

TAKING THE CONS OUT OF THE CONSTITUTION

A PRO-EUROPEAN CASE AGAINST
THE EU CONSTITUTION

BY CAROLINE LUCAS MEP

BASED ON RESEARCH BY COLIN HINES



The Greens | European Free Alliance
in the European Parliament

INTRODUCTION: A GREEN 'NO' TO THE CONSTITUTION

The debate over the EU constitution is all too often presented as a sterile dichotomy between those who want greater integration with the EU and those who want less: an argument about whether we want 'more Europe?' or 'less Europe?'. Rarely is the crucial prior question 'what kind of Europe?' asked.

The process of drafting the proposed EU Constitution began from an attempt to answer that very question. The 2001 summit in Laeken, which established the Convention on the future of Europe, envisaged an 'audit' of the EU's role in the 21st Century, a debate about what the EU was for, which EU competencies (or areas of responsibility) should be 'returned' to member states, and which enshrined in a constitution - in short, a project to reconnect the EU with the people it claims to represent.

Politics got in the way, of course - and these objectives were soon forgotten. The process became embroiled in the nitty-gritty of drafting a single document, that was acceptable to everyone involved, and the 'big idea' at the heart of the union was simply never considered.

This represents a hugely missed opportunity. As a Member of the European Parliament, I am confronted almost daily with the fact that the original 'big idea' - to bring peace to post-war Europe by binding its nations together in an ambitious free trade project - is no longer enough to sustain public support for the EU. Indeed, some have argued that it increases opposition to it.

A new big idea, based on placing sustainability, social justice and peace at the heart of the EU, could revitalise the EU institutions and re-inspire the public enthusiasm that has been eroded by the EU's moves towards 'economism'; the idea that the overriding goals of European integration are economic, and its progress should be measured in terms of economic growth and the removal of internal trade barriers alone. The EU could be a leader in renewable energies, it could be a leader in learning to live more lightly on the planet, it could be a leader in pioneering different economic models which improve our quality of life without being at the expense of the environment, future generations, and the poor of both rich and developing world; but it will have to resolve its internal contradictions first.¹

¹ *Time to replace globalisation: A Green Localist Manifesto for World Trade*, Caroline Lucas and Colin Hines, August 2002.

But the Constitution on offer proposes no such thing. It takes the means by which the EU's founding fathers sought the goal of peace in Europe - economic growth and removing barriers to trade - and places them at the heart of the union, as ends in themselves. Worse, it enshrines this neo-liberal economic model as a constitutional principle rather than, as is currently the case, in elements of a treaty. Since re-writing a constitution is considerably more difficult than revising a treaty, this will make it much more problematic to change those aspects in the future.

Any new constitution should be judged on its ability to move us towards the kind of EU that we want to see - one which puts sustainability and social justice at its heart, one that is based on peace, democracy and subsidiarity. And judged by that criterion, the current draft clearly fails.

This report examines some of the Constitution's shortcomings - and sets out the key elements of an alternative Constitution for a Sustainable Europe. Our appeal to reject the Constitution is neither negative nor Eurosceptic, but rather a positive campaign based on our belief that the peoples of Europe deserve something better.

WHAT IS THE CONSTITUTION?

For the first time, Europe has a shared Constitution. This pact is the point of no return. Europe is becoming an irreversible project, irrevocable after the ratification of this treaty. It is a new era for Europe, a new geography, a new history.

- French Prime Minister, Jean-Pierre Raffarin²

We know that nine out of 10 people will not have read the Constitution and will vote on the basis of what politicians and journalists say. More than that, if the answer is No, the vote will probably have to be done again, because it absolutely has to be Yes.

- Jean-Luc Dehaene, Former Belgian Prime Minister and Vice-President of the EU Convention³

Our Constitution cannot be reduced to a mere treaty for co-operation between governments. Anyone who has not yet grasped this fact deserves to wear the dunce's cap.

- Valery Giscard-D'Estang, President of the EU Convention⁴

The Treaty Establishing a Constitution for Europe, if ratified by all 25 EU members, will repeal all the existing EC/EU treaties and establish the EU anew. The Constitution was adopted at the second attempt by the EU summit in Brussels on June 18, 2004, signed by the heads of states on October 29, 2004, and is now subject to ratification by all the member states.

