

## **Ireland and the EU after the Lisbon Treaty Referendum**

**Brigid Laffan,**

Jean Monnet Professor of European Politics at University College, Dublin

This is a critical juncture in Ireland's relations with the EU. The decisions that will be taken by the Irish government, parliament, potentially the courts, and the Irish electorate are likely to have a lasting impact on Ireland's relations with the EU and its member states.

### **Ireland in the Union**

There is a tension and juxtaposition between how Ireland has positioned itself and is perceived in the Union (the Brussels game) and how the Irish public perceive EU membership (the domestic game).

From the outset, Ireland positioned itself as a state committed to EU integration in contrast to the UK in particular. The titles 'good European' and 'model pupil' were assigned to Ireland in the discourse on EU membership at least until the first referendum on the Nice Treaty in 2001.

At home, public opinion, while committed to EU membership and aware of the benefits, lacked basic knowledge about the EU, saw it in instrumental terms (8 billion euro) and was weakly Europeanised. This is also true of the political class. Irish politics does not reward activity such as scrutiny of European directives or engagement in European affairs. Hence politicians with a deep knowledge of the EU are limited to those who have ministerial experience in the key ministries that deal with Brussels, opposition spokespeople, parliamentary committee chairs and the MEPs. Party-to-party relations, particularly for Fianna Fáil, are marginal. There is thus a gap between how Ireland positions itself in the EU in its own interests and how the Irish public perceive EU membership (Laffan and O'Mahony, 2008). Just how much 'Europe' the Irish electorate wants and how much it will endorse is an unanswered question.

One of the consequences of the settlement in Northern Ireland is that Ireland and the Irish have become closer to the UK again, and this relationship is not balanced by strong ties to the other EU member states. Ireland is geographically isolated from other small states, with no natural partners or allies in the Council. Moreover, the UK print media have considerable penetration of the Irish market and the UK tabloid press and some broadsheets are unremittingly critical of the EU. This has had a considerable impact on the portrayal of the EU in Ireland and on the tone in which the EU is discussed.

With a public that does not know much about the EU, it is all too easy to see the EU as the 'other', a Leviathan prepared to squeeze small state sovereignty, a source of irritating regulation and unaccountable governance. The National Forum, established after the first Nice referendum, went some way towards educating Irish politicians on EU governance but singularly failed to make the bridge to the general public who are called on to make political decisions based on inadequate knowledge.

### **The Lisbon Treaty Referendum**

On 12 June 2008, 53.4 per cent (862,415) of the Irish electorate voted to reject the Lisbon Treaty and 46.6 (752,451) voted in favour. All but ten electoral constituencies registered a majority. The turnout was 53.1 per cent. This was the second time in eight years that the Irish electorate had rejected a European treaty. Ireland's national consensus on Europe, a stable feature of domestic politics for over 35 years, was undermined. The referendum and result brought the interconnection between politics within Ireland and the politics of the EU arena sharply into focus. A decision of the Irish electorate had implications, not just for Ireland, but for 26 other states and the European institutions.

Opponents of the treaty were drawn from the right of the political spectrum, notably Libertas and C oir (the Catholic right), and the left, Sinn F ein, the Socialist Workers Party, the Peace and Neutrality Alliance, the People's Movement and People before Profit. Some of these groups were active in previous European referenda; Libertas, led by a high-earning business entrepreneur, Declan Ganley, was the new element in the No campaign. An array of uneasy bedfellows from both ends of the political spectrum managed to capture the political centre and overcome the combined forces of the major political parties and key interest organisations. The farming organisations, particularly the Irish Farmers' Association, and the trade union movement were split, and this sent mixed messages to their members. The No campaign was in train long before the Yes campaign got off the ground and outperformed and outspent the Yes campaign for the duration of the referendum.

The decision of the Irish electorate has implications for Ireland's relations with the EU, for Ireland's partners in Europe and for the future of the EU itself. Just what those implications are will emerge over time.

Following the referendum, the Irish government, with a new Prime Minister, had to begin immediately to chart a road-map for Ireland in the EU in a post-Lisbon environment. Shocked at its failure to carry the electorate, the

government needed time to understand and absorb the consequences of the referendum defeat. The other member states, particularly those that had already ratified the Lisbon Treaty and in most cases also the Constitutional Treaty, were not prepared to say that the Lisbon Treaty was dead. It became clear that other member states would proceed with ratification of the treaty, albeit with some complications in a number of member states. The Irish government found itself in an isolated position with an electorate that was uneasy about just what kind of EU it wanted and would sign up for. The situation facing the Irish government is very different from the situation after the first Nice referendum, for a number of reasons.

