor
- European Parliament elects EU Commission President
- End of one Commissioner for each member state
- Cut in Britain's voting power to block EU legislation by 30% (now delayed to 2014)
- Meaningless protocol on national parliaments to save face over loss of sovereign powers
- Division of competences giving EU more power
- Removal of safeguards on 'enhanced cooperation'
- European Parliament given veto in 50 new policy areas
- Charter of Fundamental Rights made legally binding with face-saving fudge to appease right-wing business interests that prevents it changing UK law



Public services, social security and the economy

- New powers over public health to the EU
- New powers over public services to the EU
- Increased powers for EU over social policy and coordination of social security
- New powers over economic coordination to the EU
- End of veto on employment law for self-employed workers
- New powers over trade policy and investment to the EU
- End of veto over Central Bank's powers of financial regulation
- Formalisation of eurogroup (Finance Ministers from single currency member states) and increase in its powers

Home affairs

- New powers to harmonise civil and criminal laws and legal procedures
- Powers to the EU to define criminal offences and set minimum sentences
- Increase in power for Europol(ice)
- Enabling Eurojust(ice) to launch criminal investigations of EU citizens
- New powers for ECJ over asylum and immigration
- End of veto on legal migration
- Legal basis for a single EU asylum and immigration system

Foreign policy and military changes

- Commitment to "the progressive framing of a common defence policy"
- "Structured cooperation" sub-group in military affairs
- New mutual 'defence' commitment

Member states veto abolished in following areas

- Transport
- Energy
- Space policy
- Science policy
- Sport
- Yearly budget



INTRODUCTION

In May 2005 French and Dutch voters, led primarily by trade unions, rejected the proposed EU Constitution, and the UK referendum we were promised by our government on it was shelved.

EU leaders declared a 'time for reflection' in order to decide how to continue the process of imposing a supranational state Constitution on the diverse peoples of Europe.

Their answer was to establish an 'exclusive mandate' in June 2007, which is designed to keep all the features of the old constitution. The bigger states like Germany and Britain pressurised the weaker EU states to accept this strategy as a fait accompli.

The Czech delegation regarded the summit as "a fiasco". A member of the Czech delegation stated that "*without a partner from one of the larger states, we were powerless*".

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A 'new' version of the Constitution, now blessed with the more harmless-sounding tag 'Reform Treaty', was unveiled a month later by an intergovernmental conference (IGC) set to conclude by October 18 2007.

However, the process of imposing an 'exclusive mandate' on states negotiating with one another is illegal under laws governing international treaties. Under the Vienna Convention that governs international law and treaties, it is the fundamental right of sovereign states to negotiate any handing over of powers.

In the past with all EU treaties, from Rome to Nice, the IGC has preceded the tabling of a draft treaty where unanimity and ratification by all member states was required.



In the case of the “exclusive mandate” these principles have been set aside by the European Council – an informal group of EU heads of government.

At the supposedly sovereign IGC, governments will only be allowed to discuss the treaty which the European Council wants. So sovereign governments are now acting under orders from the European Council, an EU body.

Before any further moves are taken to rubberstamp this Renamed EU Constitution, we believe the peoples of Britain should have a say on the matter by casting their votes in the referendum the government promised us two years ago.



THE RENAMED EU CONSTITUTION IS THE SAME AS THE ORIGINAL CONSTITUTION

The Renamed Treaty and the original Constitutional Treaty are quite different documents to read.

The original Constitution stood as a document in its own right which replaced all the existing European treaties.

The Renamed Constitutional Treaty consists of a huge number of amendments to the existing treaties, with the word 'constitution' dropped from its title and text, although the substance of the original constitution is all there.

The Renamed Treaty has lots of this kind of thing: *"An Article 40 shall be inserted, with the wording of Article 52; it shall be amended as follows: (a) the following Article heading shall be inserted: 'Ratification and entry into force'; (b) in paragraph 1 the words..."* etc.

The original Constitutional Treaty was much clearer in its stated intention of creating a new legal and political entity, effectively a single state capable of acting on its own and making its own laws.

The insertion of hard-to-follow amendments is a deliberate ploy designed to confuse and bamboozle citizens and politicians.

