

A Centre for a Social Europe publication



The EU Constitution: **a bad deal for public services**

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 Centre for a
Social Europe

Foreword —

The EU Constitution is a neo-liberal project

Harry van Bommel,
Dutch Socialist MP

“the real danger for progressives is not just that the EU Constitution fails to reform right-wing policies, but that it would actually make them worse”

The economic role of the European Union has always been larger than its political role. It was not for nothing that the EEC was originally referred to as the Common Market. One look at the European treaties shows that although social issues are addressed, the bulk is concerned with the single market, single currency or other economic areas and their regulation.

With the completion of the single market process in other areas, the EU has turned its attention to services in recent years. As this pamphlet shows, the EU's track record on protecting public services is not a proud one. The push for liberalisation has already undermined public services in some key areas like the post office.

The real danger for progressives is not just that the EU Constitution fails to reform right-wing policies, but that it would actually make them worse. The Constitution would hand the EU Trade Commissioner — currently Peter Mandelson — new powers to negotiate away the public service ethos of our health and education systems.

This pamphlet should sound a warning to progressives, and I urge you to read it and get involved in the progressive campaign against the EU Constitution.

Contents

Introduction, by Caroline Lucas MEP	5
The EU's track record of creeping neo-liberalism	6
The EU Constitution would take Europe in the wrong direction	10
There <i>is</i> an alternative	16
Who we are.....	18

Introduction

The proposed Constitution is a step backwards for the progressive agenda in Europe. By examining the impact of the Constitution on public services, this latest Centre for a Social Europe publication makes an important new contribution to the debate.



Access to decent, affordable public services is the cornerstone of a progressive society. But the proposed EU Constitution seeks further market liberalisation in the provision of public services and threatens, in many cases, to remove individual countries' right to protect their own public services from the deregulation that has already begun to undermine them here in the UK.

Take the Post Office, for example. In the rush towards privatisation led by the EU's directive on postal services, we have seen the cost of postage increase and its reliability plummet.

Progressives from the Labour movement, the Greens and the Trade Unions are united in their commitment to maintaining decent public services and defending them from being damaged by market liberalisation and creeping privatisation. That's why we need a treaty that protects our public services rather than undermines them.

We need a Constitution for a democratic, accountable EU which simplifies the way the Union works and clearly defines the relationship between citizens, member countries and the EU — but the document Blair, Berlusconi and friends signed with such aplomb in Rome just isn't it.

The Constitution at best represents a missed opportunity to put sustainable development at the heart of the EU. At worst, it does exactly the opposite, by entrenching support for the current unsustainable trade policy with its hunger to prise open more and more markets to the forces of economic globalisation.



Caroline Lucas MEP

The EU's track record of creeping neo-liberalism

"Unsurprisingly, there is a majority in the CGT to reject the liberal policy directions, including at the European level."

Didier Le Reste, French Trade Union CGT.

The EU and trade within the EU

Internal trade among member states is governed by the European Union. Since 1992, most aspects of the European economy have been subject to the single market. While the service sector has been the least integrated area, the EU is now moving to complete the single market there as well. Yet the idea that there should be a single market in services is controversial.

The service sector is a diverse one — some parts lend themselves to trade, while others do not. For instance, advertising is clearly a service sector which lends itself well to the creation of a single market. However, education, which also falls into this category, deserves protection as a service provided for the public good.

The agenda for a free market in services is a privatising agenda. It has already meant restrictions on government ownership of utilities that were previously government owned. At the moment, the EU is pushing through new legislation that would see even more cuts in public services and the undermining of working conditions for people across Europe.

Some member states are now trying to block this Directive, but the Commission is set on attacking the social model. It recently said, “Liberalisation of services is an essential element in the Lisbon Strategy. The Commission hopes services will be liberalised. It is out of the question to withdraw the proposal.” Even if the minority of member states which have progressive governments can stop this specific Directive, other similar directives will follow because the EU is moving in the wrong direction.

“UK health and safety standards are hard won and this Directive threatens to dilute those high standards and compromise British workers and public safety without any redress to UK law or regulatory bodies.”

Derek Simpson, General Secretary, Amicus, 1 November 2004.

Case study:

Directive on Postal Services

The EU's policy on postal services is a stark example of undermining the public sector under the guise of "opening up markets".

The process of liberalisation of the postal sector started with the Green Paper of 1992. Although the Green Paper recognised the need for reserved areas, it also set in motion the drive towards a single market in postal services.

The EU then agreed the Postal Directive in 1997, which, in order to create a single market, started to place limits on what a government-owned company (e.g. Royal Mail) could keep as a reserved universal service that would not be subject to competition. Initially this was a weight limit of 350g or a price limit of five times the standard mail (usually 20g).

However, the new Postal Directive, agreed in 2002, puts even more pressure on Royal Mail. The Government has announced further reductions on the postal monopoly, but, in reality, this is just the early implementation of the new Postal Directive.