First, turnout in the Lisbon referendum was much higher than in the first Nice referendum (in 2001) and the No vote grew significantly as a proportion of the overall electorate (from 18 to 28 per cent).

Second, there was a national election between the first and second Nice referenda, which enabled the then government to put its post-Nice road-map to the people. The general election provided legitimacy for the second referendum.

Third, neither France nor the Netherlands re-ran their referenda on the European Constitution. This is a major issue in domestic Irish politics as it is argued that an Irish No does not have the same political weight as rejections from two of the founding member states.

Fourth, the economic climate is deteriorating in Ireland at a rapid rate and as a consequence the government's standing with the electorate has deteriorated sharply.

The government has to manage the twin challenges of domestic and EU politics. It opted to commission extensive research into the attitudes of the electorate. The research offers insights into the voters' thinking on the Lisbon Treaty and on Ireland's relationship with the Union (Milward Brown IMS, 2008). The research distinguished between 'hard' Yes and No voters (those who were 'certain') and 'soft' Yes and No voters (those who had 'some doubts'). The percentages were 36, 41, 10 and 13 respectively.

The research confirmed that No voters were predominantly found among women (56 per cent No) (women across the EU have consistently been more opposed to EU integration than men), young people aged between 25 and 34 (59 per cent No) and skilled and unskilled workers (63 and 65 per cent No). Those who voted No highlighted issues such as the erosion of Irish neutrality, abortion and conscription to a European army. The loss of a Commissioner

was also cited as a concern by No voters. Although those who voted No did not cite immigration directly as a reason for their vote, No voters were far more likely to argue that Ireland was not a better place to live since immigration had increased. This view was particularly prevalent among skilled and unskilled workers, who saw an open labour market and competition for jobs as a bad thing. Among the 'soft' No voters were people who followed the line 'if you don't know, vote No'.

Those who voted Yes were motivated by a broad commitment to the EU rather than a specific commitment to the Lisbon Treaty. Yes voters were also more likely to take their cue from the government and the main political parties. The research confirmed that the electorate was confused by the debate and found it difficult to understand key elements of the treaty: 42 per cent of those who voted felt that they were only vaguely aware of what was in the treaty or knew nothing at all. Moreover, 65 per cent of 'soft' No voters offered the lack of understanding of the treaty as the main reason for voting No. Lack of knowledge was cited by 46 per cent of those who abstained as the reason for staying at home. The knowledge deficit extended to the institutions of the EU and its decision-making processes.

The research report was followed by the establishment of a cross-party subcommittee of the European Affairs Committee of the national parliament whose task it is to further explore the political dimensions of the challenge facing Ireland in the EU. Known as the 'Sub-Committee on Ireland's Future in the European Union', it was given the following terms of reference:

- analyse the challenges facing Ireland in the European Union (EU) following the Lisbon Treaty Referendum result;
- consider Ireland's future in the EU including in relation to economic and financial matters, social policy, defence and foreign policy and our influence within the European Institutions;
- make recommendations to enhance the role of the Houses of the Oireachtas [Irish parliament] in EU affairs;
- consider measures to improve public understanding of the EU and its fundamental importance for Ireland's future.

The aim of the committee was to prepare a report by 28 November 2009 and present it to the European Affairs Committee of the Oireachtas. The conclusions of the committee report are discussed below. The National Economic and Social Council (NESC), a think-tank involving the social partners, public servants and a number of independent members, was also asked by the government to undertake an analysis of Ireland's relationship with the EU. The government is trying to reframe the domestic debate in terms of Ireland's relations with the EU and not just the Lisbon Treaty.

## **A Road-Map?**

The Lisbon Treaty cannot become part of the EU's constitutional framework unless it is ratified by all member states. The question therefore is in what circumstances and how the treaty can be ratified in Ireland. If there are no circumstances that would enable the Irish government to ask the Irish electorate to revisit the issue, the EU will continue to operate under Nice rules with the possibility of modifications to the existing treaties in the form of protocols and future accession treaties. The representatives of the No campaign in Ireland regard the treaty as dead and have repeatedly argued this since the referendum. They suggest that the only way forward is a renegotiated treaty at some stage in the future offering Ireland a better deal. Just what that better deal might be is unclear. The government is far less sanguine. It is conscious that this treaty was negotiated over a seven-year period and that there is no appetite among the other member states to reopen the document. The government is also convinced that there is no better deal available to Ireland. The European Constitution was finalised during the Irish Presidency in 2004 under the chairmanship of a Prime Minister who is regarded as one of Ireland's most experienced and finest negotiators. In addition, the Irish government, if not the Irish electorate, are very conscious of the 'two level game' that EU politics represents. The Irish decision has affected in a very tangible manner the number of seats that were available for 12 member states for the European Parliament elections in June 2009.