Former Italian Prime Minister Giuliano Amato, one of the EU Constitution's authors, openly admits that EU leaders had *"decided that the document should be unreadable"*, explaining that this would allow Gordon Brown to present the text to Parliament and say *"Look, you see, it's absolutely unreadable, it's the typical Brussels treaty, nothing new, no need for a referendum"*.

The chief architect of the Constitution, former right-wing French president Valéry Giscard d'Estaing, also says: *"All the earlier proposals will be in the new text, but will be hidden and disguised in some way."*

He says that *"what was difficult to understand will be from now on impossible to understand, but the substance will have been preserved"*.



He admits that the new document would be “*very, very near to the original*” EU Constitution.

He said that although the British, Dutch and French insisted on the elimination of all reference to the actual word ‘constitution’, the new treaty “*still contains all the key elements*” of the original text.

An assessment of the renamed EU Constitution by the so-called Amato group – led by Giuliano Amato, who was one of the key people who drew up the original Constitution, and the former European Commissioner Lord Patten – judged that “*the proposed new treaty and supplementary protocols take over almost all the innovations contained in the constitutional treaty.*”

“*They only leave aside the symbolic changes which were introduced by the constitutional treaty – such as the title of the treaty or the symbols of the union*”.

“It’s essentially the same proposal as the old Constitution”

MARGOT WALLSTROM
EU Commissioner

While European Communications Commissioner Margot Wallstrom admits: “*It’s essentially the same proposal as the old Constitution*”.

The Czech President Vaclav Klaus also says that “*only cosmetic changes have been made and the basic document remains the same*”.

Spanish Foreign Minister Miguel Angel Moratinos says: “*I believe that 98 per cent of the content, of what we consider the substance of the Constitutional Treaty, is to be found in the future EU Treaty.*”

“*The wrapping has been changed, but not the content*” and “*legal primacy has been saved with a declaration*”.

Opt-outs

The other ploy the government is using to try to avoid a referendum is to claim that the new treaty contains a gaggle of opt-outs, opt-ins, emergency brakes and other “safeguards”.

However, most of these supposed changes are not new and were in the



original version of the Constitution - on which the government promised a referendum.

Britain's Europe Minister Jim Murphy claims that *"the reform treaty will differ fundamentally from the Constitutional Treaty in its substance.*

However, German Chancellor Angela Merkel says: *"the substance of the Constitution is preserved. That is a fact".*

These so-called "safeguards" are designed to distract from the really big change proposed by the Constitution, which is giving the EU's own European Court of Justice full jurisdiction over justice, policing and other areas of law.

This Constitution is designed to give the EU the constitutional form of a supranational European state. We would all be made real citizens of this for the first time, owing obedience to its laws and loyalty to its authority.

The Renamed Constitution would transfer more powers to the EU and enable Brussels to make law in over 50 new areas of policy.

The unelected Commission would get the exclusive authority to propose EU laws in these new areas. The laws would then be made by the 27-member Council of Ministers, on which Britain has one member who may be overruled on most matters by majority vote.

In other words, an unelected and irremovable oligarchy would make binding laws for over 500 million Europeans, without any democratic mandate to do so, and the Parliament elected by the British people would no longer make those laws.

An EU 'Government'

Labour MP Gisela Stuart was Tony Blair's representative on the Convention which drew up the original Constitution. However, she denounced the Constitution for its lack of democracy when it finally appeared.

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She now warns that the new treaty would incorporate the European Council – the summit meetings of EU heads of government – into EU structures for the first time, imposing a legal obligation on EU leaders to “promote its values, advance its objectives, serve its interests” rather than those of member states.

The European Council was originally set up in 1974 as an informal intergovernmental forum for heads of EU member states to meet. Under the Renamed Constitution it will, in effect, become the “Cabinet” of the new government of Europe.

Stuart argues: *“It used to be that leaders met in order to co-ordinate the interest of the nation states. Under this new structure, that body where heads of state meet will become subordinate to the Union's interests.*

“Under this new structure, that body where heads of state meet will become subordinate to the Union's interests”

GISELA STUART
Labour MP

“They will now have a duty to represent the interests of the Union, not the interests of the member state. It's a consolidation of the way the Union works into a structure which is much more like a government,” she says.

We will all become citizens of the EU state and citizenship of the new EU state would be the higher political and legal authority. EU law would override national law in any case of conflict between the two except, of course, trade union rights which are covered by national laws under the EU Charter of Fundamental Rights. In other words, draconian Tory anti-union laws would still be in place in the UK.

