

EAPN Ireland Review

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April 2008

Editorial

The delay in naming the date for the referendum has not prevented an active and sometimes heated debate on the Lisbon Treaty, a debate which will intensify in the coming months. Regardless of your stand on the Treaty, this debate is not an easy one, not least because of the complex and technical nature of the document.

However you decide to vote, this Treaty has the potential to change the European social project and consequently impact the lives of everyone in the European Union. During past referenda EAPN Ireland has sought to impartially inform its members on the changing social dimension of the European Union. With this review and a series of regional and national roundtables in April and May we hope to continue this approach. Explaining, interrogating and assessing the social dimensions of the Treaty.

As Peadar O'Broin tells us this Treaty is a traditional amending one, however it does provide for significant changes to how the EU works overall, and to the European social agenda.

The social aspects of the Treaty include the incorporation of the Charter of Fundamental Rights, the new social clause, the citizen initiative, and new competence in the area of social services of general interest. This Treaty also places renewed emphasis on the social objectives of the European Union.

As Robin Hanan points out over time the nature of the European Social Agenda has changed dramatically, this new Treaty represents the further development of that model. Paul Ginnell outlines the key changes the Lisbon Treaty entails for the Social Agenda. Tony Brown provides an analysis of the emergence of the 'social clause', and asks what the significance of this clause could be in the future.

Richard Polacek similarly interrogates the provisions in the Treaty on Social Services of General Interest, and Deirdre Duffy explains how the new legal base for the Charter of Fundamental Rights could change the nature of human rights protection in the European Union.

Kieran Allen finds the social aspects of the Treaty wanting, and argues that this treaty will entrench neo-liberal market principles and undermine social rights. Brian Carty supports this argument with particular reference to public services.

Two EAPN Ireland members examine what the European Union has meant for the fight against social exclusion and poverty at the local level. Robert Carey highlights how the concepts of social inclusion emerging from Europe have shaped local development, while Anne Donegan analyses this impact with reference to one practical implication – the funding of local development projects. Both authors conclude that the European Union has had a dramatic impact on their work.

Much of the analysis in the review concludes that the impact of this Treaty will depend on how its provisions are implemented by the European Union and its Member States in the coming years. This potential is teased out in two interviews, one with the Labour Party MEP Prionsias de Rossa who supports the Treaty, and one with Sinn Féin MEP Mary Lou McDonald, who is campaigning against the Treaty.

We hope that you find the analysis and information in this review interesting, and look forward to seeing you at EAPN Ireland discussions on the Treaty in the coming months.

Kay Lynch
Chairperson

Anna Visser
Director



What is social Europe and where is it going?

Robin Hanan, former Coordinator of EAPN Ireland, now CEO of the Irish Refugee Council, looks at the emergence of the European social project and considers how this will develop in the years to come.

The referendum on the Lisbon Treaty is the sixth occasion where the Irish people have been asked to vote on a European Treaty since the original vote to join the European Economic Community (EEC) in 1972. These referenda tend to develop into tests of how people feel about the EU as much as about the actual contents of any particular Treaty. These highly polarised debates tend to mask the more interesting question of what the European project should try to achieve and how.

One of the key choices for the EU, as for member governments, is whether to use the continent's increasing wealth to strengthen social cohesion, redistribute resources and provide adequate social services or to follow the US example of a leaner, meaner, 'competitive model'. This is often characterised as debate on the future of 'the European social model' or, to use Mary Harney's famous phrase, the choice between Boston and Berlin.

In reality, there has never really been a single European social model. Even in Western Europe, there are vast differences in the types of welfare state built up since the Second World War or, in the case of the Scandinavian countries, in the 1930s. Some are centred around universal free services, others around work-place entitlements, and others around means-tested benefits, to name just some of the choices. Nevertheless, most EU Member States share some common features relative to key international competitors, such as the US, Japan or India. These include a commitment to using taxation to create greater social equality; strong publicly funded and sometimes publicly delivered services; and a commitment to social rights and entitlements.

While the 'European Social Model' is often discussed as if it was a product of the EEC/EU, in reality it was the other way round. The welfare states of the Western members were developed separately and national sovereignty in most social policy has been jealously guarded from 'EU interference' to this day. To the extent that the EEC and EU have been involved in social policy, they have been driven by a number of different forces which were not envisaged by the founders but which can be seen, in retrospect, to have been built into the logic of the 'European project'

Firstly, much of the EU's social policy is related to the workplace and is designed to ensure the effective operation of the market. For example the concept of equal pay for women and men which was included in the Constitution of post-war France informed the negotiation of the EEC's founding Treaty, as French employers and Trade unions were determined that their competitiveness should not be undermined by countries who did not have an equal pay regime. The alternative, to reduce French standards, was not feasible given the strength of the women's and trade union movements. When Ireland joined in 1973, the Government was obliged to accept Equal Pay. An attempt was made to delay its introduction, and the abolition of the civil service 'marriage bar' for women, but this was overcome by a combination of pressure from the European Commission and other Governments, and agitation from trade unions and the early women's groups. Similar competitive pressures are behind the raft of workplace regulation at EU level, including health and safety, protection against redundancy, etc.

The second reason for European involvement in social policy is to compensate for the effects of the internal market. The structural funds, which have played such an important role in building up training and infrastructure in Ireland, were seen largely as compensation for the centralising effects of unfettered free trade. The 'Poverty Programmes', initiated in the mid-1970s on the proposal of Irish Minister Frank Cluskey, were articulated as a response to the effects of market economics on income distribution.

The Poverty Programmes played a very important part in developing... the community development sector.

The Poverty Programmes played a very important part in developing the infrastructure and even the thinking of what we now identify as the community development sector. Subsequent programmes invested further in research and developed mainstreaming. While the move towards mainstreaming anti-poverty work, Poverty 4 was initially blocked by a European court case won by the German and UK governments on the basis that the fight against poverty was not named in the European treaties, the Amsterdam Treaty, with no small contribution by NGOs and EAPN specifically, provided the legal base for the European Commission to coordinate work by Governments against poverty, which they did through the National Action Plans for

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Inclusion (NAPs Inclusion). This coordination has been important in keeping a focus on poverty and in gathering information and developing strategies, but has seen few concrete results in terms of policy change.

The third, and perhaps most often overlooked, factor in promoting Social Europe derives from the democratic nature of the European project, no matter how convoluted or remote it might sometimes seem. While social policy is poorly built into the original Treaties, there is a strong public demand for the EU to take a more active role. Poverty has for many years topped the list of areas where people want action from the EU in Eurobarometer polls. Fear that the EU was downgrading the social Europe was cited as the main reason for voting no in France and the Netherlands in the referenda which rejected the Constitutional Treaty.

The main debates in the EU over the last decade have been about how to balance between, on the one hand social inclusion and the glaring need to tackle poverty and, on the other hand pressures to reduce costs for employers and taxpayers through cuts in benefits, rights and conditions. This debate has centred on the 10-year Lisbon Strategy, agreed in 2000, which aims at Europe becoming 'the most dynamic and competitive knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion'. The strategy has seen tensions since the start. In 2004-5, the newly appointed Barroso Commission tried to reduce the social element, only to meet strong resistance not only from trade unions and NGOs but from many Governments, led by French conservative Jacques Chirac. This debate, and the debate on the Services Directive in 2006, showed the depth of attachment to the welfare state in many EU countries even among conservatives.

It is significant that the debate on poverty is now concentrated more and more within mainstream economic planning. Previously, while the EEC/EU invested significant amounts in the Poverty programmes, this was seen as a largely marginal affair. A commitment to mainstreaming anti-poverty has the potential to provide real direction to the work of the EU in this area. The hard-fought commitment to mainstreaming action against social exclusion, through the requirement in the Lisbon Treaty that this be taken into account in all areas of EU policy, is still untested in its effects but is likely to frame this debate into the next decade.

Background to the Lisbon Treaty

Peadar ó Broin is a researcher at the Institute of International and European Affairs (IIEA). The Institute is a forum for facilitating debate on European and international policy and does not advocate particular positions. Any opinion expressed in this article is therefore the individual responsibility of the author and are not attributable to the IIEA. In this article Peadar outlines where Lisbon has come from, and what it means for the development of the European Union.

During the second week of June 2008, the Irish electorate will be asked as to whether to approve the twenty-eighth amendment to the Irish Constitution, allowing for the State to ratify the Treaty of Lisbon. Although the domestic political debate has already begun, recent opinion polls seem to indicate that the vast majority of the electorate have yet to make up their minds on the Treaty. This seems to point to the fact that the debate has yet to engage with the voters and perhaps to some confusion as to why the European Union needs yet another treaty (1) and what it aims to achieve (2).

