

Presentation of the project **“Plan P, a Constitution for the Peoples of Europe” [1]**

By the *European Construction Group*, ATTAC-Rhône [2]:

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In 2007, after having explored a range of possibilities offered by the current construction of Europe [3], we took the decision to draw up our own project for a European Constitution.

This project provides a concrete example of the form “the Europe we want” could eventually take. We want to put the project into circulation in order to stimulate discussions – discussions that could lead to a text that has been adapted and approved by the largest number of Europeans possible. The finished version could then be published with a view to organizing a future European Constituent Assembly responsible for the drafting of a founding text to be put to referendum.

The project can be seen in the Wiki section of Etienne’s site:

<http://etienne.chouard.free.fr/wikicons...d%27Europe>

The forum is already up and running for comment and debate. The authors hope to achieve a wide distribution of the text, with the aim of stimulating equally wide-range discussion and proposals. In the meantime the authors may continue to develop ideas for the project.

This document presents the principal innovations introduced by “Project Plan P, a Constitution for the Peoples of Europe”. The initial version was first drafted in 2007, and we would now like to submit the present version for public debate. We have named it Plan P... P for People.

Plan P, a Constitution for the Peoples of Europe

A Europe for Citizens: a republic that unifies peoples and not states

- The most decisive innovation for democracy would certainly be that of a *federal* (4) Europe, as opposed to the structure Europe has taken on today, a distorted *confederation* (5), or union of states (6). This change of structure is essential if we are to restore both the *separation of powers* and popular sovereignty.
- ***The Union of European Nations is not to be based on a treaty, in other words a contract drawn up between states, but on a constitution, simultaneously adopted and modified by a referendum put to the European peoples. The Union is not to contain “member states” but “member nations”.***
- **No member or delegate with national executive powers may occupy a position of authority on a European level.**
- **The European Parliament, appointed by European citizens, must have principal control over the European institutions. The federal government must stem directly and uniquely from Parliament. Parliament nominates the members of the apparatus for constitutional control and the Court of Justice. Its legislative power, extending to all subjects attributed on a federal level, can be modified by citizen-initiated referendum only.**

- European “senators”, representatives of member nations as distinct entities with potentially contradictory interests, are to be elected by national or regional parliaments.

A hierarchy of strict, clear standards

- **The constitution is to be placed at the summit of a hierarchy of standards: *any clause contained in a treaty contrary to the constitution becomes legally null and void* (I-5).**
- Union law must take precedence over the laws of member nations (I-5.1; I-10.3) but there must be maintained a strict separation of competences. In the case of *shared competences*, *precedence is to be granted either to the Union or to the member states*, and is to be translated into operational terms, *allocating the power to decide which, of the Union or the member states, is more competent to carry out the objectives of the intended action* (I-10.2) and *the power to decide common political orientations and principles* (I-11.1). The Union can not assign itself new powers (I-10.1) except for those modifying its constitution. However this demands as a prerequisite the consent of the population (I-20).
- The sharing of competences between the Union and member states, as defined, is only indicative. These choices should be based on the contributions of numerous individuals and work groups.
- **The Charter of Fundamental Rights is to uniquely concern European Union institutions: the European Union *has the duty to assume the power of action necessary for the attainment of objectives set out in the constitution* (I-18), objectives founded essentially on the guarantee of fundamental rights of individuals (I-8). This double aspect, of a purely constitutional nature, distinguishes it from the European Union. In this way **the European Union and its member states take on separately, in both political and operational terms, the application of laws according to their respective competences**. This condition may not be sufficient, but it allows for the resolution of conflicting competences when a decision has consequences in at least two domains [8].**

A relationship to international law founded on individual rights

- *The Union must contribute to the development of international law when it is founded on individual rights. It must take measures to ensure the right of asylum, to define policy for immigration and the welcome of persons from beyond European Union boundaries, in conformity with international conventions and respect for fundamental human rights* (I-2.2).
- *The Union, within the framework of its competences, must impose and guarantee models of production, of consumption and of distribution of natural resources that allow human beings to live decently. It must at the same time respect the ecosystem, ensuring the satisfaction of essential needs of future generations, and of other populations on the planet* (I-2.3).