Gisela Stuart also says that the new treaty is essentially the same as the original EU Constitution.

“The main constitutional arrangements, such as giving the union a single legal personality so that it can enter into treaties itself - that's all still there,” she says.

The new treaty would hand the EU its own legal personality and distinct corporate existence for the first time.



This would enable it to sign treaties with other states and to be different from and superior to its member states, just as the United States is different from and superior to California, Kansas. etc.

It would also enable the new EU to have its own foreign minister and diplomatic corps, its own public prosecutor and federal police force and take over all the powers and institutions of the existing European Community.



ATTACKING WORKERS' RIGHTS

The Constitution would hand powers to the EU to implement the Single European Market (SEM) as envisaged under the notorious Services Directive.

The aim of the directive is to introduce 'free-market' competition to all economic services operating within the EU.

It would allow service providers to operate outside the laws of the country where the service is being provided – setting in train a further race to the bottom in terms of pay and conditions.

Companies registered in EU member states with minimal labour standards could undercut pay and conditions secured by workers in other member states.

For instance, a British company could then re-establish itself in a poorer member state and return to operate in Britain to implement lower standards.

Under the Constitution, any interpretation of these rules will be carried out by the EU's own European Court of Justice (ECJ). The ECJ is itself an EU institution which is required to promote EU goals such as an 'ever closer union'.

In an example of what this would mean, the European Commission has attacked Scandinavian collective wage agreements following a court case over a Latvian firm, Laval, operating in the Swedish town of Vaxholm which has refused to abide by such laws.

The Commission openly backs the Latvian firm's social dumping and union-busting activities and claims that Swedish labour laws contravene Article 49 of the EU treaties on 'free movement' of services.

However, Swedish TUC (LO) vice-president Wanja Lundby-Wedin points out that industrial action is, by its very nature, an obstacle to the activities of a company and free movement.

The European Commission has attacked Scandinavian collective wage agreements



"What, until now, have been regarded as fundamental rights of workers in all democratic states would be undermined in the name of free movement," she said.

In a submission to the European Court of Justice, the British government has said that collective action - which includes strike action - is not a fundamental EU right and that rights guaranteeing free movement within the single market are more important.

We have seen the result of this attitude in Britain in the Gate Gourmet case, where British Asian labour was replaced by cheaper East European labour, and in Ireland in the Irish Ferries dispute, which led to Irish crews being replaced by cheaper Latvian and Polish labour.

The EU court has postponed any ruling on the Vaxholm case and a similar case (Viking) because of the sensitive nature of any decision made.

However, a recent Advocate General's 'opinion' deliberately points both ways on the issue to enable the European Court of Justice to be the final arbiter to decide on any further disputes.

The conclusion of the opinion declares: *"Article 43 precludes a coordinated policy of collective action by a trade union and an association of trade unions which, by restricting the right to freedom of establishment, has the effect of partitioning the labour market and impeding the hiring of workers from certain member states in order to protect the jobs of workers in other member states"*.

Just as the 'reformed' services directive will still undermine pay and conditions across the EU, this 'opinion' will be interpreted in order to undermine collective trade union rights. Such union rights obstruct the completion of the free single market, a stated goal of the European Court of Justice and the EU Constitution.

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'Flexicurity'

The European Commission has produced a Green Paper, "*Modernising labour law to meet the challenges of the 21st century*", promoting something called 'flexicurity'.

This concept makes the false promise that if workers embrace "flexibility" then job "security" will follow.

However, the Green Paper argues for an end to protection for workers in a number of ways, including the abolition of "*overtly protective terms and conditions*" in contracts which supposedly "*deter employers from hiring during economic upturns*".

In plain language, this would mean an end to collective workers' rights as we know them.

The paper also contentiously claims that "stringent employment protection tends to reduce the dynamism of the labour market" – i.e. preventing bosses hiring cheap labour.

It suggests that contractor obligations to monitor employment legislation among sub-contractors "*may serve to restrain subcontracting by foreign firms and present an obstacle to the free provision of services in the internal market*" – that means goodbye to minimum standards.

As Amicus General Secretary Derek Simpson told The Times "*The Green Paper hides behind the language of equality to propose measures to force exploitation and insecurity on to every worker in Europe*".