1. The road to Lisbon

The Treaty of Lisbon has been somewhat pejoratively referred to a clandestine marriage between hope and necessity. Although the form of the Treaty was decided by national leaders during a two-year 'reflection period' following the rejection of the European Constitution in 2005, the content represents the product of nearly twenty years of debate over the nature and shape of the European Union.

The European Union traces its roots back to the European Economic Community, an international organisation intended to integrate the economies of its Member States into a single market. During the 1980s, however, the single market began to grow, organically, to include policies that were not strictly grounded in an economic bedrock (such as transport, environmental protection or the rights of employees). The advent of these policies, created by the Single European Act of 1986, sparked a debate on the political legitimacy of the European Union to take action in such areas, but also led to the development of a complex legal structure. The treaties of Maastricht (1992), Amsterdam (1997) and Nice (2001), while succeeding in achieving specific amendments, failed to achieve a sustainable institutional settlement. Twenty years later, the European Union is still wrangling with this reform.

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The European Constitution of October 2004 proposed to resolve the question of political legitimacy by democratising the institutions and procedures that adopt legislation in the European Union. However, the European Constitution went beyond this remit and conferred certain 'State-like' qualities on the European Union, such as a common flag, anthem, motto, the primacy of Union law and, of course, by giving the European Union a rulebook called a 'Constitution'.

Following the rejection of the European Constitution by the French and Dutch electorates in 2005, the leaders of the Member States instigated a 'period of reflection', during which the future course for reform was to be decided by the national governments, meeting in secret. This process was in stark contrast to the openness of the Convention, the assembly responsible for drafting the European Constitution. The Convention represented an innovative format, involving not merely national governments, but also representatives of national Parliaments, of the institutions of the European Union, and even representatives of civil society. In the wake of the rejection of the European Constitution, the governments of the Member States were torn between abandoning a treaty text that benefited from arguably the most democratic legitimacy of any international treaty and the need to give effect to the outcome of the French and Dutch votes.

The resulting document, the Treaty of Lisbon, drafted under the formidable leadership of German Federal Chancellor Angela Merkel and signed by the national governments on 13 December 2007 in Lisbon's historic quarter of Belém, discards the 'stateliness' of the European Convention. Although the 'downgrading' of the European Constitution has been dismissed as mere 'window dressing' as opposed to substantive alterations, it would be almost impossible for a court of law to interpret a document that calls itself a 'Constitution' and which contains a clear statement of the primacy of EU law as being no more significant than previous treaties. Perhaps most significantly, the Treaty of Lisbon does not seek to resolve the political legitimacy debate, although it does attempt to democratise decision-making in the European Union. Instead, the Treaty of Lisbon focuses purely on institutional reform by creating a durable, efficient and democratic institutional framework for the European Union.

2. What the Treaty of Lisbon aims to achieve

The Treaty of Lisbon is a traditional amending treaty, in the same vein as the treaties of Amsterdam (that gave

the European Union competences in justice and security policies) and Nice (that allowed the European Union to bring in more Member States). In other words, it does not aim to replace what currently exists with entirely new provisions. It modifies what are collectively referred to as the 'founding treaties' of the European Union, namely the Treaty on European Union and the Treaty establishing the European Community (which will be renamed the Treaty on the Functioning of the European Union), which together constitute the EU's rulebook. The Treaty is intended to reform the institutional architecture of the European Union (hence the original name, 'Reform Treaty', which has been retained by the Irish Government).

The Treaty of Lisbon is a box that contains new pieces that will be inserted into the picture.

The current treaties on which the European Union is founded are rather like a completed jigsaw puzzle. The Treaty of Lisbon is a box that contains new pieces that will be inserted into the picture. It also contains instructions on some old pieces that will be discarded, and others that will move from one part of the picture to another.

The Irish electorate need to have at least the basic knowledge as to which old pieces are to be thrown out and new pieces to be added, and how this process will affect the overall picture. To understand this process, it is necessary to comprehend how the European Union is organised at present.

The current structure of the European Union has been in place since 1993, created by the Treaty of Maastricht and amended by the treaties of Amsterdam and Nice. This structure established the European Union as an umbrella organisation under which action would be taken in three policy areas, referred to as 'pillars'. The first is the European Community, where Member States vote by majority on whether to adopt legislation along with the European Parliament. All legislation adopted in this field is subject to review by the European Court of Justice. The second and third pillars of this organisation, respectively foreign affairs and defence and criminal law, remain purely intergovernmental in character, which mean that decisions are taken by unanimity with each Member State retaining a veto. The European Parliament and the European Court of Justice play consultative roles, but lack real power or influence in the latter two pillars.

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The reason for such a complex structure is best explained by reference to national sensitivities in the second and third pillars. Foreign affairs and defence are considered a wholly national competence, as each Member State will conduct its foreign policy in a different manner to that of its neighbours. Similarly, on the issue of defence policy, certain Member States, such as Ireland and Austria, have a strong commitment to neutrality, which prevents the creation of a harmonised European defence policy.

The same is true of criminal law, where Member States fear that harmonisation of national laws and the emergence of a European criminal court system may seriously undermine the role of the national judiciary and national legal procedure.

Policies depend on the choices made by the governments of the Member States, which in turn depends on the political parties that citizens elect into office.

Global challenges, however, such as multilateral negotiations on international trade; the fight against climate change; energy security and supply; conflicts in the developing world through peacekeeping operations; the need to combat poverty; the fight against human trafficking; are examples of areas in which the individual Member States of the European Union can work more efficiently if they present a united approach to negotiations on the international level. There is an argument that such cooperation increases the clout of economically and demographically smaller nations, such as Ireland, as otherwise there is a fear that larger States will dominate and manipulate the rules of international law to suit their own objectives.

The Treaty of Lisbon abolishes the three pillars referred to above, while respecting national concerns in foreign affairs and defence policy, which remain intergovernmental in character (i.e. each Member State has a veto). On criminal law, however, the threats posed by international criminality including money laundering, human trafficking and terrorism, have resulted in competences in criminal law moving from intergovernmental cooperation to majority voting among the Member States along with the European Parliament. All laws in this field will also be subject to judicial review by the European Court of Justice. The Treaty of Lisbon, however, is clear that the change in decision-making in this field will not result in the harmonisation of national criminal laws. Nonetheless,

Ireland and the United Kingdom have requested specific provisions be included in the Treaty of Lisbon that enable the governments of those two countries to decide which legislation they shall implement in the field of criminal law.

Conclusion

The Treaty of Lisbon represents a compromise between those who sought greater political independence for the European Union and those who preferred an organisation that remained the product of its component States. The European Constitution would have conceivably increased the political autonomy of the European Union, whereas the Treaty of Lisbon affirms the European Union as an international organisation that exists only by the will of its Member States, who's national Constitutions remain above the treaties of the European Union.

Despite statements to the contrary, the Treaty of Lisbon does not provide a blueprint for future reforms of policy implementation in the European Union. Policies depend on the choices made by the governments of the Member States, which in turn depend on the political parties that citizens elect into office.

The Treaty of Lisbon will, however, allow for such choices to benefit from greater democratic legitimacy through the creation of an efficient institutional structure for the European Union, where the European Parliament will have increased powers; Council meetings will be held in public; legislation will be susceptible for judicial review by the European Court of Justice; national Parliaments will have greater powers in scrutinising EU legislation; and citizens of the European Union will be consulted via representative organisations, such as trade unions, and will even be afforded the opportunity to directly influence legislative initiatives through the 'citizens initiative'. An overarching set of values, principles and objectives seek to govern all policies and action undertaken by the European Union.

Individual opinions on jigsaw puzzles aside, one that is twenty years in the making must be finished and new projects begun. Only once the European Union has ended its process of introspective navel-gazing will it be able to turn its attention to playing the game, rather than writing the rules.

For and Against – A political take on Lisbon

In this common interview with Prionsias de Rossa, MEP, and Mary-Lou McDonald, MEP, EAPN Ireland asks if the Lisbon Treaty is good for social inclusion in Ireland and in Europe?

Prionsias de Rossa, MEP

1. Is the Treaty good for Social Europe and Ireland?

Yes. Lisbon is one of the most socially progressive treaties. The new Article 1a on page 11 (page references in the text in the Official Journal of the European Union, C 306, 17.12.2007) emphasises progressive values such as respect for human dignity and human rights, equality, non-discrimination, justice and solidarity. Social dialogue with NGOs is reaffirmed. The rewriting of Europe's basic aims in Article 2 on page 11 emphasises the commitment to social progress, social justice, social protection, full employment, the social market economy, social cohesion, inter-generational solidarity, children's rights and to combating social exclusion. The binding equality and social clauses in Articles 5a and 5b on page 49 require these objectives to be taken into account in all policies. Lisbon therefore gives social Europe a stronger legal basis than the existing treaties.

