

Abolishing Democracy by Stealth: Constitution for Feudalism in Europe

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When the European heads of state gathered in Lisbon on Dec. 13, 2007 to sign the European Union treaty that bears that city's name, they were all in agreement that this treaty—which is 95% identical to the EU Constitution that in 2005 had been rejected in popular referendums in France and the Netherlands—should be ratified by Europe's parliaments as quickly as possible, and with a minimum of fuss. Quite evidently, they shared the view which French President Sarkozy had voiced at a closed meeting with members of the European Parliament in Strasbourg on Nov. 14: Ref-

erendums, Sarkozy averred, are dangerous; they are defeated in every country where they are held, because there is such a deep rift between the population and their respective governments.

It was in this spirit, that Germany's government showed no inclination to rush the public release of this treaty—which is virtually unparalleled in its complexity and impenetrability—in its new, only slightly revised form, and instead confined itself to releasing a list of revisions. Anyone who wanted to read the text in its entirety, had to put the original Constitution text side-by-side with the revision list, and insert the corrections one-by-one—a procedure which could not fail to considerably increase the text's incomprehensibility for anyone who is not an expert in constitutional law—namely, the overwhelming majority of elected offi-



The Lisbon Treaty was signed on Dec. 13, 2007 by European heads of state or government, who thereby agreed to surrender their national sovereignty to a supranational dictatorship—in defiance of their own constitutions. It is reasonable to assume that none of them had read the unreadable document, especially since no copy of it existed in the various languages at that time.

cials, reporters, and the general public—and to diminish the number of individuals who would succeed in burrowing through the text.

It was only after a student in Leipzig, Markus Walther, began circulating a complete, corrected version of the treaty which he had laboriously pieced together, that the German government itself began to distribute the student's unofficial text. They were evidently of the opinion, that danger lay not only in referendums, but also in the very act of reading and understanding the text, and they wanted to avoid exposing elected officials and citizens to such a danger.

If, despite this, you take the trouble to read the treaty's text from the standpoint of interpretations and commentaries by some renowned experts on constitutional law in the German-speaking countries, then it becomes quite clear just why Europe's governments would be so intent on bringing about the treaty's ratification so covertly and without great discussion. Roman Herzog, for example, who was President of the German Federal Constitutional Court from 1987 to 1994, had already written back in January 2007 in the newspaper *Welt am Sonntag*, that the EU poses a threat to parliamentary democracy in Germany, and that the treaty had to be rejected on those grounds. Prof. Hans Klecatsky, one of the fathers of the Austrian Constitution, put it even more succinctly in his commentary: "The Austrian Republic will, along with its Federal Constitution, become a sub-partial legal entity subsumed by the EU legal entity. Thus, the coordination of both constitutions is supplanted by a definitive subjugation, and,

thus, the dissolution and absorption of the Republic into the EU. Member-states will lose the core of their existential statehood, and will be relegated to being mere regional administrative bodies."

Ratification of the Lisbon Treaty would transform the EU from a European federation of states, into a federal state, one in which state power no longer derives from the people—as is required by our Basic Law—but rather from the EU itself. Klecatsky examines many individual points of the EU treaty, showing in each case that they will result in a fundamental alteration of the Austrian Constitution, such that a popular referendum would be absolutely required to decide on it. Prof. Karl Albrecht Schachtschneider, one of the four professors who filed a lawsuit with the German Federal Constitutional Court challenging the Maastricht Treaty and the introduction of the euro currency, has reached the same conclusion. In an expert opinion dated Oct. 13, 2007, he argues that the EU treaty's discontinuance of the democratic principle results in such a fundamental alteration of the Austrian Constitution, that it requires the direct assent of the Austrian people.

The same is true, of course, for Germany's Basic Law, where it says in Article 146: "This Basic Law, which since the achievement of the unity and freedom of Germany applies to the entire German people, shall cease to apply on the day on which a constitution freely adopted by the German people takes effect." Clearly, we have had no such "free adoption" of a new constitution for a Germany that would function as a mere "regional administrative body."

The End of National Sovereignty

And in fact, what emerges from the declarations issued by the conference of governments concerning the reform treaty, is that henceforth, the Union's laws are to be given precedence over those of the member-states. In Declaration 27, it says explicitly: "The conference points out that the treaties, and the laws set into place by the Union on the basis of those treaties, in harmony with current ongoing jurisdiction of the European Court of Justice, and under the conditions defined by that ongoing jurisdiction, have precedence over the laws of the member-states."

