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Europe

European Constitution: a New European Absolutism

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By revealing that a "No" vote could lead to the seizing up the mechanism, which seemed well oiled, of the consecration of a "Constitution for Europe" in some member states, where it had been thought that the ratification of the treaty could be submitted to a plebiscite, the opinion polls have exposed the weakness of the construction of a supranational state apparatus.

Just think of it, the immense majority of the European party machines (the Christian Democrats, the liberals, the Socialists and even the Greens) and of the trade union bureaucracies (practically all the union leaderships who are part of the European TUC) committed themselves to its ratification.

In France and in Holland, governments that were weakened by recent social mobilisations thought that they could in this way, a posteriori, easily give a legitimacy to their attacks on the gains of the working class, while at the same time winning approval for a regression on the terrain of formal democracy and of guaranteed social rights. Killing two birds with one stone.

[<https://www.internationalviewpoint.org/IMG/jpg/anti-constitution1.jpg>]

However...the recent opinion polls in the two countries where the plebiscite is to take place at the end of May and the beginning of June are demonstrating the crisis of representativity of the European political and trade union structures. That has frightened, and for good reason, those who had become used to settling the fate of peoples behind their backs and who, through the "Treaty establishing a Constitution for Europe" aim to make this state of affairs permanent.

From the moment this project appeared, we deciphered its content and underlined its retrograde social character [1]. We will not go over that again here. But one question remains: why a new Treaty, which abolishes the preceding ones (while taking on board their essential content) and which "establishes the European Union (article 1-1) whereas this Union had already been "instituted" by the Treaty of Maastricht, which came into force on November 1st, 1993?

If it was only a question of modifying the allocation of votes established by the Treaty of Nice - which, it is true, gave the representatives of certain member states (including France and Poland) a weight that had bore little relation to the populations of these countries - did that make it necessary to "establish a Constitution"? In short, what does this Treaty aim to "constitute"?

A despotic European apparatus

The "Constitution" established by this Treaty is in itself a novelty: it does not emanate from a constituent assembly. Nor will it be directly ratified, not even by a plebiscite, by the entire population of Europe, because in the majority of member states ratification will be indirect. In short, it cannot be claimed that it "constitutes" a European popular sovereignty.

The European Union in no way substitutes for the member states and their machinery of state. It aims to complement them by reinforcing and rendering permanent a supranational machinery whose main difference with the existing state machines is that it is not based on what has traditionally been the founding principle of bourgeois democracy: the separation of powers between the legislative, the executive and the judiciary.

The specificity of this “complement” is that the new supranational machinery will in certain domains take precedence over the national state machinery, which does respect, at least formally, the principles of bourgeois democracy.

Chapters IV (“The institutions and organs of the Union”) and V (“The exercise of the competences of the Union”), which constitute the foundations of the powers of this supranational machinery, are only clear concerning the restrictions they bring to the only directly elected European institution: the European Parliament. This parliament does not have full legislative powers. Although it can adopt European laws, it can only do so “jointly” with the Council (of European ministers), in other words it can exercise its veto. It isn't even allowed to have the right to initiate legislation: although it can block laws, it cannot propose them. The initiatives remain confined to institutions that are not directly elected: the Council and the Commission, in the framework of the “orientations” and the “general political priorities” that are defined by the European Council (which is made up of heads of state or of government).

Furthermore, the Constitutional Treaty makes permanent a Court of Justice, made up of judges and advocates-general appointed by governments for a period of six years (renewable). In 1964, this Court established that the Treaty of Rome was not “an ordinary international treaty”, but that it instituted “a juridical order of its own”, and having done that, it began to create juridical principles which took precedence over national laws and which were characterised by the prevalence of the norm. Thus a practice was imposed in the Union that accorded de facto political power to judges.

This juridical order - which is in harmony with the internationalisation of capital and at its service - and its autonomy are made permanent by articles I-6 and I-38. The Council can also suspend “certain rights that flow from the application of the Constitution to the member state in question, including the voting rights of the member of the Council representing this state”. Furthermore, a “solidarity clause” (article I-43) authorises the Union to mobilise “all the instruments at its disposal, including military means” to “forestall the terrorist threat”, “protect democratic institutions and the civil population” or “bring aid to a member state on its territory, at the request of its political authorities”.

The term “terrorist” not being defined - and its customary definition having recently a strong tendency to be extensive - the “Constitution for Europe” thus contains an article that can be interpreted as authorising recourse to European civil war. We should add that if - which is a novelty (article I60-1) - a member state obtains the right to withdraw from the Union, this right is not accorded to its population but to its political authorities.

“Citizenship of the Union”?

The “Treaty establishing a Constitution” does not found a new citizenship, but confines itself to completing national citizenship: article I-10 of the Treaty stipulates that “the citizenship of the Union is in addition to national citizenship and does not replace it”.

[<https://www.internationalviewpoint.org/IMG/jpg/1mai2005128a.jpg>]

And this complementary citizenship in no way establishes new or enlarged civil rights: it confines itself to guaranteeing European citizens “the right to circulate and reside” on the territory of the Union; the right to vote and to be elected to the European Parliament (which is not allowed legislative powers) as well as the right to vote in municipal elections (but not in regional or national elections: “European citizens” are thus from the outset unequal among themselves, according to where they live); the right to benefit from the protection of diplomatic and consular authorities of a member state other than one's own (in cases where one's own does not guarantee this “protection” in a third country); the right to address petitions to the European Parliament (sic!), to have recourse to the European mediator and to address the institutions and the consultative organs of the Union in one's own language and receive

a reply in the same language. That's all. We can especially appreciate "the right" to petition and to ask questions - we're going back to the feudal epoch!