2. What does the Treaty mean for democracy in Europe?

A democratic deficit in any system is addressed by increasing transparency, enhancing the role of elected representatives and giving citizens more say. With Lisbon the Oireachtas acquires new rights to screen proposals and, in certain cases, to veto them. Through the extension of Qualified Majority Voting, MEPs will have the right to amend, adopt or reject all budgets and twice as much European legislation. Currently 80% of European Parliament amendments are taken on board, compared to just 1% of opposition amendments in the Oireachtas. Ministers must meet in public when debating and adopting new laws. MEPs are enabled to elect or reject the Council nominee for Commission President. The new Citizens' Initiative introduces participative democracy by obliging the Commission to consider citizens' requests for specific initiatives.

3. Will the Charter of Fundamental Rights make a difference to the lives of people who experience poverty?

Yes. Taken with the strengthened legal basis for social objectives; the strengthening of European citizenship in Article 17a on page 52 and the legally binding nature of the Charter established in Article 6 on page 13, it is obvious that the Charter powerfully facilitates the fight

against poverty. There are of course very many other provisions, for example on full employment, social cohesion and social inclusion which will enable Europe to complement national policies against poverty, with programmes like PROGRESS (EU's programme for employment and social solidarity for 2007-2013). The social dialogue provisions and the Citizens Initiative also ensure that NGOs engaged on this issue will be heard.

4. What role will the EU play in protecting quality public services in Ireland?

Lisbon is a major advance in the protection of public services. Member States are reaffirmed as responsible for the commissioning and delivery of public services under the Protocol on pages 158-159. Lisbon also confirms in the renumbered article 345 that Europe is neutral on public versus private ownership. Governments will continue to be able to provide state aids. Europe does not drive privatisation of social services provided by the State, as demonstrated in the recent VHI case, An Post social welfare and Dublin ambulance services rulings. Lisbon also meets the Labour Party demand to provide a new legal base in Article 16 on page 50. This will enable us to copper-fasten in European legislation high quality, safe, and affordable public services based on the principles of equal treatment, universal service and user rights. The Socialist Group in the European Parliament has already prepared such legislation.

Mary Lou McDonald, MEP

1. Is the Treaty good for Social Europe and Ireland?

Social Europe has been under attack for some years. The right ward direction of EU economic policy as evidenced in the Lisbon Strategy and the Services Directive, supported by European Court of Justice decisions such as the Laval and Vaxholm cases, demonstrates that the EU is prioritising competitiveness to the detriment of social cohesion, environmental sustainability, equality and workers rights.

2. What does this Treaty mean for democracy in Europe?

The Lisbon Treaty is bad for democracy in Ireland and the EU. It will reduce Ireland's voting strength at the Council of Ministers by 50% and remove our automatic right to a commissioner for five out of every 15 years. EU institutions will gain more than 105 new powers including new legal competencies, expansion of existing competencies, additional areas of qualified

The Social Aspects of Lisbon

majority voting and new institutional roles such as the EU President, Foreign Minister and a diplomatic core. Article 48 gives the EU powers to amend its own treaties. This means that in the future significant changes could be made to the structure, procedures or competencies of the EU without the guarantee of a referendum. Article 48 is just one of eight clauses that give the Commission and Council significant scope to acquire more powers in the future.

3. Will the Charter of Fundamental Rights make a difference to the lives of people who experience poverty?

Sinn Féin strongly supports measures that enhance the protection and promotion of human rights and equality at home, in the EU and in the wider world. However, the idea that the EU Charter is somehow a major step forward in human rights is an illusion. Even its advocates acknowledge that it is little more than a restatement of existing human rights law. The Institute for European Affairs argues that it 'does not create any new rights' and that that the social and economic rights in the Charter 'do not give rise to direct claims for positive action'.

4. What role will the EU play in protecting quality public services in Ireland?

The Lisbon Treaty will actively undermine public services and the European Social Model by promoting liberalisation, deregulation and privatisation. Article 16(b) of the Lisbon Treaty places new "economic and financial conditions" on the provision of Services of General Economic Interest. These conditions mean that services, including health care and education, would be subject to the rules of competition. The Protocol on the Internal Market & Competition mandates the EU to ensure that "competition is not distorted". This provides the EU with a mandate to remove "distortions" from the provision of services, including state aid, public funding, protective markets, health, environmental and workers rights regulations and exclusive state provision of public services.

The Social Aspects of Lisbon

Paul Ginnell, Policy and Support Worker with EAPN Ireland, outlines the main social aspects of the Lisbon Treaty and presents an overview of EAPN Europe's analysis of its strengths and weaknesses.

The Lisbon Treaty aims to amend the two main EU Treaties: the Maastricht Treaty 1992 (Treaty of the European Union); and the Treaty of Rome, 1957 (Treaty on the Functioning of the European Union). If the

Lisbon Treaty is not passed in all 27 EU Member States then the rules of the EU will remain as they are. Therefore, when voting yes or no to the Treaty people are voting to introduce the new changes proposed in the Lisbon Treaty or to leave things as they are. The Lisbon Treaty is an 'amending Treaty' which means that it is a technical legal document and contains a list of small changes that are to be made to the two other Treaties. It is therefore very difficult to read and to know what its implications are.

Those concerned with levels of poverty and social exclusion in the EU and its Member States want to ensure that the social needs of those living in the EU are the priority of the Union. There is a real fear that the EU is being driven by the needs of the wealthy and not those of the poor and the most excluded.

EAPN, at EU and national level, has argued in successive Treaty negotiations, for:

- Naming the eradication of poverty and the fight against social exclusion as objectives of the Union,
- Putting in place practical mechanisms to enable the EU to eradicate poverty,
- An enforceable Charter of Fundamental Rights, linking economic and social rights with political, cultural and other rights,
- Greater transparency, accountability and involvement of civil society, particularly including the voices of people experiencing poverty, exclusion and inequalities and the NGOs in which they participate, in decision-making.

The main question therefore is, does the Lisbon Treaty strengthen or undermine the role of the EU and its Member States in eradicating poverty and providing social rights and a voice to people experiencing poverty and social exclusion?

Does the Lisbon Treaty strengthen or undermine the role of the EU in eradicating poverty and provide for social rights?

In EAPN Europe's assessment the Lisbon Treaty represents an important but limited step forward. There are a number of important changes contained within the Treaty. However, in most cases it is how these will impact and influence the overall direction of policy in the EU and its Member States that will be the test. In many ways the Treaty is open to multiple interpretations - its actual impact will depend on its implementation in the coming years. EAPN Europe's analysis is summarised in the table below.

The Social Aspects of Lisbon

Strengths	Weaknesses
Commitment, in the objectives of the Lisbon Treaty, that the EU “(...) shall combat social exclusion and discrimination, and shall promote social justice and protection (...)”.	Refusal to name poverty in the EU, or to make its eradication an objective of the Union.
The Charter of Fundamental Rights which addresses civil, political, economic and social rights is included and named as binding and having the same legal value as the Treaties.	The Charter of Fundamental Rights will not extend the competences of the European Union and applies only the application of EU law. The Protocol on the application of the Charter may make it more difficult for people to access rights. The UK and Poland have an opt-out from the Charter.
There is an important cross-cutting objective known as the ‘ social clause ’, which reads: “(...) the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health”.	No chapter on social inclusion, on the lines of the existing chapter on employment policy.
Inclusion of the cross-cutting objective on discrimination which states: “(...) the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.	Most Sections on Economic Policy, Monetary Policy and Employment Policy are unchanged from the previous Treaties and it is not clear how the ‘growth at any price’ philosophy which imbues their wording will be reconciled with the new Objectives.
Protection for ‘ services of general economic interest ’ (Article 5b and the Protocol on Services of General Interest). One of the values in the Protocol is ‘a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights’.	It is questionable whether Article 5b and the Protocol on services of general interest are strong enough to resist the current ‘neo-liberal’ ideological and economic tide, and to counter-balance the provisions promoting ‘free movement of goods and services’.
Progress in the field of gender equality in relation to the values and objectives of the European Union.	The Protocol on Asylum introduces the concept of Member States being regarded as ‘safe countries’, which contradicts the right to individual assessment of the need for asylum.
Commitment that any asylum policy must conform to the Geneva Refugee Convention.	Failure to extend Qualified Majority Voting (QMV) to social inclusion and anti-discrimination policies.
New legal base for the institutions’ relations with civil society, democratic Principles and the ‘ Citizens Initiative ’- Article 8: ‘Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.’ It also allows for a ‘citizens initiative’ whereby citizens can invite the European Commission to introduce relevant policy proposals.	