In the growing public debate about the Constitution, its supporters have propagated a number of false impressions about what its adoption would actually mean. This report exposes several of these confidence tricks, before proposing some elements of an alternative Constitution for a Sustainable Europe. The political space required to place these on the agenda can only be created if the current process of ratifications is halted by a 'No' vote in one or more member states' referenda. Campaigning for a 'No' vote is, therefore, a necessary first step towards changing the EU's direction, away from neo-liberal economics and increased militarisation, and towards sustainable development and social and economic justice.

² Jean-Pierre Raffarin, *Le Metro*, 7 October 2004

³ Jean-Luc Dehaene, Former Belgian Prime Minister, and Vice-President of the EU Convention, *Irish Times*, 2 June 2004.

⁴ From a speech in Aachen accepting the Charlemagne Prize for European integration, 29/05/2003.

CON 1: THE CONSTITUTION IS MERELY A 'TIDYING UP' EXERCISE

For Peter Hain to turn round and say that this EU Constitution is merely a 'tidying up' exercise is an insult to everybody's intelligence and should be treated with the derision which it has attracted.

Roger Godsiff MP (Labour), 26th June 2003

The European Constitution gives the EU a "legal personality" to represent member states in relations with the rest of the world, and in doing so takes over the function of statehood under international law. Any decision taken by the EU has priority over the democratically decided laws of member states. Even our national constitutions are ignored if they are in conflict with a decision coming from Brussels.... The EU will get its own Ministry for Foreign Affairs and a joint military force. A President and a joint minister for Foreign Affairs will, together with a joint Prime Minister ... represent the EU in relations with other countries in the world. The twenty-five member states will become constituent states akin to the US model, but with less freedom to legislate independently than American states enjoy.⁵

To the size of states there is a limit as there is to plants, to animals, and to implements: for none of these retain their power or facility when they are too large. - Aristotle⁶

All current member states of the EU are functioning representative democracies, in which laws are passed by elected representatives - and can be changed by those elected in the future. Under the continuing shift of sovereignty from national to EU level envisaged by the Constitution, national governments will no longer be able to exert democratically-mandated supremacy in legal, economic or defence matters. Article I-6: *The Constitution and law adopted by the institutions of the union in exercising competences conferred on it shall have primacy over the laws of the member states.*

Under existing treaty arrangements, the sovereign powers of the European Union are vested in European Institutions - the EU Council, Court, Commission and Parliament - which are given legal supremacy over all the laws and sovereignty of the Member States [in the Union's areas of competence](#). By extending these competencies to include, amongst others, foreign and military policy, the proposed constitution represents a real shift of sovereignty away from democratically-elected parliaments.

⁵ *Minority Report of the European Parliament's Report on the Treaty establishing a Constitution for Europe, (2004/2129(INI), 9 December 2004.*

Legally, constitutionally and politically this new European Union would thus be quite different from the existing EU.

The EU Constitution will become the fundamental source of legal authority in many of the member states' spheres of activity and, crucially, it will not be possible for future national governments to amend it without the consent of the EU's other nations. The 100,000 pages of existing EU law will be given constitutional primacy status, and more than 40 further areas of government policy or national decision-making will be transferred from national governments to Brussels institutions. The Constitution specifically removes 63 national vetoes, especially in the areas of justice and home affairs. If it ratifies this Constitution, the EU will become nothing less than a fully-fledged superpower. This is no mere tidying-up exercise.

CON 2: THE CONSTITUTION WILL MAKE THE EU MORE DEMOCRATIC

The Convention brought together a self-selected group of the European political elite, many of whom have their eyes on a career at a European level, which is dependent on more and more integration and who see national governments and national parliaments as an obstacle. Not once in the 16 months I spent on the Convention did representatives question whether deeper integration is what the people of Europe want, whether it serves their best interests or whether it provides the best basis for a sustainable structure for an expanding Union. The debates focused solely on where we could do more at EU level. None of the existing policies were questioned.