A separation of powers similar to that of parliamentary systems

- The Federal Parliament is to be made up of the *European Parliament* (I-23) and the *Upper Chamber*, equivalent to a federal senate (I-24). *Half of the deputies are to be elected by constituencies corresponding to one representative for two million inhabitants, with a minimum of one representative per member nation, and the other half are to be elected by proportional ballot – or by lottery [9] – from a list of European candidates [10]. The members of the Upper Chamber are to be elected by national or regional parliaments of each European member in numbers that are proportional to the populations represented, with a minimum of four representatives per national parliament*. These procedures aim at respecting as strictly as possible the principle of equality amongst citizens.
- *Government of the European Union* (I-22) is to be implemented, under the authority of the *Prime Minister*, by a *Council of Ministers* elected uniquely by the European Parliament, which has power of *ensorship* [11].
- We have introduced the concept of a *President of the European Union* (I-21) but his powers are limited, if not symbolic (except in his / her role of international representative). This is an option that could be abandoned without upsetting the proposed institutional balance.

- *The Court of Justice, or Constitutional Court, is to be made up of thirty judges, replaced by one third every three years, non-renewable and non-replaceable. The members of the Tribunal, which is to be responsible for the application of Union laws, are to be elected for six-year mandates, and half of whom are replaced every three years. They can be re-elected for a second term. The judges, Advocate Generals and the members of the Tribunal are to be appointed by Parliament after study of a report submitted by an assessment committee chosen equally between Parliament and Upper Chamber members (I-25).*
- In this way the nomination procedure for the various constituted powers remains rigorously democratic. The distribution of powers among legislative, executive and judicial institutions remains traditional: *Parliament votes on the laws put forward by deputies, members of the Upper Chamber or the government [12]; the government implements the budget which is then voted on by Parliament.*

The use of referenda and their democratic impact

- **The sovereignty of the people in constituent matters must be upheld, thereby separating the constituent powers from the constituted powers: *this constitution must be submitted to a vote by all Europeans within the Union on the same day (III-47). Any modification of the constitution (III-51; I-20-2) or of a treaty defining rules concerning international politics (I-20.1) must be ratified by referendum [13].*** Referenda initiated by heads of state are to be provided for in these circumstances only.
- *A procedure is to be established for a “Referendum on Popular Initiative”, or RPI (I-20.1). Its scope is to include: the enactment, the modification and the repeal of laws (the number of signatures on a petition necessary to launch a referendum is set at 1% of the voters of each state in a group of European states together representing at least half of the citizens of the Union). For the repeal of decrees and the (non-) ratification of international treaties already approved by the Union the number of petition signatories necessary to trigger a referendum is set at 1% of European voters; and for the removal of a European deputy a petition must be signed by 1% of the voters of his / her constituency [14].*

A right to honest and pluralist information put into concrete application

- *Citizens must have the right to easily available, pluralist information emanating from diverging viewpoints, and the right to submit analyses, questions and propositions for public debate [15] (I-1.b; I-36.1);*
- ***There must exist a free public information service [16] (I-36).*** Journalists are not to be civil servants. The only demands on associations of affiliated journalists are those stipulated in the *Munich Charter [17]*, and the obligation to *elect their own managerial staff. The financing and application of the respect of a journalistic code of ethics is to come under the jurisdiction of an assembly independent from all other public authorities: the Public Media Chamber. The members of this assembly are to be elected by half, the other half being chosen by lottery [18]; equality in numbers between men and women is to be obligatory.* Only media publications affiliated to the public service can benefit from state financing, and are to be equally financed, within limits, by the public. ***Advertising is to be prohibited within any public media.***
- *Citizens and residents must have free access to all institutional documents, unless the law prohibits it for reasons of public or private interest; parliamentary chamber meetings are to be open to the public (I-37).*

An economic framework freed from feudal power

- If the *mission of the European Central Banking system is to include employment, sustainable economic development and price stability (I-29.2)*, the power of the Central European Bank is to be nonetheless reduced to a purely executive role within the framework of a **radically restructured monetary system [19]:**

- Plan P **dismantles the neo-liberal reform that prevents public authorities from printing money or from spending without incurring interest** [20].
- Civil society is to be guaranteed protection from abuse of this power by institutions [21]: ***currency placed in the hands of public authorities can only be employed to finance public spending and investment. Repayments and public authority expenditure should be financed by taxation*** (I-29.6). In these conditions the *budgets of the European Union and its member states should achieve a balance between spending and income* (exceptionally, for a period extending over several years) (I-39 to 41).
- *The European Parliament, advised by a Court of Audit, will have the right of decision on possibilities of public investment offered by the creation of money*; a similar proportion of created currency is to be granted to each state within the European system according to its annual investment budget planned within the exercise of its competences [22] (I-29.7).
- **The rule according to which the Central European Bank is the only authority allowed to create currency in euros** (I-29-3) **is to apply equally to currency of all forms: fiduciary (notes and coins), but also scriptural/ temporary money (online)**, which imposes a strict framework on bank credit [23]. See the organic law for the functioning of this banking system [24] (I-29-3).
- **Provisions of (neo-liberal) ideological inspiration are to be eliminated** [25]. ***The free movement of services, merchandise and capital, and freedom of establishment, are only to be guaranteed within the European Union*** [26] **and within a political, fiscal and environmental framework that has been harmonized in advance** [27] (I-3.1).
- There is to be established an approximation between laws governing companies and fiscal legislation (I-34).