The 'Social Clause'

The 'Social Clause'

Tony Brown was advisor to Proinsias de Rossa MEP in the European Convention and is a member of the Steering Committee of the National Forum on Europe. In this article he traces the development of the social clause, including the role which was played by EAPN and other NGOs, and asks what the significance of this clause might be in the future.

Article 9 of the re-named Treaty on the Functioning of the European Union reads:

"In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health."

This is the 'Social Clause' which emerged from the European Convention and the Intergovernmental Conference as part of the Constitutional Treaty and, now, the Lisbon Treaty. Its drafting and, more importantly, its practical application may be seen as significant for the struggle for social progress in Europe.

The European Convention

In the early stages of the Convention the emphasis on institutional issues led the President to argue that detailed policy questions such as those in the social field were outside the mandate. This view was eventually overcome by an effective assertion of the will of the general membership. Many Convention members insisted that their task was to bring the EU closer to its citizens and that they should consider the issues most clearly indicated as public priorities, such as employment, social protection and public services.

A Working Group report on economic governance indicated a division of opinion on the question of the balance between economic and social objectives and actions. It proved impossible to find an agreed basis for coverage of social policy matters. Proinsias de Rossa, among others, called on the Convention to provide a heart and soul for the draft treaty by way of clear social commitments. Giscard d'Estaing gave way and established a Working Group on Social Europe in which there were three Irish participants: Minister Dick Roche, John Bruton and Proinsias de Rossa.

Working Group on Social Europe

The Working Group reported in February 2003. It argued that: "social considerations constitute an essential part of European integration. The EU cannot be a credible force for good in the wider world if it is indifferent to questions of social justice in European society." The report included key recommendations, in particular in respect of the articles on the values and objectives of the Union, highlighting issues such as: full employment; social inclusion; non-discrimination on the basis of racial or ethnic origin, religious or sexual orientation, disability and age; children's rights and public services. These were seen to constitute an important definition of the European Social Model which has been the achievement of the political families represented in the Convention.

The EU cannot be a credible force for good in the wider world if it is indifferent to questions of social justice in European society.

The Working Group was divided on the question of the link between the assertion of values and objectives and their implementation in day-to-day policies and programmes. Arguments were advanced for the inclusion of a horizontal clause providing that the Union should take full account of those values and goals in devising policies but no consensus emerged. The final Convention text contained several articles designed to ensure consistency between policies and compatibility with the Union's objectives.

It is important to recall that interplay between civil society organisations and the members of the Convention became a notable feature as its work progressed. This was particularly the case in respect of poverty and social exclusion, equality, discrimination, environmental protection and development. EAPN, through Fintan Farrell and Robin Hanan, was particularly active as my Convention files demonstrate. The National Forum on Europe held a plenary debate on Economic Governance and the Social Dimension on 12 December 2002. This was notable for the presentation made by Fintan Farrell who argued that the drafts then under discussion lacked a social focus but that the existence of the Working Group gave the opportunity to set understandable goals and value statements with mechanisms for implementation.

Intergovernmental Conference

Social policy considerations were raised in the Intergovernmental Conference (IGC) as the final text of the

Services of General Interest

Constitutional Treaty was negotiated. A major initiative came from the Belgian government, supported by France, for the insertion of a general clause providing that social requirements must be taken into account in drafting EU legislation and proposing actions. This was agreed in principle by the other governments. The leading Convention spokesperson for advances in social policy was the Belgian MEP, Anne van Lancker.

At a plenary session of the National Forum on Europe on 23 October 2003 the Taoiseach, Bertie Ahern, spoke about the outcome of the Convention and work of the IGC. Brian Carty of EAPN insisted that there was a need to establish a clear link between the values and objectives in Part I and the policy content of Part III and submitted a draft wording on poverty and social exclusion for inclusion in the draft proposed by Belgium. The Taoiseach, looking forward to assuming the Presidency in January 2004, agreed to give favourable consideration to the EAPN wording.

The final text of the Constitutional Treaty which is now replicated in the Lisbon Treaty contains the Social Clause – with the reference to social exclusion - as part of a general series of eight articles dealing with policy consistency, action to deal with inequality, combating discrimination, environmental protection, consumer protection, animal welfare and the place of public services.

The Social Clause in practice

It is not possible to predict conclusively the practical implications of the inclusion of the Social Clause. However, its inclusion has been recognised as part of what the European Trade Union Confederation has called “a big step forward” in the EU approach to social policy. Maintaining the Social Clause was listed as one of seven demands on social issues by the European trade unions during the period of reflection after the French and Dutch referenda.

The Social Clause provides a clear statement... which can become the basis for pursuing social policy aspirations.

Inclusion of such a clause in the Treaty does not automatically bring about desired policy outcomes. These will emerge from the interplay of political and societal forces at both Union and national level. The Social Clause provides a clear statement in treaty language, and with treaty status, which can become the basis for pursuing social policy aspirations.

However, the limited competence of the EU in a number of areas of social concern gives rise to constraints on action which some see as unacceptable. There have been strong comments from the Party of European Socialists and from trade union circles on the Union’s lack of ambition in certain areas of social policy, with calls for a detailed, objective review of social provisions once the Lisbon Treaty is ratified to ensure the development of policies to help workers and communities handle change. This may well become a campaign issue across the Member States in next year’s elections to the European Parliament.

Services of General Interest

Richard Polacek Policy Officer with The Platform of European Social NGOs (Social Platform) considers the impact of the Lisbon Treaty on EU policy on services of general interest. He outlines three ways in which the Treaty could strengthen the provision of social services of general interest, and concludes that the potential of the Treaty will be realised in the actions of the EU and its institutions.

The Treaty of Lisbon is a further step in the debate on what is called in EU jargon ‘services of general interest’ (SGIs). SGIs can be described as essential services for the life of citizens like energy, telecommunication, postal and transport services but also social and health services. Affordable and accessible high quality SGIs are an important precondition for the full participation of citizens in society. For this reason the EU debate on SGI is of real importance to European citizens.

SGIs can be described as essential services for the life of citizens like energy, telecommunication, postal and transport services but also social and health services.

So far the European Treaties have said little about SGIs. SGIs are not part of any exclusive competence of the EU. Not surprisingly the issue of SGIs is addressed at EU level through the general economic rules of the EU on the internal market and fair competition. The current EC Treaty (Article 86 § 2) states that SGIs have to comply with EU economic rules, and in particular rules on state aid and public procurement, provided this does not hinder SGIs to fulfil their general interest missions. Therefore EU rules allow - under certain conditions - local public authorities to finance the provision of SGIs.

Services of General Interest

At the same time since the 1990s the EU has used the internal market rules to significantly open up the markets of many 'network industries' like telecommunication, postal, and energy supply services. The main objective of this 'liberalisation policy' is to create fair competition and ultimately to improve users' choice and quality of SGIs. So far, however the effects of market liberalisation in terms of accessible and affordable SGIs have not been sufficiently assessed. An important shortcoming... Although the current EC Treaty recognises the important role SGIs play in promoting social and territorial cohesion (Article 16), the EU is not explicitly entitled to foster investment in SGIs and defend equal access for all to quality SGIs, and users' rights.

The effects of market liberalisation in terms of accessible and affordable SGIs have not been sufficiently assessed.

The Treaty of Lisbon includes three new dimensions for SGIs, which contribute to a more democratic approach towards SGIs and reinforce users' rights.

1. An EU enabling SGIs to accomplish better their general interest tasks

The Lisbon Treaty (Article 14) clearly states the shared responsibility of Member States and the EU as regards SGIs. It explicitly stresses that the EU has no exclusive competence to regulate SGIs. The new Treaty also foresees that the Council and the Parliament shall adopt legislation on the principles and conditions - particularly economic and financial - enabling SGIs to accomplish their general interest tasks entrusted to them. More precisely this means when the EU clarifies how rules on state aid apply to SGIs, this would include reference to accomplishing their general interest mission, as well as their impact on the internal market and competition policy. This represents an important shift in how EU policy related to or affecting SGIs will be made in the future. To date the EU has applied the strict logic of internal market rules and free competition (its "liberalisation" policy), now it will have to look closer at how the EU rules can better advance the general interest goals pursued by SGIs. This also implies that the EU, when designing EU policies, will have to respect the local dimension of citizens' needs. To some extent the Lisbon Treaty favours a more decentralised EU approach towards SGIs, more responsive to local needs.

2. An EU more respectful of citizen's democratic choices regarding SGIs

The Treaty of Lisbon also adds a new protocol on SGI to the Treaty. The protocol does not give any legislative power to the EU; it mainly sets out what are the 'shared values' of the EU in respect to SGIs. In particular:

- the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising SGIs as closely as possible to the needs of users,
- the diversity between various SGIs and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations and,
- a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.

