

Towards a new legal foundation of the European Union

Attac's Ten Principles for a Democratic Treaty

The European Attacs deem the present form of the European Union a serious obstacle to democratic achievements, fundamental rights, social security, gender justice, and environmental sustainability. It suffers from a lack of democracy, legitimacy, and transparency, and is governed by a set of treaties which force neoliberal policies on member states and the whole world.

This is the reason why the European Attac network considers the future of Europe as a central issue in its activities. In 2005, the European Attacs started a common process of reflexion and debate about European issues. This declaration inscribes itself in this dynamic.

Since the Non and Nee in France and the Netherlands it is clear that not only the proposed Constitutional Treaty (from now on: CT) but also the present European Union lack popular legitimacy, and are widely regarded as undemocratic and antisocial.

The CT does not set up a Constitution in its strict sense but rather compiles and develops previous norms and treaties. Nevertheless, its political importance is considered higher, since it not only modifies the institutional framework and defines principles, values and objectives, but also formulates concrete policies. This constitutionalizes the neoliberal model of the EU and thus is unacceptable. Formally, this Treaty also suffers a lack of democratic processes and is nearly impossible to reverse.

At present, European governments are trying to relaunch the Treaty process, ignoring the popular rejection in some member countries. Their goal is to get a result during the French presidency in the first half of 2008. In January, 18 governments of EU member states met in Madrid in order to find a compromise on the basis of the rejected CT.

In this situation, it is vital for democracy that social and political movements respond by demanding concrete alternatives for European construction and that these proposals are taken into account. The European Attacs demand that any new Treaty and its establishment shall be based on ten principles, concerning the process to establish the Treaty (part I), its institutional content (part II) and its principles for European policies (part III).

PART ONE: CONCERNING THE PROCESS

1. START A DEMOCRATIC PROCESS:

Any new Treaty shall be elaborated and adopted democratically. The European Attacs oppose any attempt to revive the CT, and propose the following:

- A new and democratic Assembly, directly elected by the citizens of all European member states, shall be mandated to elaborate, with the effective participation of national parliaments, a proposal for a new Treaty.

- This Treaty shall be based on gender parity (unlike the convention for the CT with only 16% women), represent all sectors of society and also be intergenerational.
- Any new Treaty must be legitimated by referenda in all member states. The result of the vote should be calculated country per country.
- During the ratification campaigns, the European institutions and the member states shall establish rules that ensure public deliberation, independent of predominant economic interests e. g. in the media sector and with enough time for intensive debate.

PART TWO: ELEMENTS FOR AN INSTITUTIONAL TREATY

2. IMPROVE DEMOCRACY:

Any new Treaty must be built on the best existing democratic principles. The present EU is not built on a clear separation of powers and suffers from a deep democratic deficit. The European parliament can neither initiate laws nor establish a budget, nor does it have a vote in a series of policies despite being the only democratically elected entity at the EU level; whereas the Commission, which is not elected, is the only institution that can propose laws. At the same time, we witness a degradation of democratic life in the member states. The European Attacs demand the following:

- The principles of any new Treaty shall be: human dignity, rule of law, representative and participatory democracy, economic and social justice, social security and inclusion, solidarity, gender equality and gender democracy, sustainability, and commitment to peace.
- Clear separation of the executive, legislative and judicial powers. The monopoly of the Commission to propose laws must end. The legislative initiative must be open to all EU institutions and citizens.
- The European Parliament must get the right to propose and co-adopt legislation for all EU policies and also the exclusive right to elect and dismiss the EU Commission and its separate members.
- We demand the strengthening of national parliaments both at the European and at the national levels: the national parliaments must gain an effective role in European and national legislation.
- The text of a Treaty shall provide a clear description of the competence of the EU, and an equally clear statement on the limits of that competence with regard to national states and local authorities. The European Court of Justice must not given space to act as a de facto legislator.
- The European Central Bank (ECB) must be submitted to democratic control. The main purposes of its monetary policy shall be economic justice, full employment and social security for all European citizens. Moreover, the Eurogroup must assume its responsibility, authorized by the present Treaties, in defining exchange rate policy.

3. INSTALL TRANSPARENCY

At present, citizens encounter difficulties in exercising their right to obtain information. Discussions of the Council and the Permanent Representatives Committee (COREPER) are frequently closed to the public. Lobbying is a pervasive phenomenon that undermines democracy. We demand:

- All meetings, committees and working groups of the Council and the Permanent Representatives must be open to the public.