Gisela Stuart MP⁷

The EU's much criticised *democratic deficit* will not be reversed by the Constitution. Although it will more than double the number of areas in which the European Parliament - the EU's only directly elected institution - shares co-decision with the Council of Ministers, decisions relating to crucial areas like taxation and workers' rights remain outside the remit of the Parliament.

The European Parliament will still have no right to initiate legislation - it can only request the Commission to make proposals for such laws. The Commission is not obliged to fulfil such requests.

⁶ Aristotle, cited in Richard Body 'The Breakdown of Europe' New European Publications, London 1998

⁷ *The making of Europe's Constitution*, Fabian pamphlet, 2004

Worse, the so-called “passerelle clause” (Art. IV.444) will significantly weaken parliamentary accountability. The clause will permit EU summits of presidents and prime ministers to amend the Constitution by agreement amongst themselves, and to shift policy areas from unanimity to majority voting without having to amend or ratify any new treaties, [with only a six month period for Parliaments to object](#). It will also increase the number of EU decisions imposed against the wishes of smaller nations.

National parliaments’ new role in ‘ensuring’ compliance with the subsidiarity principle is in reality no more than the right to make a request which the Commission can ignore.

Member state parliaments will no longer be required to vote to ratify [many](#) EU treaty changes; instead they will simply be informed of changes which will require active opposition from member states to reject.

As Gisela Stuart MP, a pro-European Labour Party representative on the European Convention, told the House of Commons Standing Committee on the Convention set up to scrutinise the Constitution’s drafting process: *As a parliamentarian, I find it extremely difficult to accept that Parliament’s right to have a say in the matter should be waived in such a cavalier fashion.*⁸ The Laeken Summit envisaged that there would be a debate about which areas of existing EU competence should be returned to national level in the Constitution, yet, according to Stuart, not one single competence was recommended for return.

The process simply failed to discuss which powers are best exercised at European level (environmental protection and setting minimum standards for human rights, for example) and which nationally (such as indirect taxation, or provision of public services).

On a more fundamental level, there is a very real concern that the EU cannot keep getting ‘deeper’ (more integrated) and at the same time ‘wider’ (having more Member States) without losing an essential level of democratic control.

This reality will lead to an even greater backlash against the EU than the one being experienced in much of the Union today. For reasons of peace, security and solidarity, a widening EU is desirable, if that is what applicant countries want, but a simultaneous deepening of the EU is neither practical nor desirable. It can only mean that an increasing

⁸ Gisela Stuart, *The making of Europe’s Constitution*, Fabian Pamphlet, 2004

number of decisions will be taken by Qualified Majority Voting, with decisions imposed on those living in the smaller countries with less voting weight, and pushing their populations towards increased disillusionment and opposition to the EU.

CON 3: THE CONSTITUTION WILL IMPROVE SECURITY AND CONTRIBUTE TO THE WAR ON TERRORISM

The Constitution envisages a significantly more militarised EU than that which exists today. The EU is already planning to set up its own Rapid Reaction Force of up to 60,000 soldiers, warships and combat aircraft. There is unease about it being called an 'army' - but that is what it is. As former Commission President Romano Prodi candidly admitted: *If you don't want to call it a European army, don't call it a European army. You can call it 'Margaret', you can call it 'Mary-Anne', you can find any name; but, for the first time, you have a joint, not bilateral, effort at European level.*⁹

A major increase in arms spending in Europe is also proposed. Article 40.3 states: *Member States shall undertake progressively to improve their military capabilities.*

The constitution also establishes a European Armaments, Research and Military Capabilities Agency, and extends the tasks of 'common defence' to include, *contributions to the fight against terrorism, including support for third countries in combatting terrorism in their territories.* For many, that last phrase is deeply worrying, potentially giving the green light to all kinds of military options - even pre-emptive strikes - in the name of the so-called 'war on terrorism'. The draft treaty also introduces a 'mutual defence clause' which can be invoked in the case of terrorist attack, giving the EU an equivalent mandate to Article 5 of the NATO Treaty, and opening the door for the EU to be transformed into a full military alliance. The constitution goes on to state that *all operations in the framework of the European Security and Defence Policy should be undertaken in accordance with the principles of the United Nations Charter.* So not even a specific resolution of the UN Security Council will be deemed necessary for the EU to undertake military action.