What does this mean concretely for citizens?

It is a clear commitment of the EU that it will respect these values when adopting EU legislation. It means a clear obligation that EU policy on SGI will have to promote quality, be more respectful of the diversity between various SGIs and the differences in the needs and preferences of users. For the first time the EU Treaty also recognises explicitly the importance of local and national authorities in the definition of a policy field. In other words the EU fully recognises that Member States are best placed to appreciate the collective preferences and specific expectations of their citizens in terms of SGIs. Such an interpretation is not without influence over the way EU rules are applied to SGIs provided at local or national level. The EU obliges itself to respect local democratic choices of each Member State regarding the provision of SGIs.

3. An EU promoting the fundamental rights of SGI users

Last but not least, the Treaty of Lisbon gives compulsory legal value to the European Union's Charter of Fundamental Rights proclaimed in 2000, which lays down a right of access to Services of General Economic Interest (SGEIs) (Article 36), the entitlement to social service provision (Article 35) and the right to health care (Article 34). These rights are an integral part of a set of fundamental rights which enable people living in Europe to live in human dignity. The Charter is a clear signal that the EU is more than just an internal market, but a common political project committed to a society based on fundamental rights.

Charter of Fundamental Rights

Although the Charter does not “create any new right” and its provisions apply to Member States “only when they are implementing Union law”, the Charter still reinforces the principle of accessibility to SGIs as an essential principle of the functioning of SGIs in the Member States. This principle must be observed by the EU and its institutions notably when adopting EU legislation relating to or affecting SGIs. Therefore the Charter implies a clear legal obligation on the EU to make EU policy differently: ‘access to SGIs’ has become a guiding principle for EU policy making.

The realisation of the opportunities presented by the Lisbon Treaty will depend largely on the EU institutions, mainly the Commission, the Parliament but also on the EU Member States. It is up to the EU and its institutions to promote a more democratic and user-orientated SGI policy. By adopting a pro-active approach and giving full effect to the new provisions of the Lisbon Treaty, the EU can prove that it really cares about citizen’s choices and users’ rights in relation to SGIs. And this can make a difference for the everyday life of citizens.

Charter of Fundamental Rights: The Potential for Protection

Deirdre Duffy, Research and Policy Officer with the Irish Council for Civil Liberties (ICCL) outlines the provisions of the Charter of Fundamental Rights, and examines how its application in the implementation of EU law has the potential to impact how human rights, including a range of social rights, are enjoyed in the European Union

If the Lisbon Reform Treaty becomes law, the ‘rights, freedoms and principles’ set out in the Charter of Fundamental Rights of the European Union (the “Charter”) will be recognised under EU law. Therefore, the Charter will give European citizens a catalogue of rights legally binding on the bodies and institutions of the European Union (EU) and on Member States when they are implementing EU law.

The EU is no stranger to the principles and concepts of fundamental rights. Although originally concerned primarily with economic unity, it was soon accepted that economic freedom could not be divorced from human rights and fundamental freedoms [Starmer, K., (June 2004), Introduction to Fundamental Rights in EU Law and the Charter of Fundamental Rights, Doughty Street Chambers, at para 3]. To date, the European Court of Justice (ECJ) has played a significant role in

recognising human rights within the EU context, particularly by reference to the rights set down in the European Convention on Human Rights (ECHR) which the ECJ has confirmed forms part of community law [*Hauer v. Land-Rheinland-Pfalz* [1979] ECR 321].

The Charter was signed at the Nice Summit in June 2000 and brings together existing rights contained in the ECHR and other Council of Europe, UN and International Labour Organisations instruments. It is divided into seven Chapters: (1) Dignity, (2) Freedoms, (3) Equality, (4) Solidarity, (5) Citizens’ rights, (6) Justice, and (7) General provisions regarding the interpretation and scope of the Charter. Turning to the final Chapter first, this explains the framework within which the Charter will operate and includes permissible limitations on the scope and application of the rights set out in the Charter. The rights and freedoms contained in the Charter are only applicable where Member States are implementing EU law. Furthermore, the rights set out in Charter may be restricted where the limitation is provided for by law, is proportionate and genuinely meets the objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

The Charter has a broad impact across a range of rights and includes a wide number of social provisions, not normally captured in international human rights instruments.

The Charter has a broad impact across a range of rights and includes a wide number of social provisions, not normally captured in international human rights instruments, as well as more readily-recognisable civil, political, economic and social human rights. It responds to the challenges of new technology by including articles on bioethics and the collection of personal data. It also covers the political rights of the citizens of the EU including the right to vote and the right to a good administration. Two innovative rights (with respect to binding human rights instruments) are the freedom to choose an occupation and the right to engage in work (Article 15); and the freedom to conduct a business (Article 16). The Solidarity Chapter contains twelve articles including the rights of workers (Article 27), collective bargaining rights (Article 28) and the right to working conditions which respect health, safety and dignity (Article 31). It also has provisions covering social security (Article 34) and health care (Article 35), in addition to rights concerning environmental and consumer protection (Articles 37 and 38). The right to education is covered in Article 14

A Neo-liberal Treaty

and includes the “possibility to receive free compulsory education”.

A number of provisions in the Charter mirror those found in other human rights documents while other Charter clauses extend the remit of protected rights. For example, Article 7 guarantees respect for “private and family life, home and communications” in a similar fashion to Article 8 of the ECHR. On the other hand, some provisions of the Charter may provide extended protection to certain human rights. For example, equality measures within the ECHR have traditionally been weak as discrimination can only be argued where another Convention right is infringed. In effect, it provides for non-discrimination in the enjoyment of the rights set out in the Convention rather than the promotion of equality [Protocol 12 to the ECHR introduces a free-standing equality right; however, the Government has yet to ratify the Protocol]. However, Article 21 of the Charter is a far-reaching provision embracing equality. It prohibits any discrimination on any ground including sex, sexual orientation, genetic features, property and membership of a national minority. Furthermore, the scope of Article 9 of the Charter on the right to marry differs from the marriage provision in the ECHR, as it does not specifically exclude same-sex couples from marrying. Such discrimination against same-sex couples currently persists in this jurisdiction.

The exact role to be played by the Charter in the development of the EU’s human rights jurisprudence awaits further case law. At present the ECJ looks to the jurisprudence of the European Court of Human Rights rather than drawing on the provisions of the Charter; however, this may change when the Charter becomes law. Upon ratification of the Lisbon Reform Treaty the Charter will become embedded, over time, in the general principles of Community law. Furthermore, the ECJ will be reviewing the acts of institutions of the EU and those of Member States when they are applying EU law, according to the standards set out in the Charter. Arguably, this will have a more far-reaching effect than the interpretive obligations contained in section 2 of the European Convention on Human Rights Act 2003, under which the courts are obliged to interpret Irish law in conformity with the ECHR.

Upon ratification of the Lisbon Reform Treaty the Charter will become embedded, over time, in the general principles of Community law.

Regarding the relationship between the Charter and the ECHR, corresponding rights will be interpreted according to the jurisprudence of the European Court of Human Rights. Nevertheless, the Charter retains the jurisdiction of EU law to provide additional protection for those rights; and presumably, this would be achieved through the ECJ. It will be interesting to note how the future interaction between the jurisprudence of the European Court of Human Rights and that of the ECJ develops with regard to fundamental rights.

The Charter of Fundamental Rights of the European Union includes a sweeping range of rights which, to a large extent, are already protected by a variety of instruments. Indeed, the aim of the Charter is to make rights more visible rather than to establish new rights [Starmer, *op cit*, at para. 10]. Nevertheless, if the Charter becomes law, it will impose an obligation on all EU institutions and bodies as well as Member States to protect those rights. Although Member States must uphold Charter rights only in relation to the implementation of EU law, this is a wide-reaching realm of law which seeps deeply into the manner in which we conduct our lives. In this respect, the Charter has potential to provide additional protection for the fundamental human rights of EU citizens.

A Neo-liberal Treaty with Social Window Dressing

Kieran Allen is the author of the booklet 'Reasons to VOTE NO to the Lisbon Treaty' and one of the editors of VoteNo.ie, he is a Senior Lecturer at the School of Sociology in University College Dublin. In this article he argues that the Lisbon Treaty will entrench neo-liberal market principles and undermine social rights. .

While the Lisbon Treaty was being drafted, 200,000 Portuguese trade unionists marched to oppose its provisions. A statement from the European Regional Office of the World Federation of Trade Union summed up their reasons:

“It is obvious that the ruling circles of the EU are seeking to entrench neo-liberalism as an operational model of the EU, a fact that will lead to the intensification in the attacks against the rights of working people which have been gained through the shedding of blood and struggles by the peoples of Europe.”