- Access to information for all European citizens must be guaranteed.
- Clear limitations to lobbying must figure in the Treaty as well as mandatory registration and disclosure of interests and financing for all lobbyists, members of the European Parliament, members of the European Commission and members of committees.
- A new Treaty must be short, self-explanatory, and understandable by the common people.
- All languages must be considered equal. All official documents of the EU must be available in all official languages of the EU.

4. DEVELOP PARTICIPATION AND DIRECT DEMOCRACY

A new institutional Treaty must include the fundamental right to direct participation of citizens in public affairs. It should offer understandable, usable and far reaching forms of direct democracy, for instance it might PROPOSE the following rights:

- A certain share of the total population in a certain number of member states can propose a law that is debated and voted on in the European Parliament.
- A certain share of the total population in a certain number of member states can demand that the European Parliament organize a referendum in all member states, and the result of the popular consultation must be binding.
- Limitations can be placed on the influence of corporate interest on EU institutions and decision-making through transparency and limitations of privileged access.
- Mandatory consultation of social movements and NGOs is instated for all EU legislation, on the same basis as consultation of other interest groups.
- The first referendum in all member states of the EU should be the one on the new Treaty.

PART THREE: PRINCIPLES FOR EUROPEAN POLICIES

5. IMPROVE FUNDAMENTAL RIGHTS

Any new Treaty must be established on the basis of or as an improvement to the most progressive fundamental rights already existing in international treaties, especially the International Bill of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Turin version of the European Social Charter and the European Code of Social Security.

Guaranteeing fundamental rights in the Treaty is a necessary step. However, in the EU Charter of Fundamental Rights, anchored in the CT, important basic rights are missing, some are watered down in their wording, strongly limited by the explications in the final act, or cannot be claimed in court. For these reasons, cannot be called *fundamental rights*. The European Attacs demand:

- Fundamental rights as listed in the ECHR, in the European Social Charter and the European Code of Social Security must be enforceable through national or European courts.
- The EU must accede to the ECHR so that its institutions are also subject to the European Court of Human Rights.
- It must be explicitly clarified that these fundamental rights as well as the principles of the Treaty take priority over all other EU primary and secondary law.

- Fundamental rights must not be restricted by national or EU law or by the personal interpretation of a Convention's Presidency.
- Any new Treaty shall stress that every person must be guaranteed equal access to social and labour rights, regardless of the country of origin.
- European citizenship must be given to all residents in Europe.
- The aforementioned rights must also be respected in the external policies of the EU (e.g. security policy, migration policy, environmental policy, trade policy).

6. PROTECT AND IMPROVE DEMOCRATIC ACHIEVEMENTS

Democratic achievements, social, civil and worker's rights, and rules for the environment and public health are under severe pressure from provisions in earlier treaties, especially the principles of competition and liberalization. Any new Treaty must not endanger these conquests and give people in Europe, parliaments and governments a tool to further develop these democratic achievements on a cooperative basis. The European Attacs demand the following:

- The right to collective bargaining, the right to strike; ILO core labour standards must be elevated to the status of enforceable fundamental rights.
- Each member state must be allowed to adopt and sustain more ambitious rules in areas such as social protection, labour standards, environment, protection of special groups.
- The European Union shall consider itself as a cooperative (and not competitive) union whose goal is constantly to improve environmental, social and labour standards in order to fulfil the constitutional principles of social security and sustainability. Rules to counteract fiscal and social dumping must be established.
- It must be stated that property rights carry obligations and the use of property rights must always simultaneously serve public welfare.
- Economic democracy and participation must be improved at all levels.

7. OFFER SPACE FOR AN ALTERNATIVE ECONOMIC ORDER

Any new Treaty must respect the aforementioned fundamental values and democratic principles. It must offer space for implementing alternative policies instead of fixing one specific economic model like the CT and former treaties did, repeatedly stipulating an "open market economy with free and undistorted competition"¹. This has no place either in a constitutional or an institutional treaty. Whatever economic model and regulation is chosen, must be left to a democratic policy-making process. The European Attacs demand:

- A Treaty must not fix a specific economic model and must allow alternative choices at all levels.
- "Free" competition must not be a universal principle of the EU. The definition of areas where "free" competition is allowed and of those where it does not apply (e.g. supply of potable water, education, health, agriculture) must be decided by democratic processes on national and EU level. In no case should such definitions be constitutionalized.
- European law, e.g. competition law, must not undermine the right of member states to define, organize and finance public goods, e. g. water supply, health care, education, or public transport. To the contrary, it must be a crucial aim of the European construction to provide and improve public goods at all levels.

¹ Art. III-177 (= Art. 4 TEC), III-178 (= Art. 98 TEC) and III-185 (= Art. 105 TEC).