President of the Left group of MEPs in the European Parliament Francis Wurtz also warns that the Commission believes individual workers should have individual contracts and opposes collective trade union rights.

Such a course would allow the development of the single market, unhindered by traditional forms of trade union rights. This is goal reflected in the renamed Constitution.

"The Green Paper hides behind the language of equality to propose measures to force exploitation and insecurity on to every worker in Europe"

DEREK SIMPSON

Amicus General Secretary



Posting of Workers Directive

The legal basis of the EU Posting of Workers Directive is an attempt to remove obstacles to the freedom of firms to provide services abroad - not to provide social protection for workers posted to work abroad by their employers.

The European Court of Justice (ECJ) made its first notable ruling on these matters in March 1990 in a case involving Rush Portuguesa, a Portuguese-owned public works company subcontracted to build a railway line in France, which employed Portuguese workers to carry out the work.

The ECJ ruled that the Portuguese company had the right to carry out the contract using its own workers and that France could force the company to comply with French social and labour legislation.

The European Commission issued Directive 96/71/EC, which was adopted in 1996, which guarantees application of the host country's provisions relating to work periods, minimum paid holidays, minimum rates of pay, the conditions of hiring-out of workers and the supply of workers by temporary employment undertakings.

However, not all workers abroad are 'posted workers'. The directive does not cover those who simply decide to work outside their home country, the self-employed or independent and migrant workers.

The latest developments in the Vaxholm case before the European Court of Justice are leading trade unionists in Sweden to question whether the 'Posting Directive' offers any defence at all against social dumping.

The Latvian firm Laval refused to recognise the collective agreement with the Swedish Building Workers' Union by quoting the Posting of Workers Directive (Article 3.1.C). According to Laval, this implies that member states shall ensure a minimum rate of pay is laid down in national legislation or in a generally applicable collective agreement.

As Sweden had not introduced a statutory minimum wage, the company claimed there was no obligation for an employer to pay the minimum wage collectively bargained for in the building sector.



The company invoked Articles 12 (prohibition of discrimination on the grounds of nationality) and 49 (which stipulates that restrictions on freedom to provide services shall be prohibited in respect of nationals of member states who are established in a state of the Community other than that of the recipient of services) of the EU Treaty.

Cases such as *Vaxholm* imply that countries with well-functioning collective bargaining arrangements could be forced to change these to meet the requirements of EU legislation.

As a result, Sweden would lose the ability to ensure equal treatment for companies and workers from other countries and open up Sweden to a variety of collective agreements from different countries, weakening the labour movement and signalling the end of the Swedish social model.

Employers would, of course, show less interest in signing agreements without trade unions being able to enforce minimum collective standards.

Sweden's TUC (LO) insists that all companies that compete with each other in Sweden should do so on equal terms on the basis of productivity, quality, competence, and not on different wage and employment conditions.

However, when referring to Article 49 of the Treaty (the freedom to provide services), *Laval* argues that the 'country of origin principle' applies and overrides the Posting Directive.

While awaiting the final ECJ judgment, the Latvian government has claimed that posting cheap labour was Latvia's reason for joining the EU and has attacked Sweden and its trade union movement. Under the Constitution the European Court of Justice would have increased powers to implement the single market as laid down by EU rules.



RIGHT TO STRIKE NOT GUARANTEED

Some have lauded Article II-28 of the EU Charter of Fundamental Rights which appears to grant the right to strike. This bogus argument has been used as a means of drumming up support for the Constitution.

However, the operation of anti-union legislation at national level will not be influenced by the Charter. Though Article II-28 states that workers may ‘take collective action to defend their interests, including strike action’ the Explanation in Declaration 12 – which is to govern its interpretation – qualifies this by stating: ‘The limits for the exercise of collective action, including strike action, come under national laws and practices, including the question of whether it may be carried out in parallel in several Member States’.

However, the sting in the tail is something called ‘subsidiarity’. Article II-111(1) directs that “‘the provisions of this Charter are addressed to the institutions, bodies and agencies of the Union (EU) with due regard for the principle of subsidiarity and to the member states only when they are implementing Union law’.

Due regard for the principle of ‘subsidiarity’ is spelled out in ECJ case law. This means that draconian labour legislation already existing in a member state can be preserved under the ‘subsidiarity’ clause.