In January 2003, the EU further limited the maximum weight of letters that are allowed to be protected to 100g. In January 2006, the maximum will come down to 50g. Finally, the Directive has set 1 December 2009 as the date for the completion of the single market in postal services – meaning a full phasing out of government monopolies.

Following the EU-led deregulation of the sector, the postal regulator is now attempting to end the last vestiges of monopoly, which will endanger a public postal service.

"Liberalisation of services is an essential element in the Lisbon Strategy. The Commission hopes services will be liberalised."

Official spokeswoman to EU Commission President Jose Manuel Barroso.

The EU and trade around the world

The EU's policy on the service sector is not only wrong within the Union, it is also wrong on external trade.

EU member states are not allowed to represent themselves in international trade negotiations. That role is now performed by the European Union's Trade Commissioner. In recent years, the EU has increasingly supported the forcing open of sensitive markets in developing countries.

In the areas where the EU negotiates for all member states, those countries that do not agree with the majority decision do not have a voice in WTO negotiations. And not only has a democratic deficit emerged in trade negotiations, but the EU's position has become increasingly neo-liberal.

Case study: **GATS — the EU's free market policy**

The European Union's trade policies are a bad deal for developing countries and its policies on water show this clearly.

In the spring of 2003, a leaked document showed that, despite EU claims to have the interests of the developing world and public services at heart, they had issued a negotiating position which targeted the public water services of 72 countries — many of them countries with fragile developing economies.

Water was one of the most controversial sectors within the list of the EU's negotiating positions, a sector in which many EU multinationals, such as French company Suez-Lyonnaise, have a big stake. It included demands on Brazil to stop the expansion of collectively owned water systems. It also included pressure on other countries to lock in privatisation of water — to stop future governments from taking back common ownership from corporations.

"The European Commission's negotiating strategy in the GATS talks is openly and aggressively geared toward serving corporate interests."

Corporate Europe Observatory.

The EU Constitution would take Europe in the wrong direction

"This constitution was written by neo-liberals, ready to attack the social advances we have won over the last 200 years."

Geneviève Gaillard, French Socialist MP.

The EU Constitution is bad for public services

The EU Constitution contains lots of warm words and lofty principles about the place of public services in the EU, and it speaks of a “social market”. But this is worthless if the detailed policy undermines these services by promoting free trade over social justice.

The EU Constitution would actually give the EU more powers over trade in services. Article III-122 gives the EU new powers to set the economic and financial principles and conditions under which services are provided.

The article adds to the existing powers to liberalise service sectors, and could be used to open up even more sectors to private competition, regardless of their social value. The EU Commissioner for Competition is Neelie Kroes — a right-wing politician from the Netherlands. In her first weeks as Commissioner, she blocked the Portuguese and Spanish Governments from ensuring a large Government share in the energy sector.

The Constitution’s dangers don’t stop with these new powers. The Constitution also commits governments to even further liberalisation than EU law. It says, “The member states shall endeavour to undertake liberalisation of services beyond the extent required by the European framework laws”. It is up to the Commission, dominated by right-wingers, to make recommendations on whether member states should break up service sectors even further.

“I believe that this Constitution is the wrong way forward for Europe. It would be bad for public services, allowing the Commission to extend the market to places where the market has no business being. There is no good reason for people on the Left to back this Constitution.”

Ian Gibson, Labour MP for Norwich North.

The Convention that drafted the Constitution specifically tried to introduce a new definition of public services — services of general interest — to replace the much more restrictive existing definition which only refers to general economic interest. The new proposal was pushed by the Green and Socialist groups and by Trade Unionists across Europe, but was defeated.

The result is that the EU treaties have no definition of public services; the only reference in the treaties is to “services of general economic interest”. The new definition makes it much harder to use the EU treaties to protect key public services such as health and education.



“The European Constitution makes it impossible for Europe and for each country within the EU to lead alternative policies to neo-liberalism. It really is the sealing of neo-liberalism. Voting ‘no’ in the referendum, rejecting the treaty, is to give Europe a chance, a fresh start.”

Jaques Nikonoff of Attac-France.

The EU Constitution is bad for trade justice

Early on in the GATS negotiations, trade justice campaigners were worried that vital public services would be brought into the agreement, subjecting them to liberalisation and increasing pressure for privatisation. EU chief negotiator, Michel Servoz, said menacingly that, “health and education are ripe for liberalisation.” However, the efforts to force privatisation and liberalisation on EU public services faced a key block.

The current EU Treaty states that: “agreements relating to trade in cultural and audiovisual services, educational services, and social and human health services... shall require the common accord of the Member States.”

This requirement for unanimity among the member states made it much more difficult to open these areas to GATS, because countries like Sweden objected. As a result, it has been hard to move the GATS agenda further into these sectors.

With the EU Constitution in place, proponents of free trade would have a much freer hand to bring these key areas into international trade deals.