And in an opinion issued by the Legal Service of the European Commission on June 22, 2007, it says: "According to European Court of Justice case law, the precedence of EU law is one of the pillars of the law of the Union. . . . The fact that this principle of precedence is not incorporated into the future treaty, does not alter the fact of its existence, nor of the existing ongoing jurisdiction of the European Court of Justice." Come again? EU law has precedence over German law, but that's not even part of the treaty? And just in order to find this radical revision, one must look it up in the Declarations, and then, just to be sure, look it up once again in a court opinion, which states why this principle doesn't appear in the treaty text, but is in force nevertheless?

Professor Schachtschneider justifiably poses the question of whether such a fundamental alteration of the Federal Constitution (and of Germany's Basic Law, I might add) by means of political state treaties, is permissible at all. It is, at any rate, fallacious to assume that political state treaties can effect a total revision of the Federal Constitution (and, German Basic Law), without giving all citizens the opportunity to vote on it.

But the treaty text contains still other monstrosities. The institution of a "simplified alteration procedure" according to Article 33, Paragraph 6 of the EU Treaty, enables the EU Council to decide upon "the revision of all, or part of the treaty concerning the functioning of the European Union." This third part includes all fields of policymaking with the exception of foreign and security policy, which latter are only listed here in order to more clearly delineate the full extent of what it *does* include. It includes: the free flow of commodities within the customs union; agriculture; travel among member countries; the free circulation of services and capital (i.e., the domestic national market and basic freedoms); the reach of freedom, security, and law; transportation; the common rules governing competition, taxation, and harmonization of regulatory laws; economic and monetary policy; employment; common trade policy; tariff cooperation; social welfare policy; consumer protection; the trans-European power grid; industry; economic and social cohesion; research and technological development; the environment; foreign development cooperation; economic, financial, and technical cooperation with third countries. The legislative bodies of the member-

states are *not* to be involved in changes in the regulation of any of these areas.

Professor Schachtschneider comments on this: "The simplified revision procedure is the farthest-reaching transference of constitutional sovereignty to the European Council, the leaders of the Union. It does not even require the approval of the European Parliament, not to mention national parliaments. This general clause is an essential component of the existential statehood of the European Union—a statehood which is to be expanded by this treaty reform. By means of this empowerment, the EU will gain the most far-reaching constitutional sovereignty, without having been democratically legitimized to do so—certainly not by some Union citizenry endowed with original sovereignty.

"The 'simplified revision procedure' is simply incommensurable with the principle of democracy. On those grounds alone, the introduction of this procedure is a total revision of the Federal Constitution [and, of Germany's Basic Law—HZL], which contains the democratic principle as one of its fundamental structural principles. . . .

"The simplified revision procedure is an empowerment law for the European Council, one which allows the Council to revolutionize the internal, and, also, extensively, the external order of the Union, and, thus, of the member-states. Only foreign and security policy is, as stated before, excluded. With its approval of this treaty revision, the Austrian Republic [and Germany—HZL] empowers the European Union to make any revision it wants to the Federal Constitution. Only the Federal Chancellor can have any influence over these revisions, because the European Council itself must adopt them unanimously. The simplified revision procedure is a dictatorship's constitution in its nature, bereft of the slightest trace of democratic residue. . . .

"This is not something that a people can agree to, if it desires to remain an independent, self-subsisting state. Under no circumstances can the National Parliament [or, the German Bundestag—HZL], the people's representative, disempower the people by approving such a treaty."

In the legal challenge to the Maastricht Treaty, Germany's Federal Constitutional Court did in fact decide that a certain degree of sovereignty could be transferred from the member-states to the EU. And it is also unfortunately true, that even before the Lisbon Treaty, up to 80% of all legal guidelines came from Brussels, and that the Bundestag restricted itself to the implementation of those guidelines. But when popular representatives cease to represent their constituents, it's high time for them to be voted out of office.

One further aspect of this undermining of the EU member-states' existential statehood, is that the treaty reform grants the Union the right to levy European taxes without the approval of national parliaments. And so, taxpayers are to cough up more funds for a bureaucracy, without any means whatsoever for holding that bureaucracy accountable!