Furthermore, the Foreign and Commonwealth Office made clear in 2005 that the government had succeeded in its bid to remove any new workers’ rights from the Charter and the Constitution.

“The Charter doesn’t create any new rights. We spent a very long time looking at this, in particular the disputed article. It does not create the right to strike,” a Foreign Office spokesman said.

The EU can also limit trade union rights in order to satisfy objectives of ‘general interest’ of the EU as pointed out in Article II-112.

It’s also a win-win situation for business interests and the big corporations as, in any conflict between workers’ rights and EU rules on free movement, the highly federalist and unaccountable European Court of Justice will make the final ruling.



PRIVATISING EUROPE

Part Three of the Constitution on the internal market, competition and other internal EU policies (such as social policy and monetary union and environment policy) will be transposed into the new treaty intact and without further debate.

However, this is the section, which is most controversial for trade unionists. It gives the EU a permanent neo-liberal orientation and gives Brussels the power to privatise public services, which was the main reason for the No votes in both France and the Netherlands. It was also the section that persuaded British unions to vote against the Constitution at the TUC in 2005.

For instance, Article III-147 of the old Constitution gives the EU powers to enforce privatisation in any area of economic activity: *"A European framework law shall establish the measures in order to achieve the liberalisation of a specific service"*.

That provision remains in the renamed Constitution.

As Dutch left MEP Erik Meijer says: *"The constitution protects freedom for enterprises and free, unrestricted competition"*. What this means in neo-liberal Europe has in recent years become clear.

Basic services in public transport, post, energy and telecommunications are seen as profitable assets to be sold off to the private sector.

The Lisbon Summit of EU Heads of States and Governments in March 2000 accelerated the process of selling of public services to major European corporations. Through compulsory tendering, services that remain in the public sector must compete with others that have been privatised. This means that sooner or later dedicated, welfare-orientated public services will disappear, because they were not designed or intended to operate in competition with profiteers.

The renamed Constitution will formalise political control by EU institutions over the destiny of our public services. As a result of this growing threat, the GMB union has come out in favour of a referendum, while RMT, UNISON, the T&G section of Unite and the Scottish TUC are among the bodies that oppose the treaty.



Big business Europe

The EU Constitution was drawn up by faceless eurocrats under the direction of Valery Giscard d'Estaing, working closely with the EU Employers Federation (UNICE) and the European Round-Table of Industrialists (ERT) to promote the interests of big business.

The neo-liberal diktats written through the body of the text of the Constitution clearly reveal the huge influence of corporate lobbyists over secretive and unaccountable EU institutions. Business-oriented policies promoting the unregulated flow of capital to low-wage economies and attacking the protection of labour standards and trade union rights have undermined national industries and the ability of member states to intervene to save and develop their manufacturing sectors. This is as true in Poland where the EU has earmarked the famous Gdansk shipyards for closure as it is in Ryton, Coventry, or Longbridge, Birmingham.

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EU policies concerning state aid to domestic industries and restrictions on public borrowing for investment (the Maastricht criteria) ensure that no country can produce manufactured goods across a balanced range of industrial products, fuelled by nationalised energy supplies with its own agriculture and domestically-owned public services and utilities.

The EU 'regional strategy' breaks countries into economic zones, supported by toothless EU regional assemblies.

The illusion of democratic regionalism in the EU is mirrored by the reality of increasing EU centralisation. The EU doles out regional grants to particular industries in selected zones as it sees fit, creating a new form of patronage away from elected governments and towards Brussels.

Its aim is to undermine national democratic governments in the interest of building a supranational European state under the political hegemony of Germany and France.



Manufacturing decline

The EU Constitution would contribute to the continued decline in the manufacturing sector we have witnessed in Britain over the last thirty years.

A good example of how EU rules and unaccountable institutions undermine UK manufacturing is the closure of Peugeot's UK plant in Ryton, Coventry in 2006.

The closure of Ryton and the shift of production of the French company's cars to Slovakia was not an 'inevitable' casualty of 'globalisation', as Prime Minister Tony Blair weakly tried to claim, but was a direct result of EU policies.

Problems began for Ryton in 2002 when the UK government agreed a request of state aid from Peugeot– to be approved by Brussels – of around £14 million, so that the company could build its 207 model in Britain.

Inexplicably, the European Commission sat on the request for two years — by which time Peugeot had switched 207 production to France and now to a new factory in Trnava, Slovakia.