A Neo-liberal Treaty

The tone and clarity of the statement contrasts sharply with the current debate on the Lisbon Treaty in Ireland. An unholy alliance has come together to suggest people have to vote YES to show they are 'pro-European'. The left side of this alliance, made up of Labour and the Greens, focus on the 'Charter of Fundamental Rights' but appear unable to specify which extra legal right Irish citizens will gain which they do not presently enjoy. The right side of the alliance, composed of Fianna Fail and Fine Gael, warns that a NO vote will have dire consequences for foreign investment but they cannot explain why foreign investment increased in France after their population rejected the EU Constitution. Both avoid the central question: what kind of Europe does the treaty support – a social Europe or a neo-liberal, militarised Europe?

What kind of Europe does the treaty support?

A detailed examination suggests that the Portuguese trade unionists were correct – the Lisbon Treaty 'locks in' a set of economic dogmas which are detrimental to the interests of working people.

An open, undistorted market is set up as the principle value of the EU. Protocol 6 is totally explicit in promoting an internal market that 'includes a system ensuring competition is not distorted'. But whereas EU institutions have exclusive competence to create free market ideals, attempts to harmonise social rights are forbidden. A European social right which guaranteed all its citizens access to medical care regardless of their income is ruled out in advance. Yet 'undistorted' competition which benefits large corporations becomes the main reason for the EU's existence.

The recent judgement of the European Court of Justice (ECJ) in the Laval case shows the dangers. A Latvian company, Laval un Partteiri, posted workers to Sweden but refused to pay the registered rate for the building industry in Sweden. The ECJ ruled that whereas workers had a right to take industrial action, their campaign against Laval was illegal because it breached the rules on open competition. In other words, their social right (to strike) were subordinate to the EU rules on competition. The judgement is a wage cutters charter.

Despite calls from many NGOs and trade unionists, the Lisbon Treaty does not contain any clause which protects public services from the rules of open competition. Instead, public services are described as

either 'Services of General Interest' or 'Services of General Economic Interest'. The former – which essentially means services where no revenue is collected, such as the army – get a special protocol which offer protection but the latter do not. Hence we come to the fundamental dilemma. If any left leaning government wishes to develop its public services, it can be subject to a challenge which the EU Commission or the ECJ will adjudicate on.

The Lisbon Treaty takes this insidious, undemocratic process one step further by giving the EU Commission powers to negotiate trade agreements at the World Trade Organisation on the basis of 'the achievement of uniformity measures of liberalisation' (Article 188). These agreements will be legally binding and the national veto will be removed in many areas. Governments will only be able to apply a national veto in health or education where they can show that the 'measures of liberalisation' would seriously disrupt a national service. But can anyone imagine that the same ECJ that made the scandalous Laval judgement would consider a private ambulance service or a private 'education provider' the cause of serious disruption.

According to documents leaked by the World Development Movement, the EU Commission has already used the WTO to press poorer countries to privatise their water services and to 'open them up' to competition from EU water companies. The same EU Commission will show little resistance to demands from US 'service providers' to open up EU health and education services.

The Lisbon Treaty strengthens the neo-liberal demand for an 'independent' central bank whose sole concern is 'price stability'. 'Independent' in this context means independent of any democratic control by the people of Europe. Last December, the European Central Bank (ECB) agreed to make 'unlimited credit' available to financial institutions to help overcome a credit crunch caused by speculation in sub-prime loans. This is the same ECB that warns and fines national governments who increase public spending beyond limits set down by the Growth and Stability Pact. The Chicago boys who first dreamt up the nostrums of neo-liberal economics could not want for anything more. Even the US Federal Reserve is obliged to take some account of 'full employment' and 'modest interest rates' in deciding its monetary policy. But alone among the big central banks, the ECB has been told to focus only on an anti-inflationary monetary policy and to avoid

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contact with elected policy makers.

According to Bertie Ahern, 90% of the EU constitution which was rejected by the people of France and Holland is contained in the Lisbon Treaty. But this new constitution for Europe has a very unusual format – it is based on outdated economic strategies that have helped create turmoil on global markets, the consequences of which remain to be seen.

The Yes supporters studiously avoid these economic issues and want us to focus on the wrapping. Like good corporate spin doctors, the EU leaders have ensured there is plenty of nice packaging on their miserable constitution.

The Yes supporters studiously avoid these economic issues and want us to focus on the wrapping. Like good corporate spin doctors, the EU leaders have ensured there is plenty of nice packaging on their miserable constitution.

So the Yes supporters point to the provision for a citizens petition – but neglect to acknowledge that the EU Commission is only obliged to ‘consider’ it before, most probably, rejecting it. They point to the charter of fundamental rights but fail to acknowledge the statement that ‘the provisions of the Charter do not extend in any way the competencies of the Union as defined by the Treaty’. They claim there is an enhanced role for national parliaments but fail to state that even if one third of all EU parliaments agree to reject a particular provision, (they are only allowed do so on the grounds that it breaches the principle of subsidiarity) within an eight week period, the EU Commission is only obliged to ‘review’ the legislation and then decide either to ‘maintain, amend or withdraw the item’.

The Portuguese trade unionists were right about the Lisbon Treaty – it is another vehicle to ‘entrench neo-liberalism’. We should forget the packaging and reject the content.

European Union and local development

Robert Carey, North Kerry Together Local Development, EAPN Ireland Member, considers the influence of EU Policy on local and community development in Ireland, and places the debate in the Lisbon Treaty in the context local engagement with the EU.

Social inclusion

“Merchants and manufacturers complain of the bad effects of high wages... they say nothing concerning the bad effects of high profits.” This observation from Adam Smith written the late 1700s is relevant today in relation to social inclusion and poverty.

Social inclusion is one of the dominant EU concepts and has pervaded local development in Ireland over the past number of years. In terms of Area Partnerships the latest programmatic incarnation is the ‘Local Development Social Inclusion programme’ which signalled a movement from an employment focussed approach to a more comprehensive social inclusion approach.

Social inclusion is one of the dominant EU concepts and has pervaded local development in Ireland over the past number of years.

The concept of ‘social exclusion’ captures the multidimensionality of disadvantage, and has been welcomed in many ways by local development. However many would say it is not completely stellar in its illumination of the issue of disadvantage. It does not focus sufficiently on causal factors and on those who are included to the extent that they have a completely disproportionate amount of resources and tends to look at those who are excluded as needing to be brought up to same standards as the main stream.

The language of inclusion pervades all agencies and broader local partnership process in the form of the County Development Boards (CDB) and the Social Inclusion Measure (SIM), for example. There are issues for Local Development as to whether this appropriation makes it harder to critique policies or services and whether it has replaced or even masks debates about poverty.

Active Citizenship

Active citizenship, the development of social capital, and participation are all concepts proposed at EU level which have been supported by the Irish government.

A local experience of Europe

This is to be welcomed and local community development stakeholders are key in supporting the development of social cohesion and social capital locally through capacity building and networking local communities. Other national policies sometimes tend to run counter to active citizenship however, such as the need to have two incomes for each family as a result of high house prices, lack of affordable childcare, and lack of family friendly policies.

Services

The delivery of accessible social services is regarded across the EU and in Ireland (Developmental Welfare State) as key to inclusion. Ireland has had a long tradition of mixed welfare services provision and local development is very much part of the current paradigm which supports voluntary sector provision particularly under the Department of Community Rural and Gaeltacht Affairs which seems to see the sector as carrying out its policy on the ground in relation to service delivery. There is a danger for the sector in becoming restricted to a role of quasi government employees with little room for policy influence, innovation and what some in the sector have referred to pejoratively as 'yellow pack' service deliverers. The current EU debates around social service provision and competitive tendering may have relevance for positioning the sector into the future.

Rural Development

Rural development (RD) is key to social inclusion in rural areas. The EU has trebled the RD budget for Ireland over 2007-13 amounting to an allocation of €425.9 million. This averages at €60.8 million per annum. Rural exclusion has particular characteristics such as: lack of visibility, heterogeneous nature of the population (disadvantage tends not to be in clusters), and issues such as isolation, lack of employment opportunities, and smallholders who are struggling with the transition in agriculture. While LEADER is not a social inclusion programme it can contribute as part of integrated strategy to help ameliorate these issues.

There are challenges for the inclusion agenda however, under government policy a cohesion process has been underway whose aim is to 'ensure that there is a simple, effective and cohesive approach to the delivery of programmes across the country...', local delivery structures will be reduced from 94 to 55, of which 17 will be urban partnerships and 38 will be integrated LEADER partnerships. The challenge will be to keep social inclusion to the forefront and to ensure it does not get lost in a more general rural development agenda.

