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**A REBEL'S GUIDE TO THE LISBON TREATY
REFERENDUM 2009**

By

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INTRODUCTION: WHY WE NEED TO VOTE NO (AGAIN)

When does no mean no? The people of Europe have essentially rejected what is now the Lisbon Treaty a total of three times. However, so determined are the European elites to push through this Treaty there is now to be a fourth referendum. It was rejected first by the French, second by the Dutch (both in the EU Constitution form in 2005), and third by the Irish (in its present Lisbon Treaty form). Ireland only got a vote because its political elite could not wriggle out of the constitutional requirement to have one. Now, in the vain hope that the *fourth* time will be the charm, the Irish are being made to vote on 2nd October on exactly the same Treaty — making this the second time that Ireland has been told to vote again on an EU treaty having originally rejected it. One of the favoured arguments of the Yes camp during the previous referendum campaign was that the Lisbon Treaty was really about strengthening EU democracy. Yet the behaviour of the government, the opposition parties, the EU elites and the media clearly show the lie in this argument. From the moment it became clear that the Irish people had rejected the Lisbon Treaty their first thought was: How do we get around this? Brian Cowen, shamefaced, took himself off to Brussels to apologise for the Irish vote and then spent the next year colluding with EU leaders on how to 'sell' the Treaty to Irish voters a second time.

In a rare display of candour, EU Commissioner, Charlie McCreevy revealed the attitude of the European elites towards Irish voters: "When Irish people rejected the Lisbon Treaty a year ago, the initial reaction ranged from shock to horror to temper to vexation." But, he added, this fury later subsided because "I think all of the politicians of Europe would have known quite well that if a similar question had been put to their electorate in a referendum the answer in 95 per cent of countries would have been 'No' as well."¹ Initially, at least, Labour Party leader Eamon Gilmore pretended that he respected the Irish vote. In an interview just after the No vote he said: "I don't think there's any question of this Treaty being put a second time to the people . . . People have made a decision. The Lisbon Treaty cannot now be ratified. And I think that the decision that has been made by the Irish people has got to be respected by everybody, got to be respected by the Taoiseach, by the Government, by the other Member States, by the political leadership in Brussels."² A lot, it appears, can change in twelve months. Gilmore's Labour Party have joined the other mainstream parties in deciding that Irish democracy is not good enough for them and they now support the holding of a second referendum and are, again, calling for a Yes vote. The reality of the situation is that politicians and the media have never gotten over the fact that they were beaten by a grassroots campaign. People voted against the treaty because it endorsed a militarised, neoliberal and anti-democratic vision for Europe — and, crucially, this hasn't changed.

This pamphlet is based on Kieran Allen's 2008 pamphlet, *Reasons to Vote No to the Lisbon Treaty* and, like the previous one, it outlines in detail the reasons why we should once again vote No to Lisbon. In order to secure a Yes vote the Government have spent the past year securing a series of 'legal guarantees' that guarantee little and are not, in fact, legal. The Irish Times' political editor, Stephen Collins, revealing the paper's general contempt for No voters, described the 'guarantees' as "Lisbon for slow learners."³ However, what the politicians and media are really banking on this time around is that the fear factor will work to secure a Yes vote. Thus while the Treaty itself remains unaltered, it would be foolish to claim that nothing has changed in the year or so since the rejection of Lisbon in June 2008. Within the past twelve months the world has been engulfed by a huge economic crisis, and the Government and the European elites are hoping to play on people's real fear and uncertainty. Specifically, they are hoping that the economic crisis will convince people to vote Yes out of fear that Ireland might be cut loose from the EU and left in 'financial isolation'. However, given the extent of the economic crisis, it is more important than ever that we vote No to Lisbon a second time. The current crisis is a direct result of the neoliberal economic agenda that Lisbon would only

¹ Charlie McCreevy, *The Irish Times* 27 June 2009. <http://www.irishtimes.com/newspaper/ireland/2009/0627/1224249653534.html>

² Interview with Eamon Gilmore SixOne News RTE 1, 13 June 2008
http://www.rte.ie/news/2008/0613/eul Lisbonreax_av.html?2387274,null,230

³ Stephen Collins, *The Irish Times*, 20 June 2009. <http://www.irishtimes.com/newspaper/opinion/2009/0620/1224249181675.html>

further embed into the EU Treaties. The economic architecture that Lisbon enshrines is based on the false assumption that capitalism can remain crisis free. Clearly it can't, and yet the European elites insist on pushing through what would become a neoliberal straight-jacket that is clearly unsuitable for the current economic reality. What we need now is a major rethink about the free-market fundamentalist direction in which the EU has been driven. We need to build a different type of Europe, one that puts the interests of people before those of profit and big business.

THE ECONOMIC CRISIS & THE LISBON TREATY

Within months of the defeat of the Lisbon Treaty the worst financial crisis in recent history had spread throughout the 'real' economy revealing a profound, systemic crisis. This economic crisis is the most serious that capitalism has faced since the 1930s and over the coming years it may well surpass the last 'Great Depression' in its scope and intensity. Already the impact of the crisis on jobs in both manufacturing and services has been enormous and is far from over. The WTO predicts that world trade will sink by 9 percent this year, the first fall since 1982, and others predict that global output will shrink this year for the first time since the 1930s.⁴ It appears likely that this will only add additional pressure to the global banking system, leading to more bail outs in addition to the massive state intervention which has already been necessary to rescue a banking system close to collapse and which is very far from being out of the woods. It is in this context that we must approach a second Lisbon Treaty referendum.

The crisis in the real economy has been mirrored by an even deeper crisis in intellectual circles, as the vast majority of economists and financial experts have been simply unable to explain how it is that their cherished system has suddenly imploded. A crisis of such magnitude coming on the back of three decades of neoliberal orthodoxy has created a fundamental crisis of legitimation. Or at least it would do so if such policies were not so closely tied to the material interests of the ruling class.

Neoliberals argue that private companies are more efficient and profitable and can deliver better services at lower prices. They advocate government deregulation to allow the free-market to allocate resources more efficiently. This 'supply-side' approach to economic organization is built on the celebration of capitalist competition as well as on the attendant need to reduce government spending in areas like healthcare, education and social welfare.

Yet these are the very policies that have produced this epic crisis. Not surprisingly, the neoliberals are now seeking rescue from the taxpayer and suddenly those who only yesterday were die-hard deregulators are now eagerly appealing for state intervention and a return to Keynesianism. Martin Wolf — chief economics commentator for the *Financial Times* and, for the past decade, one of the most prominent and consistent advocates of free-market capitalism — found himself experiencing his very own road-to-Damascus conversion. In a feature length piece for the *Financial Times*, he wrote:

We are all Keynesians now. When Barack Obama takes office he will propose a gigantic fiscal stimulus package. Such packages are being offered by many other governments. Even Germany is being dragged, kicking and screaming, into this race. The ghost of John Maynard Keynes, the father of macroeconomics, has returned to haunt us. With it has come that of his most interesting disciple, Hyman Minsky. We all now know of the "Minsky moment" — the point at which a financial mania turns into panic.⁵

Wolf was not alone. Leading economists, bankers, financial speculators and politicians were all calling for trillion dollar injections of cash into the global financial system. Clearly neoliberal orthodoxy has been shaken, but as the Lisbon Treaty illustrates the practical structures of that ideology remains intact, as the European elites seek to ride out the storm on the back of the taxpayer, whilst simultaneously enshrining neoliberalism for the future. Given that neoliberal policies have failed so spectacularly, you would think that we would be having a major debate at national and European level as to the future direction of the Irish economy and the EU. Instead, Irish and European elites are determined to push ahead with implementing these policies. This can be seen in the huge spending cuts and privatisation proposals in the McCarthy 'Bord Snip' report, the setting up of NAMA to bail out the banks, and the very determined effort to force a Yes vote on the Lisbon Treaty.

⁴ *The Economist*, 26 March 2009.

⁵ M. Wolf, "Keynes offers us the best way to think about the Crisis" *Financial Times*, 24 December 2008.

While the Irish Government is quite capable of pushing through spending cuts and privatisation on its own, much of the agenda for these policies is now set at European level, through the policies of the European Union, which are laid down in the treaties and secondary EU legislation. Often the Government will hold its hands up and say that it has no choice to implement certain policies because they come from the EU. This was what they said about the introduction of water charges for schools from 2008 onwards. In reality, however, blaming the EU is utter hypocrisy. The Government agree with the policies because they helped put them into EU treaties. The elites in Ireland and in the EU are at one in pushing neoliberal policies. We must oppose the McCarthy cutbacks, the establishment of NAMA and the Lisbon Treaty because they are all part of the same neoliberal agenda.

The Lisbon Treaty is intended to be the last major reform of the existing treaties for some time. If ratified, it would effectively lock Ireland and other Member States of the European Union into a neoliberal straight-jacket for the foreseeable future. It is therefore important and valid to consider both the provisions of the existing treaties, which would be reaffirmed by the ratification of Lisbon, and the modifications to these treaties proposed by the Lisbon Treaty itself. In the next section we will look at some of economic aspects of the existing treaties, the changes that the Lisbon Treaty seeks bring about, and the consequences of both.

No capital controls

One of the fashionable doctrines for modern neoliberals is outlawing capital controls, a policy that even right-wing economists now accept contributed to the severity of the economic crisis. Yet, despite this, the Lisbon Treaty still contains provisions that ban capital controls on global finance. Article 56 of the EC Treaty (Article 63 TFEU consolidated) states that “within the framework of the provisions set out in this chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.” The practical implications of a clause that rules out the control of capital is, to say the least, reckless.

However none of this is surprising given the amount of power that banks and big business have over the political power in the EU. Recent attempts by the EU to regulate hedge funds and private equity firms clearly illustrate the level of power that these groups possess. On 29 April 2009, the European Commission proposed a mild set of rules for hedge funds and private equity firms. Private equity and hedge funds are private capital pools. Private equity firms invest in companies, mainly by acquiring businesses to sell them at a higher price: so-called 'buy-outs'. Hedge funds are investment vehicles which exploit market imperfections to make returns even when markets are underperforming. Private equity and hedge funds are very lightly regulated.