### *The Case Against Revisiting the Issue*

The research on the reasons behind the vote point to an array of motivations that animated individual voters in the ballot box. There is no straightforward way to tackle the diverse concerns of the voters. Regardless of the reasons, the outcome was a majority against the proposition put to the people. If the outcome had been a Yes there would be no question of revisiting the vote, so the argument goes that a No is a No. Moreover, neither the French nor Dutch electorates were asked to revisit their decisions in 2005. Hence those advocating another referendum must address the legitimacy issue head-on. The Irish electorate has revisited issues in referenda a number of times, most notably referenda on the electoral system, divorce, abortion and the Nice Treaty. If the government is to go back to the people, it must have a new proposition and a cogent set of arguments as to why it wants the electorate to address treaty reform in the EU again. Why might it be motivated to do so?

### *The Case for Ratification*

No Irish government wants to find itself in an isolated situation in the EU. Ireland had positioned itself in the EU as a state that engages fully with the system and there is considerable concern in governmental circles and among a significant section of the electorate that Ireland has weakened its overall standing in the EU and that Ireland's influence in the EU has been damaged. Ireland had made a success of EU membership and was seen as a model for the new member states, given Ireland's relative economic under-development in 1973. In the longer term there are genuine fears of a fragmented or two-tier EU in which Ireland would find itself in an outer or second tier.

There is no desire in Dublin to reopen the institutional questions in Lisbon and to force the EU to continue to navel-gaze with a focus on how it does its business rather than how it responds to major challenges such as financial market regulation, climate change, security and economic governance. Lisbon was regarded as the last institutional treaty for the foreseeable future. The turmoil in the financial markets means that the Lisbon Treaty is a sideshow at present. However, unless Lisbon is ratified, institutional issues will remain on the table.

The prospect of Balkan enlargement is also connected to Lisbon. The French and German governments have made it clear that Lisbon is a requirement for Balkan enlargement, particularly beyond Croatia.

The government is also concerned about timing and the link between the 'Irish Question' and the electoral cycle in the United Kingdom. The British Conservative Party is running way ahead of the incumbent Labour government in the UK. It is probable that the next UK government will adopt a very pronounced eurosceptical posture which will make it very difficult if not impossible for the EU to achieve treaty reform while they are in power. Unintentionally and unwittingly, Ireland could find itself drawn into the dynamic of EU politics in its neighbouring island, with very serious consequences for its long-term position in the EU. That the European policies of Sinn Féin could bring Ireland back into a close but unfavourable relationship with the UK is just one of the accidents of history waiting to happen. For reasons of Ireland's long-term relationship with the EU and the dynamics of electoral cycles, it is in the interests of the Irish government that it addresses Ireland's Lisbon dilemma prior to the next UK election.

#### *What Is To Be Done?*

The Irish government, for the reasons outlined above, would like to ensure that Lisbon, or most of Lisbon, becomes part of the EU's constitutional framework. It was unable to achieve this in time for the June 2009 European

Parliament elections, with the result that those elections took place under the terms of the Nice Treaty. This was unpalatable for many member states because it disadvantaged at least 12 states in terms of the number of seats.

The second Irish referendum is due to take place on 2 October 2009. In the period since the last referendum, it appears to me that the Irish government has had two options for a new proposition to put to the people: 'Lisbon Minus' and 'Lisbon with Bells'.

#### *'Lisbon Minus'*

The first option is one that is being canvassed in the media. It would involve dividing the ratification process into stages by determining just what provisions of Lisbon constitutionally require the assent of the people. This would require ratifying the treaty by parliamentary means, in the first instance. If this route is followed, the President could then refer the act of ratification to the Supreme Court to determine if any part of the treaty is repugnant to the Irish Constitution. If the President did not refer the bill, a citizen would almost certainly challenge the act in the courts, which would serve the same purpose. The 1987 Crotty judgment of the Supreme Court on the Single European Act would then be revisited by the Court. A referendum would then have to be held on those provisions, if any, that required the assent of the people. Legal opinion suggests that only limited areas of the treaty might require a referendum. The feasibility of this strategy is difficult to judge because of the legal and political complexities that it implies.