8. DEFINE GOALS INSTEAD OF MEANS

A true, vibrant democracy determines the means by which to achieve the respective objectives of its constitution. Stipulating the concrete policies in the constitution itself is inappropriate.

Examples:

- The objectives of a transport policy should be “sustainable mobility” and “equal access to mobility for all”, and not the construction of trans-European networks², including highways, motorways and high-speed railways.
- The objectives of an agricultural policy should be “sustainable agriculture”, the maintenance of smallholder farming as well as the “production of healthy and sufficient food”, not the “increase of productivity”, “rationalization” or “the best possible utilization of productive factors, especially of labour”³.
- The “priority aim” of the European Central Bank (ECB) should not be “stability of prices”⁴, but economic justice, full employment and welfare for all.
- The ecological sustainability principle must be prior to market freedoms and the logic of profit. It must guide energy, transport, and agricultural policy.

9. RACE TO THE TOP IN SOCIAL RIGHTS AND TAXATION

In a region like the EU with economies deeply integrated through decades of liberalisation (of trade, finance and investment), member states are presently engaging in a race to the bottom in vital areas like taxation and social policy. To counter this, it is important that countermeasures can be taken at the EU-level, and that a race to the top is facilitated by specific provisions authorized by a new Treaty. The European Attacs propose:

- Measures to combat tax evasion and tax competition must be facilitated. Ambitious minimum standards should be agreed on the EU-level particularly as regards taxation of corporate and capital income.
- The flawed social policy of the EU must be replaced by a transparent, enforceable set of ambitious social minimum standards and rights.

These regulations must take into account the differences of economic capabilities, e.g. through “corridors”, which means setting higher standards for richer member states and lower standards for poorer member states. Such rules must be implemented in such a way that they do not preclude higher standards in any member state.

If several member states wish to implement, for example, a comprehensive social policy or adopt a set of higher labour standards than can be agreed in the EU as a whole, the former can decide to sign an agreement of cooperation on the issues in question.

10. ESTABLISH OBLIGATION TO PEACE AND SOLIDARITY

Concerning the question of security, the aim shall be “peace” (in the broadest sense) and not the build-up of weapons at the international level. The draft CT states: “Member States shall undertake progressively to improve their military capabilities.”⁵ The creation of a “defence agency” would have among others the task of “developing armaments”. Any new Treaty should clearly define a strong political ambition of Europe: the EU must be a key actor for the definition of a new international and multilateral order dedicated to the building of peace and to the denouncement of war and militarization as means of settling international disputes. In

² Art. III-246 (= Art. 154 TEC).

³ Art. III-227 (= Art. 33 TEC).

⁴ Art. III-177 (= Art. 4 TEC) and III-185 (= Art. 105 TEC).

⁵ Art. I-41.

particular, we denounce the neoconservative concept of “pre-emptive military missions”. The European Attacs demand:

- Absolute respect of the International Law, especially the Charter of the United Nations, the Universal Declaration of Human Rights and the Non-Proliferation Treaty, including its obligation to disarmament. Nevertheless, the EU must promote a democratic reform of the UN.
- Promotion of worldwide disarmament, beginning at home.
- The independence of the EU from NATO must be asserted.
- Major investments in the build up of institutions working and researching on peaceful conflict resolution in all member states as well as at the EU level.
- Mandatory principle of gender balance in policy making and among participants in any foreign policy activity of the European Union.

These principles were elaborated by some 15 European Attac organizations. Many differences were overcome and others were treated in a way that does not block further progress. Although the principles can doubtless be improved upon and others added – we urge alternative policies to the fortress Europe, to the criminalization of migrants, to unfair trade rules, debt and poverty and we demand to intensify the cooperation with poor countries on an equal basis – we believe that they provide a good starting point in the attempt to create a progressive and popular response to the attempts by governments of member states to revive the former CT or to force the EU down in the same track as before. We believe that the response by majorities in France and the Netherlands should rule out both options.

Besides being a common platform and a tool for common action of the signatory organisations, this statement is intended to open debate with other progressive forces on Europe. Only a the largest and broadest coalition of forces can succeed in setting a different agenda for Europe instead of the one envisioned in the former Constitutional Treaty.

Attac works for participatory democracy, for democratic institutions, and for cooperation in Europe and globally. It is within such a framework that our agenda for economic and social justice, gender equality and environmental sustainability can be promoted in Europe as well as globally.

Paris, Berlin, Madrid, Vienna, March 2007.

Signatures

Attac X
Attac Y
Attac Z