EU regulations would simply involve mandatory registration and disclosure of their activities to regulators. The main regulatory component of the proposed legislation is an obligation for EU-based managers of so-called 'alternative investment funds' to register and disclose their activities, in order to improve supervision and avoid systemic risks. The obligations would be restricted to funds in excess of €100 million and they would not be applied to the funds themselves, but only to their managers. The Commission itself reckons that less than a third of hedge-fund managers will be covered by the directive, but even these mild reforms drew howls of indignation from financiers.

Not to worry, though, as the financiers had their very own benefactor inside the Commission in the shape of former Minister for Finance, Charlie McCreevy, who won fame in Ireland for his 'dirty dozen cuts' in social welfare. In his new role as the EU's Internal Market Commissioner he became even more astounding for his craven admiration for global finance. In 2007, he proclaimed that “private equity funds ... including hedge funds ... play a much more valuable role than any government ... in driving Europe's growth and in equipping European industry to survive.”⁶

⁶ 'EU commissioner praises private equity firms as economic saviours' *The Guardian*, 23 February 2007.

After last year's financial meltdown he came under huge pressure to introduce some form of regulation. Nevertheless McCreevy was only too happy to give a helping hand to this under-pressure €2 trillion industry. He proposed to make it easier for hedge-fund managers to market their products throughout Europe and under his guidance the new rules mean that once a manager is registered in an EU country, he or she will be able to act across EU markets. The Commission adopted an even milder approach towards private equity as the threshold under which they will be exempted from regulation is €500 million. As one MEP Poul Nyrup Rasmussen, President of the Party of European Socialists (PES), said: "This directive has more holes than a Swiss cheese."⁷

A Bankers' Bank

One of the main financial instruments that states used to have was their ability to adjust interest rates to suit their economy. High interest rates were often imposed when there was a danger of inflation and low interest rates were used to stimulate employment. Neoliberalism, however, demanded tight monetary controls to be exercised by an 'independent' central bank, a typical neoliberal measure intended to 'seal off' an area of economic policy-making from public pressure. Article 108 of the EC Treaty, which would become Article 130 TFEU if Lisbon were ratified, states:

[N]either the European Central Bank, nor a national central bank, nor any member of their decision making bodies shall seek or take instructions from [European] Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body.

It could hardly be clearer. The European Central Bank (ECB) is to remain completely independent of any democratic political influence. Moreover, the ECB has been given an extremely conservative mandate. Article 105 of the EC Treaty (Article 127 TFEU consolidated) states baldly, that "the primary objective of the European System of Central Banks (the ECB and national central banks) shall be to maintain price stability." It further mandates it to "... act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources."

This particular mandate gives the ECB a degree of independence that is greater than even the US Federal Reserve and the Bank of Japan. The Bank of Japan, for example, is mandated to "always maintain close contact with the government and exchange views sufficiently."⁸ The US Federal Reserve system operates according to a three-fold mandate that has as its goals "maximum employment, stable prices and moderate long term interest rates."⁹ Stable prices are thus only one goal that is considered alongside the other two.

Again, given the extent of the current economic crisis, these differences are important. If the primary goal of a central bank is squeezing inflation out of the system, this will mean turning a blind eye to massive increases in unemployment across Europe. Moreover, the absence of a mandate in the ECB for 'moderate long term interest rates' should be of some concern to the Irish population who already shoulder one of the highest levels of personal debt in the EU, and if NAMA is passed we will be extremely vulnerable as taxpayers to higher interest rates in the future. The independence of the ECB, which is reaffirmed by the Lisbon Treaty, enables it to determine the monetary policy of Member States. New proposals in Lisbon will give the EU even more control over fiscal policy as well.

EU rules on budget deficits and state aid

During the boom, the Government was taking in more in tax than it was spending, generating a budget surplus. As the Celtic Tiger faded, the situation reversed and as a result the surplus quickly turned into a

⁷ <http://www.euractiv.com/en/financial-services/mccreevy-spares-hedge-funds-tight-regulation/article-181867>

⁸ D. Gerdesmeier, F. Mongelli, B. Roffia, 'The Eurosystem, The US Federal Reserve and the Bank of Japan: Similarities and Differences' ECB Working Paper Series No. 742 March 2007 p. 116.

⁹ Federal Reserve Act, Section 2A.1. Quoted in D. Gerdesmeier et al, Eurosystem, The US Federal Reserve and the Bank of Japan, p. 13

deficit. The property market crash and global recession are now causing this budget deficit to increase dramatically.

The budget deficit is measured by the European Commission in terms of a percentage of Gross Domestic Product (GDP), which refers to the overall output of the economy. Under the 'Stability & Growth Pact', a country's deficit is not allowed to go above 3 per cent of GDP. If a country's deficit goes above 3 per cent, the Commission issues recommendations for the country to bring its deficit back under 3 per cent. If the country fails to comply, the Commission may impose a number of different sanctions on the country including "inviting the European Investment Bank to reconsider its lending policy towards the Member State concerned" and imposing "fines of an appropriate size" (Article 104 of EC Treaty; Article 126 TFEU consolidated).

The Lisbon Treaty proposes to introduce even more stringent rules on budget deficits, which would apply specifically to Eurozone countries. Under Article 115A of the Lisbon Treaty (Article 136 TFEU consolidated) the European Council could adopt measures...

- (a) to strengthen the coordination and surveillance of their budgetary discipline;
- (b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance..

Existing state aid rules, reaffirmed in Lisbon, mean that the government cannot generally give money to businesses: "The EC Treaty pronounces the general prohibition on state aid." ¹⁰

Applying the Rules

How are these rules being applied in the present economic crisis and to whose benefit? In Ireland the Irish and European elites are using them to bail out the banks and cut public spending.

The European Commission decided to relax the rules on state aid by using a get-out clause in the current treaties. Under Article 87.3(b) of the EC Treaty (Article 107.3 (b) TFEU consolidated) state aid is allowed in order to "remedy a serious disturbance in the economy of a Member State." This empowers the Irish Government to bail out the banks. One of the more recent decisions of the Commission was to approve the recapitalisation of AIB in May 2009.¹¹ And if NAMA goes ahead, not only will state aid be permitted, but the European Central Bank will provide cash to the banks for their NAMA bonds.

In stark contrast, the Commission has set Ireland a deadline of 2013 to bring the budget deficit to below 3 per cent of GDP. Currently it is above the limit and, according to a Commission forecast, is expected to rise 13 per cent of GDP in 2010.¹² It has been argued by Colm McCarthy that this deadline represents a relaxing of the budget deficit rules.¹³ In setting the 2013 deadline in March 2009, it is true that the Commission gave Ireland some extra leeway, but only one year more than France, which has a deadline of 2012. And, unlike the relaxation of the rules on state aid, the budget deficit rules still have to be complied with within the deadlines, otherwise the Commission can impose fines and other sanctions — what McCarthy euphemistically describes as "censure from the Commission."¹⁴ In any case, the Minister for Finance, Brian Lenihan, is happy with the EU deadline. He recently explicitly ruled out asking the European Commission for more time, describing the rules as "just common sense."¹⁵

¹⁰ http://ec.europa.eu/competition/state_aid/overview/index_en.html

¹¹ http://ec.europa.eu/competition/sectors/financial_services/financial_crisis_news_en.html

¹² <http://www.irishtimes.com/newspaper/breaking/2009/0324/breaking48.html>

¹³ The Irish Times, 25 July, 2009. <http://www.irishtimes.com/newspaper/opinion/2009/0725/1224251303510.html>

¹⁴ Ibid.

¹⁵ <http://www.independent.ie/national-news/lenihan-sticks-to-fiveyear-deadline-for-sorting-budget-1838262.html>

Just Common Sense?

The consequences for Ireland and other EU countries of complying with the EU budget deficit rules are likely to be severe. First, the McCarthy 'Bord Snip' report contains a list of savage cuts in public spending on the health service, the education service and social welfare. If implemented, these will target the most vulnerable in our society and are likely to cause widespread social suffering. And that's only for this year. The Government wants to introduce further cutbacks of at least €3bn each year until 2013.

Second, because countries are not allowed to increase their budget deficits, it makes economic recovery more difficult. Following the British economist John Maynard Keynes, governments tend to introduce Keynesian 'stimulus packages' during periods of recession. The aim is to boost economic activity at a time when businesses are unwilling to invest because profits are not guaranteed.

Many countries around the world are launching stimulus packages. In February 2009, for example, the United States announced a massive \$787bn stimulus package. The EU launched its own €200bn stimulus package in November 2008. Fianna Fáil MEP Brian Crowley has suggested that Ireland could benefit from some of this package, including funding for alternative energy and broadband projects.¹⁶

However, there are one or two slight problems with the EU plan. In addition to being criticised as weak by the United States,¹⁷ the European Commission has made it clear that "the bulk of the stimulus package — €170 billion — will come from national budgets."¹⁸

We've already seen the strict rules on national budgets based on the Stability & Growth Pact. So how are individual Member States going to fund the stimulus packages from their national budgets? It seems that the stimulus packages will be limited by budget deficit rules, as happened in Germany.

In December 2008, Germany announced a €40bn stimulus package. However, because 3 per cent of Germany's GDP was €75bn and the country already had a deficit of €50bn, the deficit could only be increased by a further €25bn. The stimulus package therefore had to be reduced from €40bn to €25bn.¹⁹ In February 2009, Germany announced a €50bn stimulus package, which would seem to go beyond the €25bn limit. However, the €50bn was to be spread over two years, thereby keeping within the limit. In putting in place even stricter rules on budget deficits, the Lisbon Treaty would only further restrict public spending which might be used to stimulate the economy and support public services. The rules on budget deficits therefore make little sense.