Military Deployments

Just how thoroughly the treaty reform could transform Europe from a federation of states into an imperial oligarchy, is put into sharpest relief by the so-called “solidarity clause” in the EU Treaty’s Articles 27 and 28. These clauses state that the member-states are to come to each other’s assistance militarily, in combating “terrorist activities.” The term “terrorist activities” is left completely undefined, but military assistance is indeed defined as deployment with the force of arms, also for conflict resolution and wars of aggression; and, member-states are obliged to build up their armaments.

The international law expert Prof. Manfred Rotter correctly points out that the EU Treaty fundamentally expands the EU’s structural spectrum, and that, on top of all of its other powers, it also makes the EU a military alliance. He writes: “This [military] alliance obligation is especially perplexing when one considers that 22 of the 27 EU members also belong to NATO, and that thus, in opposition to the 26 [!] NATO states, they have their own separate alliance obligation—an obligation which is explicitly emphasized in Article 27, Paragraph 7, and which is apparently endowed with a certain degree of precedence. But then again, it could be that, with this anchoring of the EU states’ mutual alliance obligation in the event of a defense emergency, a de facto interlacing of the EU and NATO is to be insinuated into Union law.”

More than anything else, this symbiosis of the EU and NATO highlights the fact that with the Lisbon Treaty, the EU is moving precisely along the lines foreseen by Robert Cooper, a former advisor to [EU foreign policy and security policy representative Javier] Solana, who describes the EU as the most far-reaching form of imperial expansion. In his 2003 book, *The Breaking of Nations: Order and Chaos in the 21st Century*, Cooper writes: “The postmodern, European answer to threats is to extend the system of co-operative empire ever wider.” So, it is not difficult to understand why Russia has long equated NATO’s eastward expansion with that of the EU, and has seen both as part of a strategy of aggressive encirclement.

Another serious revision of the treaty, is the establishment of an appointed President with a two-year term, who would have far-reaching powers over the right to propose policies, and to reject them. Sarkozy, along with British Prime Minister Gordon Brown, are among those advocating Tony Blair as the first such European President. This same Blair, we must recall, is not only the conceptual father of the Iraq War, but in 1999, in his infamous Chicago speech on “liberal imperialism,” he propounded a new era of worldwide interventionism. According to Blair, the era of the Peace of Westphalia, and its associated respect for national sovereignty, is at an end, and a “new imperialism” must prepare itself for intervention into nations’ internal affairs—for “humanitarian” reasons, of course. NATO interventions world-

wide are permissible against rogue states, “even when we are not threatened directly.”

Claude Juncker, Prime Minister and Finance Minister of Luxembourg, who is likewise being mooted as first European President, made it equally clear in a 1999 interview with *Der Spiegel* magazine, just what he thinks of democracy, truth, and transparency, and of how our basic system of freedoms is best done away with by stealth: “We decide on something, and then we put it out and wait a while to see if anything happens. And then, if there isn’t any big outcry or revolt, because most people don’t understand what’s been decided, we keep on going, step by step, until there’s no turning back” (*Der Spiegel*, 52/1999).

Professor Schachtschneider has pointed out repeatedly, that with the adoption of the EU Treaty, the death penalty is to be reintroduced. This is because by accepting the treaty, we are also accepting the EU Charter of Fundamental Rights. The Charter states that no one is to be condemned to death—but this has been revised in the annotations, to say that the ban on the death penalty and execution is not in effect during times of war or the imminent threat of war, or in periods of rebellion and revolt. And what could be more efficient than the threat of a death sentence, to ensure that soldiers do what they have been ordered to do? Schachtschneider stresses that a treaty which makes the death penalty possible once again, cannot be approved under any circumstances.

An Oligarchical Dictatorship

Lest anyone remain doubtful about what this Lisbon Treaty means—an oligarchical dictatorship, in which member-states’ sovereignty has been wholly relinquished in favor of an aggressive, imperial structure, one in which a new feudalism leaves no remaining handles for defending the social welfare state and the general welfare, and which would lead us further down the road to a suicidal confrontation with Russia and China, as demonstrated most recently by the EU’s behavior in the case of Kosovo—then let him take to heart the words of the treaty’s author, Giuliano Amato, who is currently Italy’s Interior Minister.