So the Treaty establishes a "Constitution for Europe" (and not "for European citizens"), in other words for a supranational apparatus which can escape from the risks of representative democracy. It establishes a "managed democracy", which we could also call an "enlightened" or "tolerant" despotism, that is, a regime in which political choices are the prerogative of a self-perpetuating elite.

Padlocked democratic states

The analyses that we have published and the debate provoked by the partisans of the "No from the left", particularly in France [2], have largely brought out another particularity of the "Constitution for Europe": it "sets in stone political orientations which ought to be able to be periodically rediscussed. Once "constitutionalised" these orientations will not be able to be questioned and will be imposed on both European institutions and member states. In this way there is put in place an extremely strict framework of political decision-making" [3]. In other words, it is not enough to constitute a European regime that escapes from democratic control by citizens, it has also been deemed necessary to establish the limits that can be set on its future policies.

This policy can be summed up by two formulas, which crop up repeatedly in the text of the Treaty: "free and untrammelled competition" [4] and "the exclusion of all harmonisation of their (the states') legislative and statutory dispositions". The first formula concerns all activities that are a source of profit. The second covers all the social rights that have been won in any of the member states.

Neo-liberal policies are thus raised to the rank of constituent norms of Europe. The supranational European state machinery - which as we have seen is not even formally democratic - having not yet (?) totally replaced the traditional states, and these states (still?) maintaining control over certain aspects of political life and having to face the risks of elections, part III of the Treaty ("The policies and functioning of the Union") seeks to prevent the citizens of one of the states from forcing their government to adopt a policy that could be outside the framework of the policy decided once and for all by the higher instances of the Union [5].

So Part III does not, as has often been said, simply include what was in previous treaties. It completes the institutional structure of the Union, allowing the survival of regimes of formal democracy at the level of the member states, concealing the absolutist character of the European regime that has been thus established. By so doing it guarantees cohabitation between this absolutist regime and formal democratic regimes at the level of the member states, whose political sovereignty is fenced in by Part III and, in certain domains, is already delegated to the European absolutist regime.

In this way the profound democratic regression that the "Constitution for Europe" represents isn't obvious to the citizens, who maintain their democratic rights in their countries, not noticing that these rights have been largely emptied of their content. The plebiscites (called "referendums") - programmed only in the countries where the governments have, rightly or wrongly, considered them "feasible" have an important function in this context: to give legitimacy to this regression, to give a "civic" veneer to the absolutist regime, to found a jurisprudence on which future regressions can be based.

Absolutism with a democratic façade

The founding of a European state - that would be absolutist and bourgeois - having been judged too risky in present conditions, the treaty "constitutes" a hybrid form, a duality between a formal democracy in the more and more empty shell of the national states and a "tolerant" despotism at the level that makes it possible to direct the major restructuring of European capital that is indispensable so that the decadent imperialisms of the Old World can feel strong enough to confront the competition from the US giant. Since the United States has an indisputable military hegemony [6], the Treaty also seeks to found a "common foreign and security policy".

The setting up of an "Agency in the field of development of capacities of defence, research, acquisitions and arms (The European Defence Agency)" represents a step towards the restructure of military industry to "reinforce the industrial and technological base" and enable it to become "competitive" with the US. And to guarantee the financing of this military-industrial complex that is being reorganised, the Treaty stipulates that "the member states undertake to progressively improve their military capacities" (article I-41-3).

So the Treaty serves to "constitute" a political Europe of imperialist rentiers. Popular refusal to ratify it in the member states would put a brake on this attempt. It "would necessarily constitute a block on (European) political integration" [7] as it has been conducted up to now.

It would thus open the debate - so far stifled - on another project of society, on what could be this "possible other Europe" that is demanded by the global justice movement. We can understand that this is not to the taste of the neo-liberal political elites - in particular those of European social democracy (which, after having dropped any pretence of a social policy, is now burying its democratic aspirations - who could be swept aside by such a debate.

[1] See in particular: G. Buster, "[European Union: at the crossroads](#)", IVP n° 354, November 2003; G. Buster, "[European Union: the Spirit of Saint-Denis](#)", IVP n° 354, November 2003; Yves Salesse, "Une Constitution inacceptable", Inprecor n° 487, November 2003; G. Buster, "[European Union: the Lisbon strategy](#)", IVP n° 359, May-June 2004; G. Buster, "[European Union: a crisis of legitimacy](#)" IVP n° 360-61, Autumn 2004.

[2] The following documents are worth looking at: Copernic Flash, September 2004, "Dire non à la Constitution", edited by Yves Salesse (<http://www.fondation-copernic.org>); the booklet published by ATTAC, "Cette Constitution qui piège l'Europe" (editions Mille et Une Nuits, Prais 2005); the "Guide citoyen au referendum", supplement to l'Humanité-Hebdo of 9th-10th April 2005; the 4-page bulletin of the LCR, "Non à la Constitution et à Chirac, pour une Europe sociale et démocratique".

[3] Yves Salesse, "Une constitution inacceptable", Inprecor n) 487, November 2003.

[4] To add "untrammelled" may seem superfluous. But in neo-liberal Newspeak this superfluity signifies that the collectivity must refrain from any regulation that would make it possible, for example, to impose on a capitalist conditions that would equalise practices concerning the sale of goods and services, such as fixing a single price for a given territory. In the neo-liberal scheme of things, people living in isolated communities will be made to pay for the transport of goods and services to them.

[5] It has been sufficiently stressed that any modification of this Treaty has been made practically impossible.

[6] Of which, however, the occupation of Iraq has demonstrated the limits.

[7] Quoted from the Socialist Party's argument sheet in favour of the "Yes" vote: www.ouisocialiste.net.