Partnership

The Partnership concept has been supported by the EU and has delivered huge benefits. Locally the community sector tends to be among the most active sectors in local partnership projects such as CDB and its subsets. The sector has questioned for sometime as to whether input into some of these groups is an efficient use of resources as they have delivered very modest results.

Future influences

It will be interesting to see if developments at EU level on activation and flexicurity impact on the content of new local development programmes. The concept of activation is already seen in the changes around the lone parent's payments. Generally Irish Area Partnerships are regularly held up in EU circles as examples of best practice. Our experience has provided much background input into the formation of employment pacts and other Partnerships at EU level.

There are inextricable if not always visible links between local development and EU Policies, and consequently the Lisbon Reform Treaty

However unlike the LEADER programme, there is no transnational component to partnerships, and something may have been lost over the years in terms of knowledge transfers networking.

All the major local programmes including the Community Development Programmes (CDPs) and Area Partnerships owe their existence in large part to a succession of EU anti poverty programmes; there are inextricable if not always visible links between local development and EU Policies, and consequently the Lisbon Reform Treaty. It is important not just that that local engagement with the EU continues but that it is enhanced in an accessible manner and offers utility for local structures.

A local experience of European

A local experience of Europe

Anne Donegan, Sligo Northside Community Partnership, EAPN Ireland member, illustrates the significance for local and community develop of the evolving European Social Agenda with reference to EU funding and support for local projects in the North West.

Sligo Northside Community Partnership Ltd. started in 1994 when a group of volunteers came together to look at ways to turn a dilapidated primary school into a resource centre for the local community with particular focus on meeting their social, economic and educational needs. As a project situated in the North West of Ireland we were so geographically removed from Europe that what did or did not happen in Brussels seemed to have little or no impact on how we went about our daily business.

Fourteen years down the road our attitude has changed considerably. Firstly we secured funding from the International Fund for Ireland (IFI) and the Department of Social and Family Affairs to refurbish the old school. We had a FAS Community Employment Scheme and an Equal Opportunities Childcare Programme (EOCP) both of which were part financed by the European Union Structural Funds.

Our location in one of the six border counties meant we could apply for funds through the Programme for Peace and Reconciliation. This programme made millions of pounds available for those engaged in cross border or cross community work with a significant proportion being spent in the border counties.

This was the start of a very productive and fruitful relationship for us, which continues right up to today. Originally administered by the Government agency Area Development Management (ADM), now POBAL and the Combat Poverty Agency, Peace funding has formed the backbone of much of our work over the last fourteen years. Some of the programmes we delivered included:

- Training and networking for Women's groups in Sligo and Northern Ireland. Setting up of the Irish History Company who designed FETAC accredited courses for women in craft and associated tasks. Many of the students went on to become tutors. This project now operates as a Community Services Programme working with excluded groups, sharing the skills, talents and learning that have been a strong feature of the project and generating a proportion of its own income.

- Training and certification in Information and Communication Technology (ICT) and Woodwork. The Peace Programme has provided us with a fully equipped ICT training suite and Woodwork room. The relative continuity of funding provided the facilities and resources to enable us to target the most marginalised groups and give them the necessary training and support to compete on the open market for further training, education or employment. The Peace programme worked with us when barriers to participation were identified and allowed us the scope to be as flexible as possible to cater for those who were deemed disadvantaged or marginalized. Over 600 people have received accreditation through the ICT project since it started. The Saw Dust project has a very broad appeal and can be adapted for a range of uses into the future.

One of the biggest challenges as a community based voluntary organisation has been to implement the funders' directives for financial accountability and delivery of our outcomes. We have also had to ensure that we developed the relevant policies and procedures within our organisation to keep up with the ongoing changes as directed by the European Union. While all this has been very challenging and at times frustrating it has left us well placed to access and manage funding into the future.

The main advantage of these programmes is that they have brought learning into the heart of a disadvantaged community through the training courses they have provided. There has been additional learning and capacity building for volunteers, staff and agencies engaged in the delivery of the programmes. A condition of the Peace funding was our cross border and cross community work and our ability to engage in reconciliation work with groups who were socially excluded. This has resulted in changes of attitude within the local community, which will have positive benefits for many years to come. It has helped to reduce the feelings of isolation and marginalisation that many people and groups experienced.

The focus of the Community Development Programme continues to be social justice, inequality and anti-poverty. In our work with the local communities we have maintained our focus on these issues and the groups affected by them. As the Peace Funding moves on we hope that our new and emerging needs continue to be heard and resourced here in the peripheral North West.

Poverty, public services and social inclusion

Poverty, public services and social inclusion

Brian Carty is a researcher with the European United Left/Nordic Green Left group in the European Parliament specialising in employment and social affairs. Until 2005 he was the Policy and Support worker with EAPN Ireland. In this article he assesses the social impact of the Treaty with particular reference to public services and concludes that it will not strengthen the European social agenda.

While much of the debate on the Lisbon Treaty will focus on procedural and institutional issues it is vital that we assess its social and economic content. More specifically, in weighing up the pros and cons of the treaty we need to ask ourselves what does the treaty and say and what will it enable the EU to do on issues such as poverty reduction, social inclusion and public services.

It is also important that we put our answers to these questions into the more general policy context of the EU in recent years. We need to do this both to understand the intentions of those drafting the Treaty and to get a sense of how they intend to use it.

There is little doubt that the social and economic direction of the EU in the last decade, like the rest of the world, has been right wing. Not only are the Christian Democrats the largest grouping in the Parliament, the composition of the European Commission is without doubt the most ideologically neo-liberal to date.

One of the key aims of this Commission is to complete the EU's fourth historic freedom, the free movement of services. However, as this includes public services such as health and education, the Commission have been experiencing some difficulty in achieving their objective.

Of course neither the EU nor the Lisbon Treaty actually talks about services. Rather they divide services into those of General Interest and those of General Economic Interest. Unfortunately there is no clear or legally binding definition of what either of these categories mean or which services fall into which category. This is an important matter, as under Article 16 of the Lisbon Treaty Services of General Economic Interest will be subject to greater liberalisation, as the Commission will gain new powers to force member states to open specific services to competition. Defenders of the Lisbon Treaty argue that health and

education are Services of General Interest, and point to the Protocol on SGI's as a positive mechanism for protecting health and education. Unfortunately if the Lisbon Treaty is ratified it will be the Commission and ultimately the European Court of Justice who will decide, on a case by case basis, if vital public services, such as health and education are included. It is already clear that these bodies take a very different view, and are intent on placing health, education and other vital services into the Services of General Economic Interest category.

Indeed the detail of Article 188 highlights this fact. For the first time the exemptions on the inclusion of health and education in international trade agreements are lifted. Post Lisbon the European Commission could not only negotiate with developing world countries to gain access to their markets in services –including health and education- but other developed countries could secure access to European service markets, bringing with them more deregulation, privatisation and inequality. Ratifying the Lisbon Treaty will not only undermine the universal health care systems in place in other EU member states, as recently acknowledged by former British Labour Health Secretary, Frank Dobson, but will make it even harder to address the growing inequalities in our own domestic system.

In real terms, whether through article 16 or 188, the Lisbon Treaty signals the final stage in the EUs battle for access to member states public services, and the losers will be those most in need of vital public services.

Supporters of the Lisbon Treaty often point to Article 9, known as the Social Clause as another protection against the negative consequences of neo-liberalism. Indeed the wording of the article is positive and no reasonable person could oppose it. However the issue is not whether the article sounds good, but whether it can be successfully used as a tool in the promotion of social inclusion and economic justice.

The concern many of us have with the Social Clause is that it will go the same way as the objectives of social cohesion and environmental sustainability in the EUs 2000 Lisbon Strategy for competitiveness. When the Commission launched this competitiveness strategy in 2000 it received a broad welcome for seeking to combine economic, social and environmental objectives. However by its mid term review in 2005 it was clear that the Commission had abandoned the social and environmental elements, sacrificing them on

Poverty, public services and social inclusion

the altar of a narrowly defined conception of economic competitiveness. There is little doubt, given the ideological makeup of the Parliament, Commission and Council that the Social Clause will suffer a similar fate, nicely worded but never to affect any meaningful change in social or economic policy.

The Charter of Fundamental Rights provides even less protection than the Social Clause on the social rights front, despite the claims of those in favour of the Treaty. In its analysis of the Charter, the Institute for European Affairs argued that it 'does not create any new rights' and that the social and economic rights in the Charter 'do not give rise to direct claims for positive action'. Its numerous limitation clauses, making its application subject to national law and custom, means that contrary to claims made by its advocates, it will have little significant impact on the progressive promotion or expansion of social or economic rights. Ultimately the European Court of Justice will decide when disputes between named rights arise, -such as the rights to strike, conduct business and work- and as indicated in the ECJ's own judgment on the Lavall case, the Charter will do little to protect citizens from the social and economic impact of the EUs neo-liberal economic policies.