An investment in the skills of Coventry's engineering workers of over £190 million was withheld because it took two years for Brussels to approve a state subsidy of just £14 million. As a result, over 2,300 more UK manufacturing jobs have disappeared.

Meanwhile, since 2003, million of euros of EU state aid have been pumped into the new Peugeot/Citroen plant in Slovakia.

In other words, while Brussels sat on the UK request for state aid, it was pouring funds into upgrading the Trnava site and its surrounding infrastructure.

The Slovakian government realising the critical importance of building manufacturing capacity offered Peugeot £73 million in subsidy, free land,

The closure of Ryton and the shift of production of the French company's cars to Slovakia was not an 'inevitable' casualty of 'globalisation'



construction-financing, local infrastructure enhancement, a 10-year "tax holiday" and local labour training subsidies - all approved by Brussels.

A Single Programming deal between the Commission and Slovakia also gave massive EU funding for transport links near the site.

The European Bank for Reconstruction and Development (EBRD) now says that Peugeot cited "proximity of quality transport links as one of the critical factors in picking Trnava".

PSA/Peugeot-Citroen already plans to expand capacity at Trnava to 500,000 cars by 2009.

The *Financial Times* explained: "by 2008 Slovakia will be turning out 1 million cars a year – compared with 1.6 million in Britain this year. The reason is simple. The average gross wage a month for a car worker in Slovakia is £350 – compared with about £2,000 a month for assembly line workers at Ryton."

The impact of the European Union as the regional arm of multinational big business in relocating manufacturing to low wage economies has been much underestimated.

To some trade unionists the EU seemed once to be the solution to our problems, not the cause.

In fact EU policies are driving down the cost of wages by relocating manufacturing to lower wage economies in order to compete in world markets.

Some trade unionists have also fallen for the illusion that UK manufacturing and millions of jobs are somehow dependent on EU inward investment or reciprocal trade. This is simply untrue, as Britain has a large accumulated trade and services deficit with the EU, whereas we have a trade surplus with non-EU countries.

A strong, wealth-creating, industrial plan is also ruled out by current EU policies as the EU focuses industries in particular regions and imposes tough procurement rules. Under these rules any major work, particularly if it involves manufacturing production, has to be put out to tender on the European market, so that effective protection of domestic industries becomes impossible.



All EU Treaties are based on the free movement of labour, capital, goods and services, not on protection of labour rights, regulation of capital, maintaining skilled manufacturing jobs and protecting and expanding public services.

For instance, the trade union movement wants a publicly owned railway network. To achieve this we would not only have to renationalise the network, but also to rebuild and restock the machine tools, plant and skilled labour, which have been lost from UK train manufacturing since privatisation.

Similarly, if we wanted to ensure that we had a merchant fleet again. The ship-building sector would have to be reopened. To achieve this we would need to reopen the coal mines and take back steel into public control.

The EU would be the main obstacle to achieving any of this and would become less likely if Britain signs up to the renamed Constitution.

Privatising Transport

One of the 50 areas in the Renamed Constitution where all vetoes are removed and control is effectively handed to EU institutions is in transport matters.

The EU has long desired a single transport policy controlled by eurocrats and not the member states.

In 1957 the newly-founded European Commission established a plan for a common transport market run on the basis of “free competition” and the “*principles of the market economy*” as written into the Treaty of Rome.

On the basis of this plan, on May 13 1965, the Council of Ministers adopted a decision to harmonise and introduce competition in the transport sector.

A good example of how ‘competition’ is being forced on to the transport sector is Council Directive 91/440/EEC introduced on July 29 1991.

This directive “*requires member states: to grant the rail companies independence from government and introduce commercial management techniques; and to separate the management of infrastructure from transport management*”.



This infamous directive established a historically unprecedented liberalisation model, instituting a dangerous “vertical split” separating rail infrastructure from the operation of rail services. It stipulates:

- operational autonomy for railway operators
- separation of the infrastructure from service operations (as an absolute minimum - although not exclusively - for accounting purposes)
- open access for international undertakings
- introduction of track access charges and a sound financial basis for railway operators


This was exactly the basis for John Major’s Tory privatisation of British Rail in 1996. The Railways Regulation 1992, which began rail privatisation, was introduced under Section 2(2) of the European Communities Act 1972 to comply with directive 91/440/EEC.