Attacks on Public Services

If a valorisation of markets constitutes the positive side of the neoliberal doctrine, the negative flip side is a concerted attack on state provision of services. In its essence neoliberalism is inherently undemocratic as it seeks to move services that are currently under some form of democratic control into the private market. Public services are essential services such as healthcare and education that are intended to meet human needs. Under pressure from the neoliberals, national governments are increasingly outsourcing public services to the private sector, which in turn subjects those services to the EU internal market and competition rules. The European Commission has expressed the view that almost all social services now fall under these EU rules, something which has caused obvious disquiet. In order to ease concerns, a new Protocol on public services has been added to the Lisbon Treaty. However, the new Protocol does not provide any means of defending public services. In fact, Lisbon gives the EU additional powers to liberalise public services, both at the local level within the EU Internal Market and at the global level, between the EU other countries.

¹⁶ <http://www.munster-express.ie/local-news/crowley-eu-economic-stimulus-package-will-aid-munster-area>

¹⁷ <http://www.herald.ie/world-news/barroso-rejects-us-claims-eu-stimulus-package-is-weak-1670369.html>

¹⁸ http://ec.europa.eu/news/economy/081127_1_en.htm

¹⁹ http://www.acus.org/new_atlanticist/german-stimulus-package-smaller-previously-announced

Democratic or market control of public services?

Historically, essential public services such as healthcare, education, electricity, gas, water and public transport have been funded through general taxation and delivered by national governments under pressure from the public. Public services can thus be run on the basis of meeting human needs, rather than on a commercial basis. But this partial democratic control represents an obstacle to businesses seeking to make a profit from the provision of public services. This 'obstacle' can be removed by a combination of privatisation and market liberalisation. Privatisation involves selling off a state company to the private sector, as in the case of Eircom. The objective is not just a change of ownership but the 'opening up' of the state company's market to competition from other service providers. The 'opening up' of markets to competition is known as *liberalisation*. Liberalisation can take place without the privatisation of a state company but the competitive pressure from other companies in a liberalised market tends to force the state company to operate on a commercial basis.

Neoliberalism in practice: the role of national governments and of the European Union

In the early 1980s, many governments began privatisation programmes, inspired by neoliberalism. These programmes were undertaken independently by national governments. However, since the 1990s, privatisation and market liberalisation are increasingly being driven by the European Union. Based on the primary law of the EU treaties, the European Commission drafts secondary legislation and, once approved by the European Council and the European Parliament, EU 'directives' are issued to Member States. Each country must then 'transpose' the new EU legislation into national law within a given time frame.

Once EU law becomes national law in this way, it is very difficult to change. In many cases it would require the agreement of all Member States to change it. Therefore privatisation and/or liberalisation policies implemented in accordance with EU Directives are more permanent than when based on national law alone. National law can be changed, for example as a result of a change of government. However, most governments are happy to have more permanent EU laws. It strengthens their own privatisation and liberalisation policies and gets them 'off the hook' when confronted by an angry electorate. They can simply hold up their hands and say they have no choice but to do what they're doing because of the EU. And so in addition to implementing liberalisation policies by issuing directives, the EU provides political cover for privatising governments. And that's exactly what happened with the introduction of water charges for schools at the beginning of 2008.

Liberalisation and the European Union

Liberalisation is short hand for a deeper purer form of free-market capitalism. The European Union liberalisation programme began in the 1980s and coincided with the rise of neoliberalism in the US and Britain. In 1983, over forty 'captains of industry' came together to form the European Round Table of Industrialists (ERT), a lobby group led by Pehr Gyllenhammar, CEO of the Volvo car manufacturer. The ERT was one of the driving forces behind the eventual establishment of the Single Market in 1993, which aimed to ensure the free movement of people, capital, goods and services within the borders of the European Union. But while the market in manufactured goods had been liberalised by 1993, the liberalisation of services would take longer. The liberalisation of services has been an ongoing project of the Commission since the establishment of the Single Market (now the Internal Market). It has been implemented in a number of stages and the Lisbon Treaty aims to take the process further.

Liberalisation of network services

The first stage was the liberalisation of 'network services'. Throughout the 1990s, EU Directives were issued to liberalise 'network' services: telecommunications in 1990, railways in 1991, electricity in 1996, postal services in 1997 and gas in 1998. And it is an ongoing process. In the Irish context, this has enabled other operators such as British Telecom to supply customers over the existing telephone network and Airtricity and Bord Gáis to supply electricity over the ESB's network.

Liberalisation of other services — the Services Directive

Next came the Services Directive. It is estimated that approximately two-thirds of economic activity in the EU is accounted for by the services sector. Therefore the Commission wanted the internal market and competition rules to apply to as many services as possible. The internal market rules are “freedom of establishment” (Article 43 TEC; Article 49 TFEU consolidated) and “freedom to provide services” (Article 49 TEC; Article 56 TFEU consolidated), while competition rules ensure that state aid is not used to ‘distort competition’. Mass public protest succeeded in forcing the removal of a number of services from the Directive, including public services. However, following the entry into force of the Services Directive in 2007, the Commission was not content to leave things as they stood. Since then, it has sought to apply the internal market and competition rules to as many public services as possible by trying to define them as “economic activities.”

Liberalisation of public services — an ‘ongoing logic’

In the EU, public services are usually referred to as ‘services of general interest’, that is, “services covering such essential daily realities as energy, telecommunications, transport, radio and television, postal services, schools, health and social services, etc.”⁷ These have traditionally been provided by national governments but this has changed gradually over time, as a result of privatisation and liberalisation.

The European Union breaks down the catch-all term ‘services of general interest’ into two separate sub-categories: ‘services of general *economic* interest’ and ‘*non-economic* services’. The distinction between the two sub-categories has very important practical implications. If a public service is defined as ‘non-economic’, then it is not subject to the internal market and competition rules. If, however, it is categorised as of ‘economic interest’, then the rules apply.⁸

The Commission has recently expressed the clear view that the vast majority of social services, defined as “health services ... social security schemes ... and other essential services provided directly to the person” can be considered “economic activities” and are therefore subject to internal market and competition rules.⁹

The only ground for an opt-out is the proviso that competition would prevent it from achieving some public service obligation. But for the Commission, this situation seems unlikely to arise. As far as it is concerned, “the objectives of developing high-quality, accessible and affordable services of general economic interest and of an open and competitive internal market are compatible.”¹¹ In other words, it doesn’t see the private provision of public services as a threat to quality and accessibility. We only have to look at the case of private nursing home provision in Ireland to see that private provision is often completely *incompatible* with quality care.

The Lisbon Treaty — even more of the same ‘logic’

The attempts by national governments and the EU to subject public services to internal market and competition rules have naturally been very controversial and there have been mass public protests that forced the exclusion of public services from the Services Directive.

In order to pay some lip-service to this opposition a new protocol was inserted into the Lisbon Treaty. In typical Treaty style, the new Protocol on Services of General Interest (Protocol 26 consolidated) refers to “shared values... a high-level of quality, safety and affordability... universal access...” and so on. It points to the “wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest...” However, the protocol leaves out two important points. First, national governments are not exercising the “wide discretion” available to them; instead they are increasingly outsourcing and privatising public services, which brings them under the internal market and competition rules. Second, while governments retain the ability to define, fund and organise public services, EU rules must be taken into account when it comes to the actual delivery of services:

[T]he public authorities, at the appropriate level, define the obligations and missions of general interest of these services, and how they are to be organised. On the other hand, [EU law] requires Member

States to take certain rules into account when they determine the arrangements for applying the objectives and principles they have established.¹⁶

So this new protocol provides no means to defend public services. In fact, an amendment to an Article referenced in the Protocol would give the EU additional powers to set the economic and financial conditions under which public services are run. This would give the EU new powers to further liberalise public services, as the Irish employer's organisation IBEC pointed out in 2008 in its submission to the Forum on Europe:

The Lisbon Reform Treaty creates the legal basis for the liberalisation of services of general economic interest (Art. 106). A Yes vote for the Lisbon Treaty creates the potential for increased opportunities for Irish business, particularly in areas subject to increasing liberalisation such as Health, Education, Transport, Energy and the Environment.¹⁷

The article they cite here is a misprint; the relevant one is amended Article 16 TEC (Article 14 TFEU consolidated.) Of course, this article remains as yet untested by the European Court of Justice because the Lisbon Treaty has not entered into force, so we're not precisely sure how it will be used in practice. However, IBEC's positive view of its likely implications is cause enough for serious concern.

The international dimension

It is not only within the borders of the EU that the logic of privatisation is being applied. The EU seeks to "promote the principles of the European Internal Market world-wide."²⁰ In other words, it seeks consistent rules at both the local level of the Internal Market and at the global level, between the EU and other countries. Therefore, the Lisbon Treaty seeks to remove the automatic veto that Member States currently hold on international trade in public services. Paragraph 4 of Article 188C (Article 207 TFEU consolidated) states:

[T]he Council shall act unanimously for the negotiation and conclusion of agreements... in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

The Article is worded in such a way as to give the impression that public services are safeguarded. However, this would only be the case where an agreement would risk disrupting the organisation and delivery of these services. There are two problems with this. First, there is no definition of "seriously disturbing" and it would be up to the European Court of Justice to decide. Secondly, in all other circumstances, Qualified Majority Voting (QMV) would apply. Under QMV in Lisbon, 15 of the 27 Member States (representing 65 per cent of the EU population) could decide for the entire EU, whatever the concerns of the other Member States. Liberalisation at the international level would allow multinational corporations to compete with other European corporations to run public services in Ireland and other EU countries. For example, in Ireland we already have a US health corporation running the Beacon Hospital in Sandymount. In terms of the health service, the ultimate consequences of privatisation and liberalisation are an American-style system. The current debate over the Obama reforms shows just how difficult it can be to restore public provision of public services once they have been privatised.

In a world of economic crisis, the most powerful argument against the Lisbon Treaty remains the fact that, as we have shown in detail, it will copperfasten into law the very neoliberal policies that have led to the economic crisis, thus making our fight against privatisation and profit even harder. Moreover, it is also inherently undemocratic as the following section will show.