In an interview with *La Stampa* on July 12, 2000, Amato elaborated on how his model is England and the Middle Ages: “Therefore I prefer to go slowly, to crumble little by little pieces of sovereignty, avoiding sudden shifts from national to federal powers.... And why not going back to the period before Hobbes? The Middle Ages had a much richer humanity, and a diversity of identity which today can be a model. The Middle Ages is beautiful; it can have policymaking centers, without entirely relying on anyone. It is beyond the bounds of the nation-state. Today, as then, nomads are reappearing in our societies. Today also, we have powers without territories. Without sovereignties, we will not have totalitarianism. Democracy does not need a sovereign.”

Small wonder that Europe’s monarchies are particularly enthusiastic about the EU Treaty: a Europe of regions and cit-



German Government Press and Information Office
German Chancellor Angela Merkel and Vice Chancellor Frank-Walter Steinmeier sign the Lisbon Treaty. Only after a Leipzig university student pieced together a complete text of the treaty, did the government circulate it.

ies, without sovereign nation-states to defend the general welfare, but rather an imperial structure, a new Middle Ages, with a life expectancy, population, and poverty to match. No, thanks!

This Middle Ages utopia endorsed by Amato means nothing else than the desire of the financial oligarchy to use the Lombard League of the cities, from the period before the sovereign nation-state developed, as a model for financial control within an imperial structure today. This is the same direction in which the “Transatlantic Mayors Initiative” of Felix Rohatyn and John Kornblum aimed, where “smart mayors” would help to privatize all areas and then govern the world, together with 400 or so CEOs of the largest multinational cartels, with the exclusion of all nation-states.

Now exactly what is necessary, is what Jean-Claude Juncker wanted to avoid: We have to make sure, that the population understands *very well* what the reform treaty is trying to implement with a cold coup. It is clear that the text and the entire procedure are done in such a way that nobody can understand what it is all about. But if one takes the trouble to try to understand it, then one realizes, that there are such radical changes at stake, that in an honest debate and referendum, there would not be the slightest chance to get them through.

One sophisticated trick to make the monster of Lisbon more palatable, has been to present it as the necessary basis for a European identity, to counterbalance America’s aggressive worldwide influence. But that is a deliberate bait-and-switch trick: As the already-mentioned merging of EU and NATO and the eastward expansion of both makes clear, what we’re

dealing with is rather an imperial strategy of confrontation against Russia and China—something which those two nations have understood for quite some time now.

And even if the authors of the Maastricht, Amsterdam, Nice, and Lisbon treaties could not have known that the phase of attempted ratification of the EU Treaty would coincide with the final collapse phase of the world financial system, it is nevertheless evident that the financial crash has greatly amplified the energy and tempo of the EU’s and governments’ attempts to get the EU Treaty ratified by parliaments without any real debate.

And then, if the efforts to establish a dictatorship in Europe are put into context with Bloomberg’s attempt to take the U.S. Presidential elections, it becomes clear that the international financial oligarchy would like to react to the new depression and the world financial crisis, with the same methods as they employed

in the 1930s: corporatism *à la* Mussolini, and Hjalmar Schacht’s austerity policy.

The People Must Decide

The European Court of Justice, as mentioned earlier, respects no limitations on its Community law. And Articles 2 through 6 of the reform treaty, under the title “Common Provisions,” purport to establish the EU as guarantor of human dignity, freedom, democracy, etc. These values, however, are among the irrevocable constitutional principles of our Basic Law; they belong to the constitution of mankind’s humanity, and represent principles of law which are not subject to the vagaries of politics.

From all that we have said above, the only conclusion can be that such a drastic revision of our legal system, and subjugation of our Basic Law under an undemocratic structure, cannot be permitted to occur without a comprehensive debate by the entire citizenry, and a popular referendum.

Article 20, Paragraph 2 of the Basic Law says that “All state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive, and judicial bodies.”

Up to now, these bodies have been remiss in working out rules for holding popular referendums, because they have apparently thought it better not to ask the people directly. But on a question as existential as the one before us, these bodies are now called upon to immediately define such rules for “other votes” as specified in Article 20, Paragraph 2.

For a referendum on the EU Treaty!