The separation of politics and religion

- *There is to be an institutional separation between politics, religion and philosophy* (I-1.3).

Languages: both pluralism and a common language

- *All documents and intra-community relations are to be provided in each language of the member states, in addition to the common language established by the European Union, be it Esperanto or any other language **apart from** a national European language* (III-50).

Formal aspects

- The text is to be brief: 16 pages, 52 articles (although certain subjects have not yet been examined).
- There are to be clear and concise clauses, with no cross-references.

What remains to be achieved

- A Charter of Fundamental Rights (article I-8) must be introduced into the constitution as Part II. For this charter we would particularly hope for a large number of contributions from the various European work-groups of ATTAC.
- The sharing of competences between the Union and member states, as previously defined, is indicative, if not illustrative. These choices should emanate from the diverse work-groups [28?].
- Debate and rulings on military aspects of Europe. There are partisans of a resolutely pacifist text: this orientation does not imply an absence in the constitution of measures concerning weapons and the military. Whichever choice is adopted, this competence must be a federal one.
- Completion of the monetary chapter with measures concerning the control of currency exchange within the euro zone. This also must come under federal jurisdiction. These measures must agree in particular with the rules on external trade [29].
- Study of the formulation *“The Union combats tax havens wherever they are found”* (I-42-1) and development of associated measures for the application of these goals [30].

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- [1] “Le Plan P, une constitution pour les peuples d’Europe” (in French, Italian, Spanish and German): http://local.attac.org/rhone/rubrique.php3?id_rubrique=261
- [2] *Contact* : Samuel Schweikert – sam_chouequ@yahoofr
- [3] « Quelle Europe construire ? Les termes du débat »: http://local.attac.org/rhone/article.php3?id_article=868
- [4] There are three principal, but interlinked, differences between a *federation* and a *confederation*: *a federal government is elected by its citizens and not by its member states; the existence of double citizenship* (effective citizenship on a federal level requires sovereignty of the people within the framework of central institutions); *the federation is a state*. A *confederation* is a union of states that abide by a central authority whilst maintaining their own autonomy.
- [5] Its parliament, elected by direct universal suffrage, is the only element that distinguishes the EU from a confederation. **But this parliament has almost no authority, since it is deprived of the power of initiative in matters of legislation, the drawing up of treaties, or even the nomination of the Commission – which has exclusivity concerning legislative initiatives – and is entirely cut off from decisions in domains traditionally assigned to parliaments.** See a detailed analysis of the Treaty of Lisbon (in French): http://local.attac.org/rhone/article.php3?id_article=1121
- [6] It seems that no-one has yet shown that other options exist for founding a democratic *constitutional system* (see note [7]), apart from the two traditional forms of the *nation state* and the *federal state*. These two institutions would require a fundamental reform, if not the abandonment, of the present EU: while the former would require the removal from European treaties of institutions endowed with a power of enactment or application of any rulings superior to national laws, the latter, with their restrictive laws, do not issue from the treaties.
- [7] The *separation of powers* is one of the founding principles of the constitutional system, along with the *guarantee of fundamental rights* (art. 16 of the Declaration of the Rights of Man and of the Citizen, 1789). Simply separating the competences of the EU and its member states does not ensure the separation of powers in the various areas of competence within the Union. On a European level, the non-separation of powers is blatant, whether disguised (see note [5]) or evident (e.g. the Central Bank, or the negotiation procedure for treaties). On a national level the constitution, while proclaiming that “*the law is the expression of the will of the people*”, imposes an adaptation to European law. This manifests itself from then on as detailed directives decided upon by members of the government, whose functions “*are incompatible with the exercise of a parliamentary mandate*” (French Constitution, art. 23).
- [8] The transformation of the EU into a federal structure would effectively put political responsibility into the hands of the authorities. The implementation of directives in the EU today requires their transposition into the legislation of member states. The same procedure must be adopted in executive and judiciary matters, because the EU is based on treaties. In the proposed constitution *it is for the Upper Chamber* (I-24.c), elected by national or regional parliaments, *to give a verdict on the conformity of proposed European laws on the sharing of competences during legislative procedures. It has the right to appeal to the Court of Justice, which ensures the respect of rulings on the sharing of competences* (I-10-4).
- [9] This option has been introduced in order to stimulate debate. The *drawing by lot* of representatives (from *those who volunteered*) could be combined with election procedures by being just one step in the selection procedure. Practised directly, this is worth consideration (although the idea is not new) as long as it is associated with radically democratic control mechanisms. For more on this subject please read: “*Drawing by lottery or election?*” (French) by B. Manin, and “*Democracy or Aristocracy?*” (French), by E. Chouard: http://www.agoravox.fr/article.php3?id_article=19301
- [10] “Party votes” are in principle limited: it is stated that “*the right to vote of representatives is personal [...] no representative may receive the delegation of more than one proxy vote*” (ref. the French Constitution, art. 27).
- [11] This censorship is to be carried out by *simple majority* (at the moment in the EU the rule is that of *two-thirds majority*). The conditions for a possible *quorum* or of a *majority of either voters or members* are yet to be established.
- [12] The propositions deriving from citizens’ initiatives put to referendum are not voted by parliament (the phrase “[*parliament*] votes the laws of the Union” is to be clarified). This is nevertheless a subject for parliamentary debate.