When assessing the Lisbon Treaty the key question must be whether it strengthens or undermines the ability of the EU and its member states to promote social and economic equality, cohesion and justice.

As someone who works in the European Union I understand the great potential which progressive social and economic legislation could make on the lives of millions of people across the EU who experience the daily realities of poverty, inequality, powerlessness and social exclusion. Indeed I strongly agree with the sentiment that the EU can only be a credible force for good in the wider world if it addresses questions of social justice at home. When assessing the Lisbon Treaty the key question must be whether it strengthens or undermines the ability of the EU and its member states to promote social and economic equality, cohesion and justice. Regrettably it does not and on that basis should be rejected, in order that a better deal may be renegotiated. One that makes combating poverty and inequality central to its actions rather than just its aims.

National Forum on Europe

National Forum on Europe

Caroline Erskine is responsible for media relations at the National Forum on Europe. In this article she outlines the role the national Forum is playing in the debate leading up to referendum on the Lisbon Treaty.

In the run-up to the referendum on the Treaty of Lisbon, the National Forum On Europe is bringing the debate on the Treaty around the country so that as many people as possible have the chance to hear arguments for and against, to ask questions and make their views known. "It is important that every person has the opportunity to do this before they vote in the referendum", says the Forum's independent Chairman, Maurice Hayes. "Our website www.forumoneurope.ie has details of all our forthcoming public meetings. It also has podcasts to allow you to follow what's been said about the Treaty at our meetings, so far."

The Forum was established by the Government and the political parties in 2001. Its mandate is to provide a neutral public space for discussion on issues relating to the European Union and Ireland's role within the Union. The Members of the Forum are the political parties represented in the Oireachtas, the Members of the European Parliament and 45 civil society organisations in a Special Observer Pillar, including the European Anti Poverty Network.

The interaction that the Forum provides between politicians and interested organisations has yielded tangible results. A notable example came at a plenary session of the Forum in October 2003 when Brian Carty, on behalf of EAPN Ireland, made a direct request to the Taoiseach, Bertie Ahern TD, to seek an amendment to the draft European Constitution which would highlight the fight against social exclusion. The Taoiseach requested draft wording which was provided on the spot. The wording was tabled by the Government at the Inter Governmental Conference and included in the final text of the Treaty. The article has been carried over into the Treaty of Lisbon.

The Forum operates mainly through meetings: plenary meetings held usually in Dublin where Forum Members debate and public meetings around the country where the aim is to let people hear both sides of the argument and then ask questions or make comments.

The Forum has already hosted fifteen meetings on the Treaty in the last few weeks and has planned a busy programme for April and early May. The German

Chancellor, Angela Merkel, the President of the European Commission, José Manuel Barroso, the former Director General of the World Trade Organisation, Peter Sutherland and Fine Gael leader Enda Kenny TD are among the high-profile politicians who will be debating the issues in the treaty with Forum Members in Dublin Castle.



The new Treaty is a lengthy and complex document. Because there is a great need for a reliable and readable summary to facilitate public debate, the Forum has produced a Summary Guide to the Treaty. "This is a factual guide and does not make any judgements", says Maurice Hayes. "It would simply not be possible to cover every aspect of such a complex Treaty so the Guide seeks to cover those elements that are important to Ireland."

Copies are available on request at the National Forum On Europe, State Apartments, Dublin Castle, Dublin 1; by emailing info@forumoneurope.ie; on the website www.forumoneurope.ie or by telephoning 01-6705900.

EAPN Ireland MEMBERSHIP FORM

The European Anti Poverty Network Ireland is a network of groups and individuals working against poverty, EAPN Ireland is the Irish link to the European Anti Poverty Network which brings together civil society organisations from all over the European Union in order to put the fight against poverty at the top of the EU, national and local agenda.

The objectives of EAPN Ireland are to:

- Put the fight against poverty and social exclusion on the political agenda in Ireland and Europe
- Promote and enhance the effectiveness of actions against poverty and social exclusion
- Campaign and lobby for and with people and groups facing poverty and social exclusion
- Provide information on national and Europe developments
- Develop innovative policies to respond to poverty and social exclusion in Ireland and Europe
- Promote networking nationally and across the European Union.

EAPN Ireland's membership is open to anyone who is committed to ending poverty and social exclusion in Ireland and in Europe. EAPN Ireland members receive our bi-weekly *Flash* enews, periodic newsletters, information about upcoming activities and events, and access to networking opportunities in Ireland and in Europe. For further information see our website: www.eapn.ie.

Full membership is open to non-governmental organisations whose main work is to combat poverty and social exclusion. **Associate**, non-voting, membership is open to any individual or group committed to combating poverty and social exclusion. Membership is renewed annually.

Name:

Organisation:

Address:

Telephone:

Fax:

Email:

I am unable to receive email and would prefer communication by post

Full membership €20

Associate membership €15

Signature:

Date:

*Return with membership fee to:
EAPN Ireland
5 Gardiner Row, Dublin 1, Ireland*

EU jargon buster

Intergovernmental Conference (IGC):
This means a conference at which the EU member states' governments amend the European Union treaties.

Lisbon Process or Strategy: Launched at an EU summit in Lisbon, Portugal in 2000, the Lisbon Process or Strategy is a voluntary co-ordination (often referred to as the Open Method of Co-ordination) of a whole range of economic social and sectoral policies among Member States.

Official Journal of the European Union: This refers to a daily publication setting out the official acts of the EU.

Open method of coordination (OMC): In many policy areas EU governments set their own national policies rather than having an EU-wide policy however they share information and bring their national policies into line through an OMC.

Qualified Majority Voting (QMV): A decision requires a specified minimum number of votes in favour that is more than one half plus one. Each Member State is assigned a number of votes.

Subsidiarity: The "subsidiarity principle" means that EU decisions must be taken as closely as possible to the citizen. In other words the Union does not take action (except on matters for which it alone is responsible) unless EU action is more effective than action taken at national regional or local level.

Unanimity: When taking decisions on some issues the Council of the European Union has to be in unanimous agreement – i.e. all countries have to agree.

EAPN Ireland is a network of groups and individuals working against poverty. It is the Irish national network of the European Anti Poverty Network (EAPN). Membership is open to voluntary organisations, community groups or other bodies whose principal objectives are to combat poverty and other forms of social exclusion and who are based on principles of self-help and empowerment. For a membership form phone 01-8745737 or email info@eapn.ie. A full list of members is available on our website.

Further information on Lisbon

These sources include arguments for and against the Lisbon Treaty, as well as general information, this list is not exhaustive and updates will be provided on the EAPN Ireland webpage:

Campaign Against the Lisbon Treaty:
<http://www.caeuc.org/>

European Anti-Poverty Network Ireland webpage on the Future of Europe:
<http://www.eapn.ie/policy/50>

European Commission Office in Ireland:
http://ec.europa.eu/ireland/reform_treaty/index_en.htm

European Commission:
http://europa.eu/lisbon_treaty/index_en.htm

European Parliament Office in Ireland:
<http://www.europarl.ie>

Fianna Fáil: <http://www.fiannafail.ie>

Fine Gael: <http://www.finegaele.ie>

Institute of European Affairs:
<http://www.iiea.com>, includes the consolidated version of the Treaties

Labour Party: <http://www.labour.ie>

Libertas: <http://www.libertas.org>

National Forum on Europe:
<http://www.forumoneurope.ie>

Peace and Neutrality Alliance:
<http://www.pana.ie/>

Robert Schumann Foundation:
<http://www.robert-schuman.eu/tout-comprendre-sur-le-traite-de-lisbonne.php>, includes information sheets on the Treaty with one on the social issues contained in the Lisbon treaty

Sein Féin: <http://www.no2lisbon.ie>

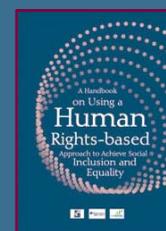
Socialist Party:
<http://www.socialistparty.net>

Notice Board

EAPN Ireland is organising regional seminars and a national roundtable on the Social Aspects of the Lisbon Treaty. Roundtables are scheduled in Tallaght, Sligo and Tipperary. The national roundtable will take place on 13 May. For further details and dates see:

www.eapn.ie/policy/50

EAPN Ireland has just published four **leaflets on poverty** in Ireland, the leaflets address: (1) poverty; (2) Integration of new communities; (3) Access to employments; and (4) Access to affordable childcare. The leaflets were produced as part of the 'Focus on Poverty' project and can be downloaded at: www.eapn.ie/poverty/



EAPN Ireland has published a **handbook on human rights** based approach to achieving social inclusion and equality, the handbook can be down loaded at: www.eapn.ie

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