²⁰ http://ec.europa.eu/internal_market/ext-dimension/index_en.htm

THIS IS NOT WHAT DEMOCRACY LOOKS LIKE

Having originally argued that Lisbon would advance the cause of EU democracy, today's supporters argue that it is mainly about 'internal housekeeping' and involves some 'tidying up' of existing institutional arrangements. After all, it is difficult to sustain the pretence of democracy in light of the blatant disregard for the original democratic decision of the Irish people to vote No. This obvious lack of respect is, moreover, symptomatic of a deeper problem, as neoliberalism is an inherently undemocratic project that continually seeks to move economic decisions from democratic control into the hands of private capital, as illustrated in the previous section. Any serious analysis of Lisbon must therefore draw out the links between neoliberal economics and the democratic deficit and this Treaty is in fact about laying the foundations for a European super-state far removed from the wishes of the general population.

The building blocks of a super-state

At present the EU has a number of main governing institutions.

- The *European Council* is composed of the heads of state or government of the member countries. This meets twice a year in the form of a European summit and sets the broad agenda for political decisions. These are followed through on by the *Council of Ministers* which consists of the ministers from the member states who are subdivided into the Council of Agricultural Ministers or the Council of Foreign Ministers and so on. This operates through a weighted vote system where the bigger countries get more votes, according to their population size.
- The *European Commission* (usually referred to simply as 'the Commission') is the body charged with the day-to-day running of the EU. It is an unelected body composed of nominees from each country who are no longer supposed to represent national interests. It is also the guardian of the treaties agreed by the EU and a mediator between the different governments.
- The *European Parliament* is the only directly elected body and has currently 785 MEPs. It has limited legislative powers and has a veto over the appointment of the Commission.²¹

The Lisbon Treaty builds on these foundations but introduces a number of important institutional changes. The clear aim is to gradually forge a super-state of Europe. The Treaty creates a new EU Presidency who will dominate the EU Council and emerge as the main figurehead of the EU. Article 9B TEU (Article 15 TEU consolidated) states that "The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once."

Up to now the chair of the Council has rotated and has been occupied by the leader of the particular country that plays a caretaker role for six months. Under the new arrangements, however, "the President of the EU Council will not hold a national office." The aim is to build up a figurehead who stands above national interests and represents the EU as a whole. Crucially, he or she will not be elected by the people of Europe.

The Lisbon Treaty also creates a new Foreign Minister for the EU who will have the ungainly title of "High Representative of the Union for Foreign Affairs and Security Policy." His or her main purpose will be to tie Member States ever tighter into a common foreign policy. Article 15B.2 TEU (Article 31.2 consolidated), for example, removes the national veto and ushers in a system of qualified majority voting when dealing with a "proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request from the European Council."

²¹ For more detail see G. Carchedi, *For Another Europe: A Class Analysis of European Economic Integration* (London Verso 2001) Chapter 1.

Article 46A TEU (Article 47 consolidated) states that “the (European) Union shall have a legal personality.” The purpose of this clause is to give the EU its own legal existence which takes it beyond being a co-ordinator of nation states. It is another important step in the movement towards a federal model, similar to the United States.

In practice, two developments will quickly follow from this. The EU will be able to sign up to international legal agreements on foreign policy, crime or judicial matters rather than simply on trade matters. It also means that the EU will seek a seat on the UN Security Council as a legal personality in its own right, capable of speaking for the different countries that compose it.

The Lisbon Treaty transfers significant areas of ‘competency’ to the EU and away from nation states. The whole area of who exactly predominates — the EU or a national parliament — is quite confusing but essentially there are three different domains of decision making. In the first domain, the EU has ‘exclusive competence’; in the second, there are ‘shared competences’ between the EU and member states; in the third, the EU simply ‘co-ordinates, supplements or supports’ the action of member states.

However the Lisbon Treaty creates an important default position. Article 2A TFEU (Article 2 TFEU consolidated) on shared competence states that “member states shall exercise their competence to the extent that the union has not exercised its competence.” This clearly gives pre-eminence to the EU over nation-states, even in supposed areas of shared competence. The overall result is to insert EU decision-making ever deeper into most areas of day to day life. In all, the Lisbon Treaty will remove the national veto in over forty areas.

Susan George is one of the writers who estimates that already about 80 percent of the laws adopted by national parliaments are nothing but adaptations of EU laws.²² With the further transfer of powers, EU influence will grow even further. The measures outlined above are clearly not just ‘tidying up’ arrangements. These are serious efforts to lay the basis for a United States of Europe and it is perfectly reasonable to ask whether this will mean more democracy — or less. Will the changes mean greater or lesser control of our lives by corporate executives or political elites? Unfortunately, the evidence from both the Lisbon Treaty and the record of how the EU actually functions shows that it entails less democracy.

The EU’s democratic regression

There are a number of ways in which the shift in decision making to the EU means a regression in democracy. First, the EU is an executive-run institution where limited control is exercised by directly elected representatives. The EU Parliament does not elect its executive. It does not even receive the full minutes of the EU Council or the Commission to scrutinise who is voting which way. It cannot sack individual EU Commissioners but must take the team as a job lot. When it was revealed that one EU bureaucrat, Jacques Barrot, had hidden the fact that he had been convicted of fraud and had received an amnesty from his ally Jacques Chirac, who made it illegal to even mention his crime in France, there was nothing the EU Parliament could do. It can veto the list of portfolio holders when the Commission President nominates them but once in office it cannot single out any one to demand their resignation. As a result, Barrot is still a Commission Vice President — for Justice, Freedom and Security! Even if a number of MEPs wishes to get rid of the whole Commission, they must, according to the Lisbon Treaty, have the motion of censure carried by two thirds of the votes cast.

Second, the directly elected members do not get to propose legislation or approve legislation by themselves. No group of MEPs can arrive at the Parliament with draft legislation on, for example, minimum standards of health care required throughout the EU. Instead, the unelected Commission submits a proposal to the Parliament and then the most complicated of procedures are put in place to effectively shunt decision-making off into a sphere of back-door horse trading. Sometimes this occurs because the Parliament is merely

²² S. George, “From “constitution” to “reform” or from bad to worse”, *Transnational Institute* 5 September 2007, p. 4.

consulted but does not get to decide. On other occasions, however, there is co-decision and the Lisbon Treaty, in fact, expands this area for the Parliament.

But what exactly is co-decision? On a formal level, it involves an institutional maze in which there is a 'first reading' by the Parliament, then the European Council takes a 'common position', and then there is a second reading that is followed by a 'Conciliation Committee' that mediates between the Parliament and the European Council. All the time the horse trading and deal-making is in full swing so that any radical proposal is watered down. In reality, however, the situation is even worse than this mind-numbing absurdity. According to an important report conducted by the Swedish Institute for European Policy Studies, the system really works though informal, shadowy 'trilogues' which often hammer out agreements between the different institutions in advance so that laws are fast-tracked through. The authors of the report conclude:

The relationship between Council and Parliament involves a plethora of informal and semi-formal meetings in which many of the real decisions about legislation are taken with little scope for public oversight. We dub this process the "invisible transformation" of the co-decision procedure (and it) has affected relations among governments within the Council as well as making it more difficult for national parliaments to supervise how EU business is conducted.²³

The problem is further compounded by the fact that there are no real elections which focus on issues that are decided at EU level. Instead the European elections are fought out among local domestic parties who broadly "collude to keep the issue of Europe off the domestic agenda."²⁴ They are effectively contests on how the national governments are performing and so are characterised as "second-order national contests."²⁵ The result is that few representatives go to Brussels with a mandate to take a position on EU matters.

Instead groups of failed or would-be national politicians are sent to Europe to receive a lavish salary of €7,000 per month plus generous expenses. Once there, they are likely to join one of the two largest groups in the Parliament: the PSE ('Socialist') or the PPE (Conservative). These are supposed to represent the left-right of the political divide but the unusual structure of the Parliament means that there is often a consensus between the two blocks. There are frequently trade-offs and informal alliances, with most decisions being made far away from the prying eyes of the people that are supposed to be represented.

The other institution which is supposed to provide a 'democratic input' is the European Council and the Council of Ministers. Neither can be said to really exercise democratic control, if by democratic control we mean representatives deliberating based on a mandate from their electorate. Although the European Council and the Council of Ministers make laws, the different Ministers do not meet jointly in one legislative assembly. Up until recently, their deliberations were secret but the Lisbon Treaty opens this up somewhat. However, it fails to bring transparency to the real locus of decision making: COREPER.

COREPER is a permanent committee of ambassadors and top civil servants which meets once a week to haggle over decisions. It is charged with dealing with a grey area between 'technical' and 'political' decision making. It works by coming up with a list of 'A points' and 'B points'. 'A points' are those which are agreed by COREPER and sent en bloc to the Ministers and then agreed by them without further discussion. They literally just sign off on the dotted line. According to one study between 70 per cent and 90 per cent of decisions are

²³ H. Farrell and A. Heritier, *The Invisible Transformation of Co-Decision: Problems of Democratic Legitimacy*: Swedish Institute for European Policy Studies, 2003 p 6

²⁴ A. Follesdal and S. Hix, 'Why is there a democratic Deficit in the EU: A response to Majone and Moravesik' *Journal of Common Market Studies*, Vol. 44. No. 3 2006 pp. 533-562

²⁵ K. Reif and H. Schmitt 'Nine Second-Order National Elections: A Conceptual Framework for the analysis of European Election Results' *European Journal of Political Research* Vol. 8. No 1. 1980 pp. 3-45

made this way.²⁶ The Ministers only vote on the 'B points' and even then the chair of the meeting will manoeuvre until there are enough votes for a compromise to go through.

Despite the fact that the top bureaucrats in COREPER are supposed to be servants of the elected representatives, that is not how it functions. The very fact that the structure is set up to mediate and achieve consensus between nation states means the bureaucracy can change political positions into mere negotiating tactics. They get to say what are the constraints and opportunities for the home governments; they get to formally read out a position from their elected representatives and then negotiate it away. Far from being subject to any democratic control, informal contacts within the bureaucracy play a huge role in how decisions are made. According to one interviewee "the really frank discussions take place over lunch."²⁷

The composition of the present Commission shows exactly how it is such a right wing force. Its President, Jose Barroso, is a former Maoist who once supported the Chinese dictatorship but then switched to a fanatical pro-US position. Barroso told the *Financial Times* that "in one sentence ... his would be a pro-business Commission."²⁸ He was ably assisted by the nominees sent to him by various national governments. The Irish Commissioner, Charlie McCreevy, is so right wing that the Fianna Fail leader Bertie Ahern thought it wiser to send him off to Brussels. The Dutch Commissioner Neelie Kroes sat on the boards of twelve major companies including Volvo and the French arms group Thales. She also worked as a lobbyist for Lockheed Martin, the US arms manufacturer.