- [13] The reach of citizen-initiated referenda has not been extended to *the initiative for the modification of the constitution*. This is not by choice – we simply have not yet covered it in discussion.
- [14] When the RPI is applied to the removal of a representative, the setting of the percentage of petitioners at 1% is certainly inappropriate as this could expose a majority of representatives to harassment. A certain number of accompanying measures would certainly be necessary in order to render this principle democratic.
- [15] Within such a vast structure neither true *freedom of expression* (which implies an ability to inform oneself fully on the acts and projects of public authorities), nor the *isegoria* (equal power for all to express their opinions in the tribune), and in the final analysis, neither political *liberty* nor *equality* are possible without an efficient relaying of information by honest and pluralistic media.
- [16] In order to guarantee not only the right of citizens to free information but also the separation of powers, the constitution (and not simply the law) should incorporate certain principles formulated by member states concerning the guarantee of the independence of media from economic and political powers: <http://www.acrimed.org/article2453.html>. Other measures from those already proposed in Plan P (which concern the organization of public authorities) should be introduced in the form of *collective rights* in the *charter of fundamental rights*. These rights stem from the individual right of citizens to access honest and pluralistic information (see note [17]), within a framework restricting the concentration of private interests (which is precisely the role of public institutions in the spirit of even politically neo-liberal modern constitutions): for example, existing phrases such as: “*anti-concentration legislation*”, or: “*it is prohibited for groups benefiting from consumer markets to possess media interests*”.
- [17] *Declaration of the professional duties of French journalists* or “Munich Charter”, adopted in 1971 by a congress of journalists: <http://www.acrimed.org/article35.html>. The respect for certain rights of journalists based on the duty to inform, such as “*the protection of their sources*”, must become an obligation for the State. For future study: this guarantee should be explicitly extended to all media, including “*the attribution of new collective rights to editorial staff and to the trade unions of media employees*” (see note [16] for the source of quotes).
- [18] We could consider the option of a proportion of participation reserved explicitly to journalists, taking into account the problem of conflicts or collusion of interest.
- [19] Please consult the forum “Taking back the control of our currency” (in French): <http://etienne.chouard.free.fr/forum/viewtopic.php?id=81>. These two types of reform of the monetary system have been put forward by several ATTAC members and groups, and even certain neo-liberal economists support them. For example D. Ricardo himself, who states: *In the case of the creation of money the advantage always goes to those who issue credit; and since the government represents the nation, tax savings would have been in the hands of the nation if it had issued the money itself in the place of the banking system [...]. The public would have a direct interest in the state, rather than in a company of merchants or bankers handling money production.* (Proposals for an economical and secure currency, 1817). See also the extract from Maurice Allais’ work “*La crise mondiale d’aujourd’hui*” (edited by Clément Juglar, 1999): http://www.alterseco.org/wiki/doku.php?id=r%C3%A9formes_des_institutions_financi%C3%A8res
- [20] This legislative measure (Art. 25 of the law of January 3rd, 1973; art. 3 of the law of August 4th, 1993, France) has been promoted to a “constitutional” level in the EU (art. 104 of the Maastricht Treaty; art. 123-1 of the Consolidated TFEU (Treaty on the Functioning of the European Union): *It is forbidden for the European Central Bank and for the central banks of member states [...] to grant credit to institutions, organs or organisations within the Union, to central administrations, to regional or local authorities, to other public authorities, organisations or enterprises within the member states; direct acquisition by the Central European Bank of their debt instruments is equally forbidden.* This wording obeys the double criteria pointed out in note [25] as an “unconstitutional constitutionalized clause”.
- [21] “*Experience shows [...] that a state or a bank has never had unlimited power to issue currency without having abused it*” (D. Ricardo, paper cited in note [19]). We must note that the creation of money by the Central European Bank, when it does not benefit governments, tends to systematically attain a volume superior to what is necessary for curbing the inflation of financial and real-estate assets. Nothing can justify leaving the right to issue money to private institutions and the control of this process to independent public authorities – which leaves the latter completely at the mercy of the former (see F. Morin, *The New Wall of Money* (French) (Seuil Editions, 2006), and F. Lordon, *When Finance Takes the World Hostage* (in French): <http://www.monde-diplomatique.fr/2007/09/LORDON/15074>. Experience shows us that the official “prince” has rarely been sovereign in terms of his right to assume his royal powers. Finally, it is the