#### *'Lisbon with Bells'*

The second scenario involves agreement between Ireland and the other member states on assurances, opt-outs, declarations, protocols or a European Council decision that responds to the issues raised in the referendum campaign. The Danish 1992 agreement has been carefully scrutinised by the Irish authorities. The areas that are amenable to change short of a renegotiation of the treaty are the size of the Commission and assurances on taxation, defence and abortion. From January to June 2009 the Irish government was seeking guarantees from the EU on a number of issues (the 'Irish' Commissioner, defence and security, taxation, abortion) as a precondition for holding another referendum. By July it had apparently received these guarantees, and it looks as if the second referendum will take place on 2 October 2009.

#### *An Emerging Road-Map?*

The report on Ireland's future in the EU agreed by the subcommittee of the European Affairs Committee of the Irish Parliament establishes the broad

contours of how Ireland will respond to the challenges posed by the referendum defeat. The report articulates in a very clear manner its view that Ireland's role as a 'fully committed and engaged Member State' has been vital to Ireland's national interest and that remaining fully engaged and committed in future is also vital (Oireachtas, 2008, p.3). The report acknowledges that the referendum defeat has diminished Ireland's standing and influence in the EU and has made the country's long-term position in the EU less secure. It argues that a solution must be found that keeps Ireland fully engaged in the EU while at the same time addressing the concerns of the Irish people. Four concerns are identified: taxation; sensitive ethical issues; defence and security; and the Commission (Oireachtas, 2008, p.4-5). The report does not favour parliamentary ratification, which means that 'Lisbon with Bells' is emerging as the most likely option.

A deteriorating economy ensures that the stakes could not be higher for Ireland's future in the EU. The Irish electorate will have to decide if they wish to be nearer Rome or Reykjavik.

## **References**

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### ***Further Points made by Brigid Laffan in her Presentation at the Faith in Europe Meeting***

From 1958 under Taoiseach Sean Lemass gaining EU membership was a priority. This was achieved in 1973, when Ireland entered the EU as the first small poor state. This move officially differentiated Ireland from the UK. Eurobarometer findings in that year showed Ireland top or second on the question of whether the EU was a good thing. On the question 'has your country benefited from EU membership?' Ireland is always top, with only about 7 per cent disagreeing.

So how to explain the Irish rejection of two European Treaties (Nice in 2001 and Lisbon in 2008)? A much smaller percentage of the Irish population are in favour of *political* integration. And a large percentage of the population both feel they don't know much about the EU, and indeed don't in fact know

much about it. More Europeans are feeling comfortable with a dual identity ('French and European', for example), but Ireland is one of the countries where a sense of national identity continues to predominate. So the Irish relationship to the EU is pragmatic rather than affective, and this kind of relationship means that in a referendum anything can happen (and Ireland is bound by its Constitution always to have a referendum on European integration issues).

In the Lisbon Treaty referendum people voted No because they genuinely didn't know. And the referendum, like referenda everywhere, attracted extremists of Right and Left, who influenced the outcome but have no responsibility for the aftermath since they are not in power.

The EU has never allowed any one country to dictate its future, and the Lisbon Treaty isn't going to be withdrawn just because of the Irish rejection. Nevertheless the Irish business community feels that Ireland has shot itself in the foot. The Irish relationship with Germany has been damaged: Germany puts the most money into the EU and Ireland has been one of the greatest beneficiaries.

Just after the referendum the world situation suddenly became more dangerous and unstable. The Russia-Georgia crisis was followed by the global financial collapse. There was a growing perception that Ireland had acted irresponsibly, and this perception will probably influence the outcome of the next referendum.

The present Irish government is the most unpopular in the history of the Irish state. Ireland also experienced financial collapse in the six months from July 2008. There have been institutional failures, and unemployment is at 11 per cent. The question now is whether Ireland has the cultural and institutional resources to recover. The same question was asked in the 1980s, and at that time the answer was yes. It is not so clear what the answer will be this time.

The stakes couldn't be higher for Ireland. With less than one per cent of the population of the EU Ireland isn't going to stop EU development. If there is no Lisbon Treaty there will be another one instead. But if Ireland votes No again it risks being relegated to an outer tier, and its very EU membership may be at stake. The data at the moment predict a Yes vote this time, but the Irish government is extraordinarily unpopular, and this fact may influence the outcome, unless the issues can be presented in a way that emphasises their significance for Ireland as a whole.

## **Discussion**

Brigid said that right from the start there have been voices in the Catholic Church in Ireland warning that EU membership would bring unwelcome social consequences like abortion. These voices have played a role in every referendum, but they represent a minority position in the Church. Meanwhile the Catholic hierarchy, while sometimes critical of increasing secularisation, has been and remains generally supportive of EU membership. And one of the guarantees the Irish government has just gained is that the Irish Constitution will prevail in areas to do with issues such as the family, education and the right to life. However, while anticlericalism has never been part of Irish culture, now it is rising rapidly.