However, this EU-sponsored rail ‘liberalisation’ model has proved disastrous in Britain.

Privatisation of rail infrastructure maintenance directly led to the catastrophic deterioration of track, causing the deaths of many passengers and rail workers. Private train operators’ record profits are siphoned directly from public subsidy, there is a perpetual squeeze on rail workers’ pay and ticket fares continue to rocket, making Britain’s railways the most expensive in Europe.

Despite the introduction of 91/440, the path followed by other European member states has differed radically from the UK government’s wholesale adoption of the Commission’s privatisation model due, in large measure, to the disastrous experience in the UK.

The poor operational safety and financial performance of the UK privatised rail sector arose directly from the “vertical split” model advocated in 91/440.



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The idea that competing train operating companies can compete for slots in track use is clearly limited as train path scheduling on the fixed track infrastructure has limited flexibility.

Nevertheless, in 2005 EU transport ministers agreed to 'liberalise' domestic railway networks by 2010. The refusal to recognise these fundamental flaws is a long-term characteristic of European Commission thinking on rail 'liberalisation'.

The financial problem of the EU "vertical split" model is that train operating companies cannot possibly absorb the true cost of the infrastructure.

So this model relies on a valuation determined by low track-use charges which can be realistically borne by train operating companies.

This means that the extra investment required must come from sources other than those private companies operating the network, i.e. the taxpayer through subsidies and fare-paying passengers through ticket price hikes.

The Commission has delivered a bewildering stream of Directives, white papers and 'rail packages' to open up national railways to market competition.

The Commission has delivered a bewildering stream of Directives, white papers and 'rail packages' to open up national railways to market competition.

As a result it is on a collision course with elected governments who increasingly see the Brussels model of rail privatisation as a recipe for compromising safety and the decline of rail.

If the Constitution is imposed, national governments will no longer have the power to veto rail privatisation and other measures regarding transport.

Privatising Postal Services

On July 11 2007, the EU Parliament voted for full, free-market competition in postal services across the EU from 2011 - a measure which has divided the 27 member states and angered many of the £60 billion-per-annum sector's



two million workers.

Postal workers' trade unions have repeatedly warned that 'liberalisation' threatens jobs and universal service provision and promised that protests will continue.

Moves to 'liberalise' postal services across the EU began in the early 1990s as part of the push to create a single European market. The first (1997) and second (2002) EU Postal Services Directives opened parcels and express postal services to competition.

Opening the current phase of 'liberalisation' with a third Postal Services Directive, Charlie McCreevy, European Commissioner for the Internal Market and Services, proposed full competition for the collection and delivery of letters under 50 grams.

McCreevy told the European Parliament: *"This Directive constitutes an essential element of the Lisbon Agenda"*.

The new EU postal package comprises:

- a final date for full liberalisation by December 31 2010
- For new member states (for example Poland) and those with remote islands (Greece) by 31 December 2012
- member states are allowed (sic) to maintain national collective bargaining agreements
- Countries with liberalised postal sectors, such as Britain and Sweden, can refuse competition from states without until 2011 or later.

The French socialist delegation in the EU Parliament voted against the report. French Socialist MEP Gilles Savary said: *"We have reached the summit of blind ultra-liberalism. We now have a liberalisation directive, which will prove costly in public subsidies, while the previous system, based on tariff solidarity, cost taxpayers nothing"*.

Postal union international UNI-Europa called for the EU Parliament to scrap the measures saying that they fail to spell out how jobs would be protected or basic services guaranteed.



However, despite opposition from postal workers, MEPs have given the green light to 'liberalisation'.

Royal Mail chief executive Adam Crozier strongly supports the competition principle in EU Postal Service Directives, boasting: *"In three years, Royal Mail went from being a loss-making operator to a profit-making one,"* adding that despite losing 55,000 jobs, Royal Mail's workforce was now *"happier, better paid and more efficient"*.

This is the man who negotiated the new Wembley stadium and had to quit following criticism that he didn't know much about football.

However, German Post Office chief executive Klaus Zumwinkel accuses EU bureaucrats of creating "a true mess," with their plans to fragment postal services.

He has attacked the *"unparalleled slashing of worker benefits"* as a result of opening up the postal market and demanded rapid introduction of a minimum wage.