Nowhere in the text is there any reference to the need to promote multilateral disarmament and arms control treaties. The treaty does not spend a single word on the need to stem arms exports and to counter the global proliferation of weapons and explosives. It does make reference to a European Civil Peace corps - but envisages an organisation of young volunteers for humanitarian aid tasks, rather than the retraining and

redeployment of military professionals into civil crisis-management and peace-keeping, as championed by Greens.

A sustainable EU will not have a military function at all; resolving military disputes through diplomacy and organising multilateral defensive or peacekeeping expeditions within Europe is better handled within the framework of the Organisation for Security and Co-operation in Europe, a broader and more representative grouping of countries with an explicit conflict-prevention mandate. In the wider world, such duties will be organised under the auspices of the United Nations. There is simply no justification for a sustainable EU becoming a military power-bloc or seeking to usurp the peace-making and peace-keeping functions of those international organisations established for the purpose.

CON 4: THE CONSTITUTION WILL ENSURE A COMPETITIVE EUROPE WHILST IMPROVING SOCIAL AND ENVIRONMENTAL PROTECTION

The Constitution repeats the flawed economic priorities of the existing Treaties by imposing *the principle of an open market economy with free competition favouring an efficient allocation of resources...* By enshrining free market economics as a Constitutional imperative, it makes it extremely difficult to change the direction of economic policy in the future.

The Constitution's macroeconomic approach is based on the EU's long-term aim, adopted in Lisbon in 2000, to be *the most competitive and dynamic knowledge-driven economy* by the year 2010. But this strategy has clearly failed, as Commission President Jose Manuel Barroso himself admitted in February 2005. Confronted with increasing hostility to the EU caused by the perception that its programme of liberalisation, deregulation and privatisation represented an attack on social cohesion and was driving unemployment, Barroso quietly relaxed the targets set at Lisbon - but the narrow economic terms of the Lisbon strategy still inform the Constitution.

The truth is, the Constitution will commit member states to a path of increased competition and privatisation, even in public services. By opening the door to a race-to-the-bottom in search of ever-lower costs, it will transfer jobs to where wages and other costs - meeting high environmental standards, for example - are lowest. The Constitution

⁹ The Independent, 4th February, 2000

will leave neither member states, nor the EU itself, with any effective power to take the strong political counter-measures needed to tackle regional disparities or high unemployment, or to intervene in the operation of the 'free' market to enhance welfare, workers' rights or social cohesion.

Workers' rights will be sacrificed on the altar of enhanced competitiveness, and any protection which might have been offered in the Charter of Fundamental Rights, has been undermined by Labour's insistence that the UK will reject any attempt to make it binding on member states.

Though the Constitution does envisage some narrowly defined exceptions to its free market zeal - to protect cultural diversity, for example - nowhere does it allow for a public sector under democratic control, or indeed any other way of exercising political control over our economic lives.

This has been widely acknowledged, not just by environmental organisations like the WWF, but even by the European Commission itself. Its DG Environment itself expressed disappointment over the draft Constitution, saying, *unfortunately the draft treaty does not go far in providing law-makers with the scope to achieve better results in the field of the environment. In particular, it was not possible in the Convention that drafted the Constitutional Treaty to get agreement to end the veto on environmental taxation, which would have made it easier to make the costs of some forms of production and consumption more transparent.*

DG Environment also failed to get its special protocol on sustainable development attached to the Treaty, which would have underlined the importance of putting sustainable development firmly at the core of EU policy-making, and set out firm measures to ensure that it was not over-ridden in favour of other factors. The draft protocol established sustainable development as a "fundamental principle and objective of the Union", committing EU institutions to ensuring that all "major policy proposals" and "legislative acts" complied with it. In addition, the text suggested that all proposals and legislative acts should be subject to a sustainability impact assessment, with a provision that the EU's supreme legal arbiter, the Court of Justice, could be called on to decide whether specific legislative acts or proposals met these requirements.