The Lisbon Treaty effectively does nothing to address the lack of democracy. Instead it makes things worse in three major ways:

- It transfers more powers to an EU super-state whose decision making effectively lies outside of public scrutiny.
- It strengthens the neo-liberal bias of the EU and so locks in a consensus around right-of-centre politics. 'Negative integration', where barriers to the free market are being removed, is the order of the day but any attempt to forge a 'positive integration', with greater public regulation over markets, are likely to be opposed as spurious efforts to hinder real competition.
- It introduces a 'passerelle' clause that gives the EU Council the right to extend its powers without any further need for a new treaty. Passerelle is a French word for a footbridge but in reality it is a fast-track to greater EU powers.

Efficient for business

The lack of democracy in the EU is often justified by a need for 'efficiency'. How, it is asked, could a continent of 490 million people be run on democratic lines? By the same token, however, it might be suggested that the people of India or China should give up aspirations for democracy because their countries are too big! The efficiency argument is spurious because it avoids the simple question: efficient for whom?

In reality, the structure of the EU makes it highly efficient for big business to shape public policy behind closed doors. Brussels has become one of the lobby capitals of the world — second only to Washington. The total number of lobbyists is an estimated 15,000. There are so many that the Society of European Affairs Professionals sent a letter to the President of the European Parliament complaining there were not enough seats and headphones for them. A staggering 5,000 lobbyists are accredited with full time access to the parliament building!²⁹

²⁶ J. Lewis 'Is the "Hard Bargaining" Image of Council Meetings misleading' *Journal of Common Market Studies* Vol. 36 No. 4 1998 pp. 479 -505

²⁷ Ibid.

²⁸ 'How business-friendly is Barroso's Commission really?' *Financial Times* 12 February 2007

²⁹ Corporate Europe Observatory, *Brussels The EU Quarter –Explore the Corporate Lobbying Paradise*, (Brussels :CEO 2006) p 20

The vast majority of lobbyists, an estimated 70 percent, come from business interests — because only they have the resources to fund them. One former employee of a major lobbying firm estimated that turnover on corporate lobbying amounted to between €750 million and €1 billion in 2005.³⁰

Almost every industry has its own lobby groups varying from the tiny European Bottled Water Cooler Association to the Chemical Industry Federation which employs over 140 people in its Brussels office. At the top of the pile are the big five ‘public affairs’ agencies who advise businesses on how to get their way: Burson-Marsteller, APCO, Fleischman-Hilliard, Hill and Knowlton and Weber Shandwick. These firms often recruit former members of the political elite to work for them and so create a revolving door that intensifies their influence. Pat Cox, the former Irish President of the European Parliament, now works for APCO as well as running his own smaller ‘consultancy’ firm. Similarly, Michiel van Hulten, a former MEP and chair of the Dutch Social Democratic Party, now works for Burson-Marsteller.³¹

These corporate lobbyists target both the unelected European Commission and European Council where national politicians can operate with less public scrutiny. By turning their ideas into a highly technical discourse, they interact with the permanent civil servants to feed them ‘advice’.

Business devotes vast resources to these practices because they know it works. The results, unfortunately, have dramatic effects on the lives of millions. This, then, is the type of super-state we are being asked to endorse in the Lisbon Treaty. The second Lisbon referendum gives us another opportunity to hit back at the corporate aristocrats who dominate our world.

³⁰ ALTER-EU submission to the consultation on the ETI Paper-Chapter 1 p. 2 www.alter-eu.org

³¹ Corporate Europe Observatory, The Revolving Door Temptation 26 August 2007 www.corporateeurope.org

NO TO MILITARISM

One of the main concerns of No voters in the first referendum was the potential of the Lisbon Treaty to bring about increased militarisation of the EU. The key issue that dominates international relations today is the long, slow decline of the US Empire, which is clearly evident in its difficulties in both Iraq and Afghanistan and the economic crisis that has created a new global instability. The US's own response is to use its overwhelming military superiority to hold on to geo-political influence. So it issues threats against Iran, has begun a military encirclement of Russia, while simultaneously creating alliances to arm India and Japan in the hope of containing China. Its principal rivals, however, have also embarked on long-term strategies to take advantage of its weakness. China is increasingly active in winning influence in Africa while Russia is slowly re-building its industrial and its military strength. In brief, the world has become a far more dangerous place, possibly on the brink of a new round of imperial rivalries. This is the background against which we must judge articles in the Lisbon Treaty which pave the way for a new EU militarism.

Battle groups

Article 28A TEU (Article 42 TEU consolidated) states that “the common security and defence policy shall be an integral part of the common foreign and security policy.” This is a big step from the original Maastricht Treaty that included the phrase “which might in time lead to a common defence.” Now there is no hesitancy: involvement in the EU means sharing a defence policy with countries which made war at the behest of George Bush. There is still a national veto on ‘common defence’ — but, probably, only for the moment.

In recent years the EU has developed a new military strategy based on ‘battle groups’. The Lisbon Treaty gives these developments legal support. Article 28A.3 TEU (Article 42.3 TEU consolidated) states that “Member states shall make civilian and military capabilities available to the Union for the implementation of common security and defence policy.”

Article 28B.1 TEU (Article 43.1 TEU consolidated) lists out a number of tasks which member states might be asked to support. These include “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace making and post-conflict stabilisation.” ‘Peace-making’ as distinct from ‘peace-keeping’ is the new code word for waging war. ‘Post-conflict stabilisation’ refers, of course, to the activities of an occupation force. Once these items are de-coded, the list includes virtually everything that a regular army would do.

The origin of EU battle groups go back to a Franco-British summit in Le Touquet on 4 February 2003 when both countries agreed to press for “European capabilities in planning and deploying forces at short notice, including initial deployment of land, sea, and air forces within 5-10 days.”³² In June 2004 the European Council approved a plan known as ‘Headline Goal 2010’ to develop its militarisation programme. This document included a detailed year-by-year set of ‘milestones’ which countries were supposed to reach in order to make the overall programme a success. One of the first milestones was the formation of thirteen 1,500 strong ‘battle groups’ which were intended to be made ready for operation by 2007. Each country contributing to the battle groups was to be “categorised on the basis of their combat effectiveness.”³³

Few people — apart, possibly, from the Irish Defence Minister Willie O’Dea — are under any illusion about the nature of these battle groups. Jaap de Hoop Scheffer, the Secretary General of NATO has spelled it out plainly:

³² G. Lindstrom, *Enter the EU Battlegroups* Chaillot Paper No 97 Institute for Security Studies February 2007

³³ European Council, ‘Headline Goal 2010’ published as appendix to Lindstrom, ‘Enter the EU Battlegroups’

Battle groups could be used to go to war. Why did the EU create the Battle Group? It is not just to help rebuild a country. The Battle Groups are not just for building schools. We shouldn't think the EU is for soft power and NATO for tough power.³⁴

Each battle group is capable of operating at least 6,000 kilometres from the borders of the EU — an area that includes much of Africa and the Middle East. There is a lead nation which takes operational command and the battle groups are to be capable of engaging in pre-emptive strikes. The EU Security Strategy states that:

Our traditional concept of self-defence ... was based on the threat of invasion. With ...new threats, the first line of defence will often be abroad ... we should be ready to act before a crisis occurs.³⁵

These sinister developments occurred without any real debate among the people of Europe yet the Lisbon Treaty seeks to give constitutional support to these developments.

Irish neutrality

The Irish government has tried to hide the implications of these developments by claiming that Irish neutrality is safe in their hands. This is laughable when account is taken of the fact that over 1 million US troops have been allowed to pass through Shannon airport. Far from defending any neutrality, this government has turned Ireland into one of the major US hubs for the conduct of its war on Iraq.

It is now trying to reduce the concept of neutrality to a discussion about a 'triple lock'. By this is meant a procedure whereby Irish troops can only be deployed abroad when approval is given by the UN Security Council, by the government and by the Dáil. It is claimed that these safeguards will prevent Irish troops being deployed in conflict zones which embroil them in imperialist wars.

Nothing could be further from the truth — and the evidence is already there. Firstly, a small number of Irish troops have already been deployed in Afghanistan since 2002. They are part of a NATO led multi-national force which has already killed thousands of Afghans. True, the Irish troops are on patrol in the relative safety of Kabul rather than in the killing fields of Helmand province, but they are still part of an imperialist occupation force.³⁶

Secondly, there is an inherent contradiction between a triple lock and the idea of a battle group. No less a figure than John Gormley, leader of the Green Party, acknowledged this, when he was in opposition: 'Is it not clear that involvement in closer co-operation as regards mutual defence is not compatible with the triple lock the Minister claims he does not want to abandon?' he asked Defence Minister Willie O'Dea on 26 January 2005.³⁷ A Green Party policy document put it even more succinctly: "Triple locks take time to open. And rapid reaction forces don't have time."³⁸

It should, therefore, be totally inconsistent for the Green Party to endorse the Lisbon Treaty. But this is precisely what John Gormley and fellow Minister, Eamon Ryan, are doing.

The lines of conflict between new imperial frontier zones are already coming into view and the EU battle groups will be used to assert the 'right' of the big powers of Western Europe to reclaim spheres of influence from Russia in central Europe and from China in many African countries. The Irish population have a unique opportunity to slow down these developments by voting No to these provisions of the Lisbon Treaty.