democratic quality of institutions as a whole that most affects the control of issue of money and public spending.

- [22] It has been suggested that this proportionality be established according to the populations of member states, a principle that is more clearly in conformity with citizens' rights. The idea of investment budgets makes it possible to allocate shares respectively to the Union and to its member states; the calculation would be made by first adding together the national budgets of member states, then dividing them according to population.
- [23] For several centuries, most of the money supply has come from bank credit; the manipulation of scriptural money, converted into various forms in bank accounts, allows banks to lend far more money than they actually possess – in real terms but also in terms of deposits – and to deduct interest through credit on money created from nothing. This amounts to an important privilege enjoyed by bankers and has been denounced by many political figures for centuries. The economist M. Allais considers this manoeuvre to be nothing less than forgery.
- [24] This demands the imposition of complete credit insurance from banks, at the same time as reserving the technical advantages of bank credit for the population. This could be attained by imposing the separation of deposit banks from investment banks (a proposition of M. Allais: see link cited in note [18]). These measures should be decided upon after evaluation of the difficulties involved in applying this procedure.
- [25] The unconstitutional nature of these measures is exposed by the fact that, if they impose limits on public authorities (see notes [20], [26] and [27]), in keeping with constitutional tradition, it is not with the aim of protecting the civil and political liberties of individuals (against arbitrary laws: "*The law has only the right to forbid those actions that are detrimental to society*": art. 5 of the *Declaration of the Rights of Man and of the Citizen* of 1879; see also the phrasing of the first ten amendments of the American Constitution). These neo-liberal clauses, thus "constitutionalized", form the basis of the "rights of corporate bodies" which, like any other right attributed to abstract entities (or collectives, without connection to individuals), cannot cohabit with the rights of individuals within the same constitution.
- [26] We suggest the removal of the clauses deregulating the movement of capital between European states and other countries (art. 63 – 65, Consolidated TFEU), of the eradication, if subtle, of the protection of public services, of company loans handed out without consideration of their interest for the general public, and of 'regressions' concerning the liberalisation of public services.
- [27] We also propose the removal of clauses forbidding quantitative restrictions on imports and exports between European countries (art. 34 and 35, Consolidated TFEU). See also the last chapter, "What remains to be achieved" and the note [29].
- [28] This dividing up is not decisive in choices concerning Europe's legal structure, and is not essential as long as it distributes competences coherently on a federal level and maintains competences on a national level that allow for the control of basic structures of local life and national culture. This is equally a question of drawing up a framework within which future decisions can be made, as the allocation of competences can evolve along with public opinion.
- [29] For this aspect as for that of common rules for external trade, we would like to refer to the 1948 Charter of Havana: http://www.wto.org/english/docs_e/legal_e/prevto_legal_e.htm. See also the project of a constitution for a federal Europe adopted in 1944 by the *Legal Affairs Committee of the Pan-European Movement* and the *Research Seminar for Post-War European Federation*: <http://www.ena.lu/>. Its article 66 introduces a fiscal basis linked to internal and external trade: *Europe's revenues will equally include the net amounts of duty charged by member states within the framework of interior trade and 50% of the net amount of duty charged on merchandise imported into the Union.*
- [30] For tax havens situated outside the EU, this vague measure should be split up into clauses governing conditions of free exchange and movement of capital. These points would make the demand for obligations to be imposed on European authorities appear less 'bellicose' (on an international level "*might is the right*") and also more easily controllable by citizens.