A CONSTITUTION FOR A SUSTAINABLE EUROPE

I am not an advocate of frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered, and manners and opinions change, with change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy, as civilised society to remain ever under the regime of their ancestors.

Thomas Jefferson¹⁰

It has become increasingly clear that the EU's stated goals - to be the most competitive economy in the world in traditional GDP terms (the objective agreed at the Lisbon Council of 2000) and to be the most sustainable economy in the world (the objective agreed at Gothenburg just 15 months later) - are currently completely incompatible. The Constitution will only make matters worse: by failing to tackle the democratic deficit and prioritising the Lisbon competition agenda over the Gothenburg sustainability principles.

The EU's aggressive championing of economic globalisation, via ever greater international competitiveness, inevitably takes place at the expense of social and environmental justice, both within and outside the union, precipitating a loss of popular support and stirring up resentment and apathy. Unless it attempts to resolve this conflict at the heart of the project, the EU Constitution will continue to be part of the problem rather than the solution.

A centralised, bureaucratic EU, bolstered by the Constitution, cannot effectively confront the major problems thrown up by the new century. These are climate change, the threat to democracy from multinational business, the global inequality and injustice that are leading to rising poverty and migrations of people, and the rise of violent fundamentalisms around the world.

Europe's peoples know this, which is why they are so disillusioned with the EU. Clearly a new 'Big Idea' for Europe is required. For Greens, that idea means a bolder, more ambitious vision for the whole of Europe, East and West, in which nations and regions reclaim control of their economies and ecosystems. A Green Europe would boast unity-in-diversity, achieved by popular consent, not centralised uniformity at the behest of corporate power.

¹⁰ As cited in *Report on the Treaty establishing a Constitution for Europe*(2004/2129(INI) 9.12.2004, p11

These drawbacks are so serious that the Constitution cannot be slightly amended; it must be entirely rewritten. It must establish a new end goal for the EU, and move away from seeking ever more deregulated free trade towards the diversifying of national and local economies, so that society's basic needs are met in a sustainable way - in short, a Constitution for a Sustainable Europe.

CONCLUSION: REJECTING THE CONSTITUTION AS A FIRST STEP TO A SUSTAINABLE ALTERNATIVE

The European Union is a political and economic project which a number of governments have decided to pursue. It is not an inevitable outcome of some mysterious March of History, nor is it a boat or train which must under no circumstances be missed. Politicians who abandon reasoned arguments in favour of muddy metaphors generally do so because they are lying.

Steve McGiffen¹¹

The EU needs to become more democratic and accountable, less bureaucratic and remote; but it also needs to have a compelling vision of its role and purpose. An initial step should be a new and better Constitution that states that the fundamental aim of the new EU is to bring us closer to the ideal of sustainable development.

The EU needs a constitution that sets out to build a truly 'sustainable Europe', based on a network of states and agencies with maximum subsidiarity; the devolution of responsibilities to the closest possible level to the citizen, within an overarching set of high social and environmental standards, with freedom for member states to go beyond those standards if they wish.

This would allow the EU to build on its important successes in environmental and social policy, and to connect Europe's development to the problems of economic globalisation, ecological degradation, and personal and nation state security that will dominate the coming decades.

The political terms of the public debate over the EU Constitution have frequently been reduced to a debate between a 'pro EU' position in favour and an 'anti EU' position opposed to the Constitution. The anti Constitution position has so far been dominated by nationalistic, xenophobic and right wing perspectives and values, which are fundamentally at odds with progressive Green politics.

The first step to achieving public understanding and support for a Constitution for a Sustainable Europe will be ensuring that it is central to the debate on why a successful

¹¹ Steven McGiffen, *The European Union - a critical guide*, Pluto Press 2001

'No' vote is crucial in forthcoming referenda. Once the existing Constitution is rejected, then more general attention is likely to turn to an alternative that could garner wider public support.