³⁴ Quoted in R. Cole. *The EU Battle Groups: Regiments of Empire* Dublin: PANA 2006 p 4

³⁵ *Ibid* p 9

³⁶ Ireland support Bush/Blair war on terror' [www: david-morrisson.org.uk](http://www.david-morrisson.org.uk)

³⁷ Dail Debates Vol. 596 No. 1 26 January 2005

³⁸ Green Party Policy Statement 'EU Battlegroups legislation'. June 2006

An alliance with NATO

How will the development of EU battle groups affect a country's relationship with the US-led NATO alliance? This is a question that has bedevilled the European elite because it opens an important fault line in their midst. Traditionally, the ruling strata of Europe have contained both 'atlanticist' and 'federalist' factions. The 'atlanticists' favour a closer alliance with the US and are stronger in Britain and in eastern and central Europe. The 'federalists' used to be in the ascendancy in France and Germany and dream of a Europe that has greater autonomy from the US. During the war on Iraq, these tensions paralysed the European project and may re-emerge in future. But for the moment, the Lisbon Treaty promotes a strong link with NATO.

Article 28A.2 TEU (Article 42.2 TEU consolidated) states that EU defence policy will "respect the obligation of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO)... and be compatible with the common security and defence policy established within that framework." To enforce the point about compatibility with NATO a new protocol (Protocol 10 consolidated) asserts that "a more assertive [European] Union role in security and defence matters will contribute to the vitality of a renewed Atlantic Alliance."

The North Atlantic Treaty Organisation (NATO) was formed during the Cold War when European countries accepted US 'leadership'. With the end of that war and the dismantling of the old USSR, it should have been disbanded and Europe should have been allowed to develop its own policies. However, the continued existence of NATO gives the US leverage to pressurise European countries to toe its line.

A good example occurred after the US unilaterally announced in 2007 that it was putting a 'missile shield' in Poland and the Czech Republic. This included ten missile interceptors and a new radar system and was supposed to protect against a threat from 'rogue states' such as Iran. However, Russia quickly saw it for what it was — part of an old Cold War strategy to encircle it with US military hardware. It responded by developing a new Bulava-Mi missile system capable of carrying nuclear warheads.³⁹ Its defence spending was also due to rise by 30 per cent in 2007.

Soon after the US's initial unilateral announcement, NATO rowed in behind it. Its Secretary General Jaap de Hoop Scheffer reported that "the unanimous view was that the principle of indivisibility of security should apply."⁴⁰ Here, therefore, was a case of military planners, who were thousands of miles away in the Pentagon, triggering off an arms race in Europe. The only justification for such 'interference' is that the US is providing a 'security cover' to its allies in NATO. The Lisbon Treaty gives legitimacy to this alliance that has the potential to threaten peace in Europe.

The links between the EU and NATO have, in fact, intensified in recent years — again without any real discussion by the peoples of Europe. The EU High Representative for Common Foreign and Security Policy, Javier Solana, is a former NATO Secretary General. A special EU-NATO agreement was concluded in March 2004 which included "mutual crisis consultation arrangements that are geared to efficient and rapid decision making in each organisation."⁴¹ The 'Berlin Plus' agreement that was concluded between the two organisations gives the EU access to NATO planning through a NATO representative on the EU military staff. It allows the EU to request the use of NATO assets and capabilities and agreed procedures for ways to pay for them.

The Lisbon Treaty should be rejected because the constitutional backing for NATO implicates us in an atrocious record of blood and murder. Amnesty International has issued a damning report accusing NATO of war crimes during its bombing campaign in the former Yugoslavia. This action, which was led by the US, involved the use of cruise missiles, cluster bombs and depleted uranium munitions. Despite a 1949 Geneva

³⁹ 'Russia plans ICBM to counter US Missile Shield' Spiegel online 6 August 2007 www.spiegel.de

⁴⁰ 'Planned US Missile Shield gets NATO backing' *SE Times* 24 April 2007 www.setimes.com

⁴¹ *EU-NATO: The Framework for Permanent Relations and Berlin Plus* Available at <http://www.consilium.europa.eu/uedocs/cmsUpload/03-11-11%20Berlin%20Plus%20press%20note%20.pdf>

Convention prohibition on direct attacks on civilians, Amnesty International pointed to the bombing of the Serbian radio and television headquarters, where 16 people died as a deliberate act of murder. In all, NATO killed an estimated 400-600 civilians in a war to extend its sphere of influence to Eastern Europe.⁴² The Lisbon Treaty grants NATO a near permanent role in EU defence for the future. We should clearly say No to this.

More military spending

The Lisbon Treaty commits governments to increase their spending on the military. Article 28A.3 TEU (Article 42.3 TEU consolidated) states that "Member States shall undertake to progressively improve their military capabilities." One learned UCD Professor improbably claimed that this clause did not 'require' governments to spend more on weapons. However, Raymond Deane from the Irish Friends of Palestine Against Lisbon made a devastating reply: "According to my Collins dictionary, 'shall' (as in 'shall undertake') indicates 'determination on the part of the speaker, as in issuing a threat', or 'compulsion, esp. in official documents'. All of which, in my reading, amounts to contention that enhanced military capacity is 'required' by the Treaty."⁴³

Even without this semantic duel, the meaning of the Lisbon Treaty article should be abundantly clear. The European arms industry has been pressurising the EU to spend more on weapons. The big three manufacturers are EADS, Thales and BAE Systems. After the terrorist attack on New York on 11 September 2001 they ran a systematic publicity campaign urging the EU to "beef up their spending on defence research, technology and acquisition."⁴⁴ Their efforts were heartily supported by lobby groups such as New Defence Agenda and the Kangaroo Group which organised closed door lunches for EU dignitaries.

These efforts soon met with considerable success. In 2003 a 'Group of Personalities' was brought together by two EU Commissioners, Busquin and Likanen, to propose a new European Security Research programme. Of the 25 'personalities' besides the two EU Commissioners, eight were drawn from arms producing companies but not one human rights or peace activist was involved. The primary aim of this group was to break down the barriers between civilian and military research in order to allow for an increase in funding for the latter. Before long the EU Research Commissioner was also happy to sing from the same hymn sheet. He told a 'dinner debate' at the Kangaroo Group that "this distinction between civil and military research is becoming more artificial and expensive. The threats of security don't consider this distinction."⁴⁵

Through these backroom manoeuvres, the European Defence Agency was born in 2004. It is the first EU-initiated armaments agency and was a big victory for the arms manufacturers. Its express aim is to increase defence budgets across the EU; promote 'interoperability' between the different national armies so they are using similar weaponry; and help develop a vision of Europe's long term military needs. Within a short period, it has developed new procurement procedures to stimulate the EU arms industry.

One of the EDA documents entitled 'An Initial Long-Term Vision for European Defence Capability and Capacity Needs' gives a chilling insight into its mindset. The document is a blueprint for conducting 21st century warfare where boundaries between military and civilian activities are broken down. The context for these 21st century resource wars is first spelled out clearly with the statement that:

By 2025, Europe will be externally dependent for 90 percent of its oil and 80 percent of its gas. China and India will drive global energy demand and seek new sources in central Asia, Africa and the Middle East. In this and other ways, European security interests may be directly or indirectly challenged by tensions arising not only in the near neighbourhood but also further afield.⁴⁶

⁴² Amnesty International, *Collateral Damage of Unlawful Killings? Violations of the Laws of War by NATO during Operation Allied Force*. London : Amnesty International. 2000.

⁴³ R. Deane Letters to *Irish Times* 15 December 2007.

⁴⁴ F. Slijper, *The Emerging EU Military- Industrial Complex: Arms industry lobbying in Brussels'* Transnational Institute May 2005

⁴⁵ Ibid.

⁴⁶ European Defence Agency, "An Initial Long-Term Vision for European Defence Capability and Capacity Needs', 2007, p.7.

The EDA document predicts that the EU will be fighting 'David and Goliath'-style wars where the enemy will use unconventional tactics and will not wear uniforms. The David's can only be defeated through new power-instruments involving "electromagnetic or directed energy, offensive counterspace, military deception and psychological operations."⁴⁷ The document wants greater investment in naval operations, as EU forces need "a reduced footprint 'because of' the problems that civilian opposition and insurrectionary movements can pose for land as a military base."⁴⁸

Despite the military technical jargon, the issue could hardly be clearer: the Lisbon Treaty requires countries to engage in higher levels of military spending to fulfil the dreams of the military planners who wrote this EDA blueprint for imperialist adventures. The Irish people should say No on behalf of everyone else in Europe who despises war and empire.

A 'war on terrorism'

The Lisbon Treaty adopts the US's post 9/11 anti-terror language to give European rulers an open-ended excuse to make war. Article 28B.1 TEU (Article 43.1 TEU consolidated) gives the EU the power to "fight against terrorism, including by supporting third countries in combating terrorism in their territories."

Who are these countries which the EU will support in combating terrorism and who will dictate which enemy is to be fought? It is by no means clear. It could include supporting the United States if, after another terrorist attack, it wanted to lash out at Iran or Syria. Or it could be a host of pro-Western governments in Africa which Brussels wanted to support against 'terrorist' insurgents. This is an entirely open-ended clause.

A new 'solidarity clause' goes even further by obliging EU governments to come to each other's assistance in the event of a terrorist attack. Article 188R.1 TFEU (Article 222.1 TFEU consolidated) reads: "The [European] Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack ... The Union shall mobilise all the instruments at its disposal, including ... military resources ... to protect democratic institutions and the civilian population from any terrorist attack." Article 188R.2 TFEU (Article 222.2 TFEU) reads: "Should a Member State be the object of a terrorist attack ... the other Member States shall assist it at the request of its political authorities."

These are extremely vague clauses that have the potential to involve millions in wars. Let us assume that there was a bomb attack in France carried out by an embittered force who objected to its supply of arms to Hutu militias. Or that a separatist force in Hungary or Romania carried out an attack on one of their major cities. These clauses would give these governments the right to call on Irish forces, even if they decided to respond by attacking the 'home bases' of the terrorists in countries thousands of miles away from the initial atrocity.

If there is any clause that is likely to pave the way for the 21st century wars that the EDA documents foresaw, then this surely is the one. We should reject such loose, open-ended clauses — particularly in light of the aforementioned democratic deficit which presents the possibility of EU elites using the clauses in the Treaty to shore up their own power bases both at home and abroad.