He complained that only Deutsche Post delivered mail to every corner of Germany, as required by legislation, while competitors focus exclusively on lucrative parts of the market.

He was scathing about the social dumping imposed on postal workers, with competitors in Germany paying 40 per cent less than the starting pay at Deutsche Post, putting some 32,000 jobs at risk.

We now have a liberalisation directive, which will prove costly in public subsidies, while the previous system, based on tariff solidarity, cost taxpayers nothing

GILLES SAVARY
French Socialist MEP

At the same time as Deutsche Post pays £1.5 billion in social service contributions annually, competitors subsidise their wage bill from the very same funds through state-run job-creation schemes.

President of the GUE/NGL Left group of MEPs Francis Wurtz argues that the liberalisation of postal services was the latest example of *'neo-liberal dogmatism'* being promoted by the Commission.



Wurtz pointed out that hundreds of thousands of jobs had already been lost since the beginning of 'liberalisation' and referred to the thousands of petitions against the scheme submitted to the Commission.

Dutch MEP Erik Meijer pointed out that it was the inadequacy of privatised postal services in the past that led states to take over responsibility in the first place.

"With this proposal, private operators will use temporary workers, post offices will disappear and be replaced by supermarkets and vital services to the elderly and those living in rural areas will disappear to the detriment of these people and communities," he said.

He said that the maintenance of post as a public service has been the best guarantee for timely delivery of post regardless of geography.

"The postman and the post office became in many cases a vital contact not only for rural inhabitants, but also for the economically disadvantaged in urban areas," he said.

EU-sponsored 'liberalisation' will mean a worse service for customers and worse conditions for staff. *"Politicians who enable this create a problem, instead of a solution,"* Meijer said.

In the same way the Constitution creates the problem of robbing member states of the ability to run services and industries for the benefit of their own citizens.



CONCLUSION

Trade Unionists Against the EU Constitution has set out to show how the proposed Constitution represents a very real danger to democracy, decent public services, manufacturing and independent trade unionism across the EU.

Open and democratic government within member states will be replaced by secretive and unaccountable institutions which deliberately set out to exclude as many as possible from the decision-making process.

EU communication commissioner Margot Wallstrom admits as much when she says that Germany had been determined to "*not have an open debate*" in the treaty negotiations because it would be "*misused by those who do not want to see more European integration*".

The Constitution formally sets out to give the EU a legal identity for it to act like a state in its own right.

The Renamed Constitution is also a self-amending treaty that will then require no further treaties or referendums. It allows the European Council to shift policy areas from unanimity to majority voting by agreement among themselves.

It gives sweeping powers to the EU's own European Court of Justice (ECJ) over the domestic affairs of member states.

The Renamed Constitutional treaty also sets up a military "*structured cooperation*" group and one of the stated objectives of the group is to raise military spending. It states that members will have to achieve "*approved objectives concerning the level of investment expenditure on defence equipment*" and "*bring their defence apparatus into line with each other*".

It also gives the EU new powers over public health, public services, social policy and coordination of social security, economic coordination and over trade policy and foreign policy.

This robs member states of all the powers required to co-ordinate all these policies as they see fit in the interests of the people that elected them.

As Tony Benn recently put it, a denial of a referendum of the British people on this issue would be an "*outrage*" as "*MPs have no moral right to give away the powers they only borrow from their constituents in an election*".

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Do you occupy a formal position in your union?:

If so please state:



Contact TUA EUC by e-mailing info@tuaeuc.org or write to PO BOX 46295, London W5 2UG

More information is available at www.tuaeuc.org

DEMAND A REFERENDUM!

John McDonnell MP has put down Early Day Motion 1584 to demand that the government does not sign up to the EU constitution without a referendum.

It calls upon the Prime Minister and the Chancellor not to sign any treaty or agreement that affects the constitutional relationship between Great Britain and the EU without consulting the British people.

This Early Day Motion has already gained signatories from all the three main parties including many Labour MPs. Get your MP to sign. You can contact your MP on the web by going to

TUAEUC has produced a pamphlet outlining the contents of the EU Constitution which is still available free from TUAEUC.

Contact TUAEUC by e-mailing info@tuaeuc.org or write to PO BOX 46295, London W5 2UG

More information is available at www.tuaeuc.org



Trade Unionists Against the EU Constitution