If the proposed Constitution is rejected, by one or more countries, the sky will not fall in on Europe. The EU will continue as it is now, on the basis of the 2003 Treaty of Nice, with voting arrangements which that Treaty laid down for an enlarged European Union. This was far from perfect but surely preferable to placing the EU in the grip of a Constitution that will have effectively foreclosed future options for a more cooperative Europe, striving for a more sustainable and socially just future.

It would be wrong to let a critique of the EU be dominated by the xenophobic arguments of the right. When, as seems probable, the British people vote 'No' in the coming referendum, nationalist politicians of the right will be quick to claim the result as a victory and statement that the British people want to leave the EU. It is absolutely crucial that there are other voices on the 'No' side who put a very different interpretation on such a vote; that it represents both opposition to an EU which takes decisions further away from ordinary people, and locks in neo-liberal economic policies - AND at the same time, demonstrates support for a very different EU which brings the institutions closer to the people, and has sustainability and social justice at its heart.

A PROPOSED TREATY ESTABLISHING A 'CONSTITUTION FOR A SUSTAINABLE EUROPE'

A Constitution for a Sustainable Europe would be a relatively short, straightforward document, as envisaged by the Laeken Declaration, which began the current constitutional drafting process. It would concentrate on changing the objectives of the union, to ensure that its future activity will strengthen rather than threaten sustainable development, not only in the EU but world-wide.

It would describe the EU's objectives, competencies, relationships and decision-making procedures, but not contain the 97,000 pages of legislation contained in the *acquis communautaire*, or indeed any statements of policy, lest such clauses prove a major obstacle to future reforms which may become necessary to maintain the EU's overriding objectives in response to changing geopolitical and economic events.

Some of the key elements of such a Constitution for a Sustainable Europe would include:

A SUSTAINABLE EUROPE

A Sustainable Europe will be ordered not on the economics of free trade and growth, but on the ecological alternative of local self-reliance and resource conservation, within a context of wider diversity. We want to foster co-operation on issues of common interest, not establish international institutions for their own sake.

We recognize the value of the original goal of the founders of the European Communities, who sought to remove the threat of another war between European states. But this has been distorted by vested political and economic interests into a union dominated by economic interests, which lacks democratic control, and promotes the goals of multinational corporations, not of people.

STRUCTURES

The European Union should be made up of overlapping, co-operative, democratic, decentralised groupings of nations and regions.

European institutions must be designed with care and with mechanisms for correction, to prevent the drift towards centralism that has repeatedly been seen in history.

AIMS

Following the principle of subsidiarity, many issues currently decided at the EU level should be dealt with at a more appropriate level for effective action, which might be local, national or global.

Our aims for the European level are to:

- a. safeguard basic rights;
- b. bring peace and security to Europe, by promoting greater understanding and friendship between its peoples;
- c. solve and prevent those environmental problems, such as air pollution, which can best be resolved at the European level;
- d. promote sustainable, non exploitative, self reliant local and regional economies;
- e. reduce inequalities of wealth and disparities in quality of life between the regions of Europe, and between Europe and the rest of the world;
- f. support a rich diversity of cultures;
- g. facilitate the exchange of ideas, technology and sustainable practices;
- h. promote global co-operation where appropriate

EU COMPETENCIES

If the Green vision for Europe is to be achieved, many of the existing European institutions will need to change very profoundly. We believe that decisions are best made by those whom they directly affect. The competencies of the EU must, therefore, change to include only those which benefit from European co-operation. We envisage fundamental transformation in the role of the EU as it becomes more "task oriented". The competencies of the EU should be confined to the following areas:

The Environment

- a. ecological issues which can best be dealt with on an international basis.

Rights

- b. basic standards of human and civil rights;
- c. basic standards of animal rights.

Economic

- d. regulation of multi and transnational trade and investment, where this does not conflict with more local regulation;

- e. European co-operation to regionalise the industrial base, services and resources;
- f. the more equitable sharing of resources between richer and poorer parts of Europe and between Europe and the rest of the world;
- g. economic co-operation at European level against predatory competitiveness.

Diplomatic

- h. the peaceful resolution of political disputes between members;
- i. representation of member countries in global fora within the competencies specified above;

Cultural

- j. support for cultural activities, especially where these aim to promote greater understanding and friendship between people.