WORKERS RIGHTS AND THE CHARTER OF FUNDAMENTAL RIGHTS

The Labour Party have claimed that the inclusion of a Charter on Fundamental Rights will give the EU a 'soul'. Party spokesperson, Joe Costello argues that the Charter provides roadmap for citizen's rights in the EU.⁴⁹ This is clearly overblown hype and is not factually correct. In fact article 6 of the TEU states that "the provisions of the Charter do not extend in any way the competencies of the Union as defined by the Treaties." Just to make doubly sure, the same article goes on to state that the "rights, freedoms and principles in the Charter will be interpreted in accordance with the general provision of Title V11 of the Charter." But this title says explicitly that: "The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify the powers and tasks defined in the Treaties." In other words, the EU have little interest in enforcing people's fundamental rights with anything like the same enthusiasm with which it pushes an open market based on 'free competition'.

The reality is that the Charter of Fundamental Rights contains a list of laudable objectives that do not add anything to what is already contained in the Irish constitution. Just like the Charter, most national laws outlaw slavery, respect a right to liberty, give a right to marry and grant freedom of conscience. The problem, however, is that there is a massive gap between declared, formal rights and the actual material circumstances which enable some to enjoy more of these rights than others. So, for example, the Charter acknowledges the 'rights of the elderly to lead a life of dignity'. But when corporations refuse to contribute to pension funds and when governments turn the care of the elderly over the private 'service providers', dignity can be rapidly eroded through poverty. There is nothing in Charter to stop EU leaders promoting these very same policies that attack the dignity the elderly.

In fact there are few specifics and few that the Charter does contain are woefully inadequate. The right to marry is there, but the right to same-sex marriage and the right divorce are missing. There is a right to life but there is no reference to a right to contraception or abortion. There is a right to strike, but employers also have a right to take 'collective action', including, it can be assumed, a lock-out.

There are also other contradictions between the broad aspirations of the Charter and the EU's own record. Article 8 of the Charter, for example, gives people a right to the protection of their personal data. But the EU has agreed that the police can get access to everyone's telecommunication data for 'criminal investigations'. In the wake of 9/11 the EU also defined as a 'terrorist offence' actions which are 'unduly compelling a government or international organisation to perform or abstain from performing any act'. This is catch-all definition can be used against any protestor to deprive them of their civil rights.⁵⁰

The Labour Party and the union leaders point to the provisions in the Charter, which give workers rights to consultation, collective bargaining or protection against, unjustified dismissal. But, again, these add nothing to pre-existing laws and in many instances include the clause 'in accordance with Union law and national law and practices'. The European Court of Justice (ECJ) oversees all of these 'solidarity' rights but this court has revealed its anti-union bias in a series of recent judgments including the Laval, Viking, Ruffert and Luxemburg rulings. These rulings have restricted the right to take action to prevent transnational contractors using cheap labour and overruled national laws and agreements on pay and conditions. In all cases, the right to operate a profitable business across borders has been given priority over workers rights.

Consider the Laval judgement, for example. This ruling arose out a case where a Latvian company, Laval un Partneri, posted several dozen workers to building sites in Sweden, in one instance to re-furbish a school in Vaxholm. Swedish unions took action against the Laval's refusal to sign a collective agreement and to respect Swedish laws on working conditions and minimum wages. The case was eventually referred to the ECJ.

⁴⁹ Joe Costello, "Briefing on Charter of Fundamental Rights". Available at http://joecostellotd.blogspot.com/2008/02/briefing-on-charter-of-fundamental_16.html

⁵⁰ See T. Bunyan, 'The War on Freedom and Democracy'. Available at <http://www.statewatch.org>

The court deemed that the union action at the building site was illegal under EU rules on freedom to provide services. It claimed that the collective action Swedish trade union took to force Laval into an agreement were likely to make it more difficult for the company to carry out construction work and so constituted a restriction its freedom to provide services. This is a devastating legal blow to union rights. While the court recognised the right to take strike action, it made that right conditional on not curtailing a superior right to free movement of goods and services. Lisbon, and the Charter of Fundamental Rights, would not change this anti-worker tendency.

Supporters of the Treaty now argue that giving the Charter legal force will ensure workers rights are given equal weight in decisions by the ECJ. But giving the Charter legal status will not override the right to provide cross-border services in the EU. Commissioner Wallstrom made this clear in an answer to a written question in October 2007. She clearly stated that ECJ case law would not be “affected in any way by making the Charter legally binding”.⁵¹ It is also clear in the rulings of the ECJ that the ‘principle of proportionality’ requires that the exercise of fundamental rights, including the right to strike, must not disrupt the right to do business across the borders of EU countries – one of the four freedoms guaranteed by the EU.

Two responses highlight the seriousness of the judgement. The European Trade Union Confederation (ETUC) stated that: “There could be negative implications for other countries from this narrow interpretation of the posted workers directive. There could also be implications for union’s ability to promote equal treatment and protection of workers regardless of nationality and there will be concern that union’s ability to guarantee these objectives is threatened by the free movement of services principle.”⁵² Poul Nyrup Rasmussen, the leader of the Party of European Socialists (PES), to which the Irish Labour Party is affiliated, was even more forthright. He argued that, “Europe has shot itself in the foot today – how can the court spread so much uncertainty on such a fundamental question? On the one hand, they recognise the right to collective action by trade unions; on the other hand the Court creates uncertainty on which agreements should be respected . . . This is not a ruling for a social Europe. This is a foggy day which could provide cover for bad employers and wage cutters. (It signals) that Europe is more interested in competition between workers than in raising living standards for all families.”⁵³ Rasmussen was worried that the judgement could have ‘negative consequences’ for the referendum in Ireland and he was proved absolutely right.

This is why the ETUC have called for an additional clause giving priority to workers rights. They have repeatedly argued that a “social progress clause” is necessary to stop further ECJ rulings which undermine the right to enforce collective agreements, including the right to take strike action. This social progress clause could have been introduced following Ireland’s rejection of the Treaty last year, but it was not. The General Secretary of the ETUC, John Monks, strongly criticised the draft guarantees offered to Ireland on workers’ rights because they do not go far enough. He said “The outcome of the negotiations of the does not adequately address the needs of the workers in Europe or in Ireland”.⁵⁴ This is not surprising given the neo-liberal thrust of the Lisbon Treaty and its emphasis on the free movement of persons, good, services and capital and an internal market where “competition is not distorted”.

⁵¹ Commissioner Wallstrom, “Answer to written question – The Charter of Fundamental Rights”, <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2007-4351&language=DE>

⁵² ETUC, ‘Laval Case: disappointment of the ETUC’ Press Statement 18 December 2007. <http://www.etic.org/a/4401>

⁵³ Poul Nyrup Rasmussen cited in “Union frustrated at Court ruling on posted workers”. http://www.euractiv.com/.../unions-frustrated-court-ruling-posted-workers/article-169235?_

⁵⁴ <http://www.irishtimes.com/newspaper/world/2009/0617/1224248983527.html>

THE LISBON TREATY & THE IRISH 'GUARANTEES'

What are the “Lisbon Treaty guarantees for Ireland”?

They are supposedly ‘legally binding’ guarantees on taxation, military neutrality and social and family affairs that “clarify” the substance of the Treaty. The ‘guarantees’ consist of a decision (not a declaration) of EU Heads of State and Government relating to three specific areas:

- a) the right to life, family and education; tax issues; and security and defence;
- b) a declaration of the European Council relating to workers’ rights, social policy and public services;
- c) a declaration by Ireland relating to defence issues.

The European Council also “promised” the ‘guarantees’ would be transformed into Protocols at a later date and added to the text of the next accession treaty (a treaty agreed when a new member joins), once the Treaty of Lisbon is ratified. There are no official details on the next accession treaty but it most likely to be with Croatia in 2010 or 2011.

What are the Lisbon Treaty ‘guarantees’?

The Lisbon Treaty ‘guarantees’ are divided into Sections A, B and C. Section A deals with the abortion issue. However, there is nothing in the Treaty or the Charter of Fundamental Rights about abortion. The Lisbon Treaty maintains the current legal provision, first attached to the Treaties as a Protocol in 1992, which states that “Nothing in the Treaties, or in the Treaty establishing the European Atomic Energy Community, or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in Ireland of Article 40.3.3 of the Constitution of Ireland.” (This is the article in the Irish Constitution that equates the life of a pregnant woman with that of the foetus.) In the consolidated version of the Treaties, this protocol is now Protocol 35. This ‘assurance’ is designed to appease the Catholic Right and anti-choice groups like C  ir (formally Youth defence).

Section B deals with the issue of taxation. This states that the EU cannot force Ireland to increase corporation tax or indeed prevent it from lowering it even further. This is a concession to Declan Ganley and the right wing Libertas group who were concerned that Ireland’s low corporation tax could be affected by the Lisbon Treaty, thereby forcing big business and multinationals to pay their fair share of tax.

Section C, which deals with security and defence, is the most detailed and substantive part of the guarantees. The issue of Irish neutrality was one of main reasons why people voted No to Lisbon. This section makes a number of points, which we will address one by one.⁵⁵

The first point states that:

The Lisbon Treaty does not affect or prejudice Ireland’s traditional policy of military neutrality.

This is supposed to ‘clarify’ the issue of neutrality. But what it fails to point out is that Ireland defines military neutrality in exceptionally narrow terms, that is, “non-membership of military alliances.” Andy Storey argues that “in the first place, formal membership of a military alliance may not be the only measure of neutrality (or the lack of it): for example, Ireland did not join a formal military alliance when it granted US troops transit facilities through Shannon airport, but did this mean that Ireland had remained neutral vis-  -vis the conflict in Iraq? Second, the notion of a formal military alliance is itself routinely reduced to participation (or non-participation) in a mutual defence pact, whereas participation in what are clearly military structures and interventions at EU level would strike most people as participation in some sort of military alliance (or, at the very least, a joint military undertaking).”

⁵⁵ This section draws heavily on Andy Storey’s excellent “Commentary on the Lisbon Draft ‘Assurances’, concerning Security and Defence.” The full document is available to download from www.voteno.ie under Resources.