The exceptions for health, education and audiovisual and cultural services would be scrapped, so that, in most cases, a qualified majority would be all that is required for the trade commissioner to sign deals on our behalf that could see the creeping privatisation of health and education.

EU officials say that the Constitution protects public services, but if the Constitution is ratified, a Government that objects to liberalisation of health or education can only do so in limited cases, with huge hurdles to get over.

“A Constitution that undermines public services in the name of ‘open, free markets’ is not a Constitution that Labour voters want.”

Ian Davidson, Labour MP for Glasgow Pollok.

It would be up to governments to demonstrate the danger of disturbing the national provision of health and education. These are very limited grounds and very hard to prove. For instance, the inclusion of health in GATS may have little obvious immediate effect, but could have a huge long-term impact. We should not forget that the previous Trade Commissioner was happy to argue that he would “ensure that the WTO is used to defend and promote the European model” at the same time as he was preparing to impose deregulation across the world.

The EU’s Michel Servoz made it clear that he would like to introduce these services into international deals that would slowly undermine them. If we say “yes” to this Constitution, then the next leaked document from the EU could contain demands for the health and education sectors around the world to be opened to unfair private competition. That would be bad for the UK, bad for the EU and bad for developing countries.



“We cannot carry on ignoring the fact that, when it comes to international trade agreements, the EU stands shoulder to shoulder with the USA to back unfair free trade. A neo-liberal holding an EU flag is still a neo-liberal”.

Gustav Fridolin, Swedish Green MP.

Europe's public services are under threat

The EU is now trying to take this push for privatisation even further. Its draft Directive on Services (which is also known as the “Bolkestein Directive”) would undermine public services by enforcing one set of regulations on services across the EU. One standard for the EU is no bad thing if this Directive raises standards across the board to the best — but it lowers them all to the worst.

The Directive applies to all services that constitute, “economic activity normally provided for remuneration”. Only services provided by the state “in fulfilment of its social, cultural, educational and legal obligations” are excluded, and this is only where “the characteristic of remuneration is absent”. That means that wherever a profit can be made, as is the case in health and education, the Directive will apply.

The draft Directive poses several threats. In particular, it applies the so-called “country of origin” principle, which means that a company set up in one country could provide services in a second country but apply the legislation of its country of origin rather than the second country’s legislation.

Companies are already trying to use EU rules to undermine social protection. A Latvian construction company recently tried to undercut Swedish collective agreements by paying its Latvian staff a fraction of the wages paid to Swedish workers. The firm said collective agreements made in Latvia should replace Swedish ones and tried to have union activities at their sites banned. The Directive on Services would leave Swedish unions powerless to defend their collective agreements from being undercut in this way.

“The Bolkestein Directive issue is linked to that of the Constitution. If you don’t want the Directive, then you shouldn’t want the Constitution either.”

Jean-Luc Mélenchon, French Socialist senator.

There *is* an alternative



"Europe has become a stricken boat to which this Constitution gives neither compass nor direction. We cannot regret that it doesn't work, and not seize the opportunity we've been given to act."

Pervenche Berès, French Socialist MEP.

There *is* an alternative

Progressives should take a step back and look at the direction in which the EU is moving. In the 1980s the Left looked to the Europe of Jacques Delors as a beacon of light in the dark days of Thatcherism. We were right to look to Europe but now we are faced with free-market dogma that undermines our public services we must rethink how we engage with the EU.

Without specific recognition of public services in the treaties, they will be at risk from liberalisation and privatisation. Changing the rules of the EU to give a specific protection to public services from EU competition policy would be a step in the right direction. At a national level we must win the argument for publicly accountable public services.

When decisions are imposed by undemocratic institutions, such as the EU Commission, progressives will always be the losers. When progressives lose on public services, ordinary people pay the price in lost jobs, worsening services and poorer working conditions.

Voting 'no' to the EU Constitution would send the message that we are not prepared to have further integration at any cost. It would lay down a marker and open the way for a rethink on the Constitution and a listening process so that ordinary people can make their voices heard about the kind of European Union they would like to see.

"It seems to me that if the Right can propose their changes for Europe, why can't the left? We mustn't leave it to those who want a neo-liberal Europe, or who want a centralised bureaucratic Europe, to make their case. We must make ours too."

Sören Wibe, Swedish Social Democrat MP.

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The EU Constitution is bad for public services

The real danger for progressives is not just that the EU Constitution fails to reform right-wing policies, but that it would actually make them worse.

The left must campaign for a 'no'

The referendum on the EU Constitution will give progressives the chance to reject a Constitution that cements a neo-liberal EU. Let's have the confidence to take a stand, vote 'no' and build a social Europe that delivers for working people.

We need your support

The campaign for a 'no' must have progressives at its heart. We can only win with the help of people like you. Now is the time to build a network of supporters across the Left. Register today to be a part of our campaign.

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