All decisions should be taken at the appropriate level. We wish to strengthen the EU's ability to deal with issues, within the competencies set out above, which can only be addressed properly at the European level. Other issues appropriated by the EU should be returned to the appropriate lower levels. The EU should be prohibited from taking any powers which could be better exercised at lower levels.

Decisions appropriately made at the EU level should provide agreed minimum standards, which lower levels would implement and would be free to exceed. This should not prevent the creation of higher standards at a national or regional level.

EU INSTITUTIONS AND DECISION MAKING

A sustainable EU would require the fundamental reconstitution of its present institutions, which are fundamentally flawed. Their remoteness has resulted in a lack of accountability, which is working against the interests of people and the environment.

Our aim is to reconstitute the EU as a democratically accountable European Confederation of Regions. Its organisation would follow the Green principle of subsidiarity, that decisions are made at the lowest appropriate level, and not impose the "harmonisation" of the current EU.

REFORMING THE CENTRAL INSTITUTIONS OF THE EU

The Commission

The Commission and its associated bodies are, compared to the Council and Parliament, relatively undemocratic and unaccountable. It shall be rendered the servant of the Council and Parliament. Its role shall be:

- a) to act as the civil service for the EU, which shall include suggesting necessary legislation;
- b) to provide factual information on the activities and policies of the EU, including the provision of base data;
- c) to draw up the EU budget for approval by the Council and Parliament and to implement the agreed budget;
- d) to implement decision on the direction of expenditure, tackling inefficiency and eliminating fraud;
- e) to implement other decisions of the Council and Parliament as directed.

Whilst the Commission should actively promote approved legislation, it should not influence in any way decisions still to be taken and ratified in member states.

The Council of Ministers

The Council should seek to make decisions by consensus. This requires recognition, by all member countries, that proposals must take into account the diversity of Europe and the particular situation of each country, and recognition by each member country that, after such account has been taken consent should not be unreasonably withheld.

Where this is not possible, decisions may be taken by Qualified Majority Voting only in respect of issues which are proper for the EU to decide at a European level, namely:

- a) environmental issues
- b) protection of rights
- c) regulation of multinational trade and investment
- d) diplomatic activities, but not including a Common Foreign and Security policy

Co-Decision of the Council and the Parliament

EU decision-making shall be on the basis of co-decision between the Council and the European Parliament in all EU competencies defined above. In other areas, Council decision shall require consensus of all members, to protect the interests of individual, especially smaller, countries.

The Parliament

Elections to the European Parliament should be by proportional representation (PR) in all member countries, with the exact mechanism to be determined nationally or regionally.

Members of the European Parliament should exercise oversight of the work of the EU. Parliamentary committees must be adequately empowered to investigate, and to demand papers and testimony from the Council and the Commission. A Budget Committee of the Parliament shall scrutinise the budget and expenditure of the EU.

Nominations to the Commission and the Court should require the consent of the Parliament. Proposed treaties, and subordinate decisions and legislation at the European level to extend the role of the EU and to raise revenue for it, should require the consent of the Parliament.

The European Court of Justice

The primacy of political decision making must be maintained. The role of the ECJ should be to apply the democratic decisions of political representatives and citizens. It should not go beyond necessary interpretation into making its own legislation. The ECJ should no longer be allowed to promote European integration in its judgements, where that is not specified in the statutes it is interpreting.

The role of the ECJ should extend as appropriate within the competencies of the EU defined above. Care should be taken not to duplicate the roles of existing courts in member countries.

The ECJ should have a particular power throughout the operations of the bodies of the EU to require them to meet agreed standards of openness and accessibility.

Within these principles, arrangements need to be made to ensure that justice is available more expeditiously to litigants.

Individuals shall be empowered to initiate a direct appeal on a point of law. The ECJ should have a 'gatekeeper' to decide which cases merit being put before it. The criterion should be whether there is a valid case under EU law.

Judges of the ECJ shall be nominated by the Committee of the regions, and appointed by the European Parliament, giving due regard to geographical spread and gender balance.