The second point states that:

It will be for Ireland, acting in a spirit of solidarity and without prejudice to its traditional policy of military neutrality, to determine the nature of aid or assistance to be provided to a Member State which is the object of a terrorist attack or the victim of armed aggression on its territory. Any decision to move to a common defence will require a unanimous decision of the European Council. It would be a matter for the Member States, including Ireland, to decide, in accordance with the provisions of the Treaty of Lisbon and with their respective constitutional requirements, whether or not to adopt a common defence.

The is supposed to counter interpretations of two Lisbon articles that seemed to clearly edge the Union closer to a common defence: Article 28A.7 TEU (Article 42.7 TEU consolidated) and Article 188R TFEU (Article 222 TFEU consolidated) — the so-called ‘Solidarity Clause’. The text of the Lisbon Treaty asserts that States will be obliged to aid each other “by all means in their power”, but the ‘assurance’ says that Ireland will *itself* “determine the nature of aid or assistance” to be extended to a member state under attack. In other words, the Treaty does not mean what it says it means. However in the event of a dispute arising — for example Ireland choosing not to militarily assist another Member State under attack but being challenged by other states that it was thereby not aiding and assisting by all means in its power — will the text of the Treaty or the Irish ‘assurance’ take precedence? Surely the legally binding Lisbon Treaty would trump the ‘assurance’?

The assurances further state that Ireland may choose not to participate in common defence activities. However, by virtue of its participation in EUMS (European Union Military Staff) duties and other dimensions of EU military cooperation (including the financing thereof), Ireland will be helping to lay the basis for *other* states to engage in such co-operation. Take, for example, the use of Shannon airport by US troops. Ireland is clearly understood as participating and aiding the US war and occupation of Iraq. The Lisbon Treaty makes no reference to the requirement of a UN Mandate for an EU intervention; Ireland continues to insist that its own troops would never be deployed without such a mandate, but there is nothing to prevent troops from other countries (unavoidably backed up by Irish planning and financial resources) drawing on the support of the EU infrastructure to launch such an intervention. There is no specific UN Mandate for the war in Afghanistan and yet Irish troops are “assisting” NATO troops there.

In relation to the European Defence Agency (EDA), the most relevant article in the Lisbon Treaty is 28A TEU (Article 42 TEU consolidated). This is the first reference to the European Defence Agency (EDA) in an EU treaty, though the EDA has been in existence since 2004. According to the assurances, Ireland may choose not to participate. However it is already involved. In June 2009, the Green Party was heavily criticised for its agreement with Fianna Fáil that Ireland should remain in the EDA (albeit subject to certain conditions).⁵⁶

The ‘assurances’ make no reference to the extension, under Article 28B.1 TEU of Lisbon (Article 43.1 TEU consolidated), of the range of tasks that EU forces may perform and the concern has always been that external interventions by the EU are being given a very wide legitimising framework and agenda for potential action. As Andy Storey has argued, “claiming to be assisting a third country government to combat terrorism through the provision of military advice and assistance raises fears of autocratic rulers being facilitated to suppress opposition”.⁵⁷ Consider the role that French troops, with support from the Irish military, have routinely played Chad.

In addition to the so-called ‘guarantees’ just discussed, there are two annexes to the decision of the Heads of Government. The first is a “Solemn declaration on workers’ rights, social policy and other issues”. Once again, this section, in effect, guarantees nothing at all. A ‘solemn declaration of the European Council’ is meaningless

⁵⁶ <http://www.irishtimes.com/newspaper/world/2009/0618/1224249068956.html>

⁵⁷ Andy Storey, “Commentary on the Lisbon Draft ‘Assurances’, concerning Security and Defence” www.voteno.ie/resources

and is not a legally binding instrument. The reason this section is called a solemn declaration, which is not legally binding, is because it deals with workers' rights, a major issue of contention in the EU for the past number of years. There is no agreement among national governments on how the concerns raised by the trade unions — not just in Ireland, but across the EU and by their umbrella body the ETUC in Brussels — should be addressed.

Recent rulings by the European Court of Justice (ECJ), *Laval* and *Viking* in particular, have rightly concerned the trade union movement through the impact these judgments will have on wage and labour agreements. They also want treaty backing for collective bargaining and the right to strike. The very least they want is a protocol inserted into the Lisbon Treaty that will set aside some of the most dangerous legal precedents set by the recent ECJ labour judgments. EU governments have rejected this outright and the only thing they are willing to concede on was this pathetic declaration.

The European Trade Union Congress (ETUC) has said the proposed declaration does not go far enough. In letter to the European Council ETUC General Secretary John Monks says: "Our objective, which we hoped had been understood by the European Council last December, has been to ensure in a binding way that the fundamental rights of workers and their representatives are not subordinated to market freedoms and competition law."⁵⁸

The second annex is a "National Declaration by Ireland" which simply repeats points already made implicitly or explicitly elsewhere. This declaration does nothing to alter the reality that one of the principle objectives of the Lisbon Treaty is to create a legal framework for the further militarisation of the EU. In the Treaty, common defence commitments are flagged, increased military spending is encouraged, the range of rationales for EU overseas operations is extended, and provisions are created for EU operations to be undertaken by sub-groups of member states with the support of *all* members — including Ireland. These fundamental facts are unaltered by 'assurances' of dubious legal status.

⁵⁸ ETUC resolution on a European Recovery Programme <http://www.etuc.org/>

CONCLUSION: WHAT'S AT STAKE?

On Friday 2nd October 2009 we will be forced to vote a second time on the Lisbon Treaty. We have been here before. When we rejected the Nice Treaty in 2001, we were forced to vote a second time in 2002. Just as in 2002, the representatives of the Irish establishment — Fianna Fáil, the Green Party, Fine Gael, the Labour Party, the employers' organisation IBEC and the majority of journalists, commentators and presenters in the media — are making a much more determined effort in their second attempt to get the result they want. They know this is their last chance to force the Treaty through.

If they fail, it would be politically impossible to seek further 'guarantees' for a third referendum and they could well be forced to call a General Election. If we win again, we will have driven a stake through the heart of the undead Lisbon Treaty, preventing its entry into force, defending the democratic will of the people of the EU, and cementing the victory of the left in the Local and European elections — paving the way to an even greater challenge to the establishment in the General Election.

How do we win?

Irish capitalism is in the midst of unprecedented crisis. Hundreds of thousands of workers have lost their jobs and seen their wages slashed. The government's response to this crisis has been to attack public services, like health, education and social welfare, to publicly intimidate public sector workers while at the same time falling over themselves to defend the rich and bail out the banks. In Ireland, as in Europe, the key question for everyone is: Who is going to pay for the crisis? Ireland has been pulled back into the European maelstrom where a real battle is being fought out between those who want a 'social Europe' that puts people before profit and those demanding a neo-liberal Europe with more 'flexibility', 'competitiveness' and a strong military super-state.

Organising

We have nothing to do with fanatics who worry about abortion, same-sex marriage and want to defend holy Ireland. Our No campaign is open to all who want to fight the Treaty because it would only mean more neoliberalism and war. It involves organised socialists as well as individuals with no affiliation. It involves trade unions and anti-war groups. Above all else, it is a campaign that is being built from the bottom up, by initiatives of the many hundreds of activists who have emerged in Ireland in recent years.

A positive message: Another Europe is Possible!

The elite get to frame the question and so our answer has to be a No. But that should not stop us getting out a positive message about what we want. We should not let them set the terms of the debate and tell us what sort of Europe is possible or 'realistic'.

As we have seen the Lisbon Treaty is built around a central axis of promoting market competition. A positive alternative will draw on a socialist outlook to promote measures which improve the lives of the majority. Instead of rules which prevent governments interfering with the free market, the EU should take democratic decisions to reverse the social vandalism caused by neoliberalism.

A positive constitution for Europe could require:

- *Government to introduce a mandatory pension scheme.* Companies claim that they would become 'uncompetitive' if they contribute to pension funds for their workers. So let's take the pressure off by making all of them contribute.
- *Minimum standards on access to health care.* The EU should mandate governments to guarantee equal access to health care, regardless of income.

- *Make the provision of childcare compulsory.* No government in Europe would dare claim that they cannot 'afford' to pay for primary education but the Irish government gets away with virtually no pre-school facilities. As a result, Irish parents pay 20 percent of their annual income on childcare as against an EU average of 12 percent.
- *A Charter that gives real social rights.* Everyone has a right to accommodation and shelter. Instead of leaving that right to market forces, governments and local authorities should be mandated to provide accommodation where necessary.
- *An entitlement to a minimum number of holidays.* Annual leave and public holidays vary across Europe, amounting to 29 days in Ireland as against 38 for Austria. In the 21st century, we need a constitution that gives workers a legal right to a higher number of holidays.
- *Cut military spending — divert money into public services.* On average, EU countries spend about 3 percent of their budgets on military spending. But after the fall of the USSR, there is no fear about being attacked. Instead of a Stability and Growth Pact, Europe needs an Arms Restriction Pact to cut military spending to 1 percent or less. This would free up vast sums for quality public services.
- *Public control of banks — No support for speculation.* The European Central Bank should be answerable to the people of Europe. Instead of subsidising financial speculation by bailing out the banks under NAMA, it should provide funds for a serious economic stimulus package for each Member State.
- *Real solutions to climate change — not carbon trading.* We will not solve climate chaos by dividing up the earth's atmosphere into 'pollution slots' and creating another new market in 'carbon emissions'. The EU is uniquely placed to take the continent-wide measures that can help save the planet. Its constitution should help break the grip of the fossil fuel industry by supporting sustainable forms of energy. If people are to get out of their cars, the EU should be promoting public transport on a vast scale. Instead of telling government not to spend on public services, it should ban corporations creating vast amounts of waste and packaging.

There is much that an EU constitution could do and positive moves in that direction should be welcomed. But to get to that point, we first need to get rid of the Lisbon Treaty. As we have argued, the Lisbon Treaty upholds the interests of a corporate, profit-driven and militarised EU. It offers nothing to the people of Europe as they face into the abyss of systemic economic crisis. Therefore, the case for voting 'No' is now stronger than ever and we will therefore continue to argue for a No vote in the second Lisbon Treaty referendum.