

**The Result of the Second Referendum in Ireland on the Lisbon Treaty:
A Preliminary Assessment**

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Last week's result of the second Lisbon Treaty referendum in Ireland removed one of the most serious obstacles to European reform. But the game is not over yet. The Czech and Polish presidents, Vaclav Klaus and Lech Kaczynski respectively, have yet to sign the ratification bills (already approved by their respective parliaments) to allow the new EU treaty to enter into force. President Kaczynski, who has always maintained that he would sign the ratification bill if the Irish vote "Yes", has promised to sign it in a couple of days. The more Eurosceptic Vaclav Klaus says he will await the decision of the Czech Constitutional Court on the latest challenge to the treaty mounted by a group of Czech senators on September 29.

In this presentation, I do not intend to dwell at length on the implications of the Treaty of Lisbon for the European Union. I will instead focus on the second Irish referendum, comparing its result with the first and Nice Treaty referenda, with the aim of drawing some useful lessons for the EU member states in general and for us in Malta.

The referendum result itself will no doubt continue to divide analysts for some weeks and perhaps months to come until a much more interesting subject appears on the horizon. My contribution today is therefore one of many presently being penned and in many parts it certainly lacks originality and finality. The results of the referendum need to be analysed deeply and until that process is completed satisfactorily, my remarks today are only preliminary ones.

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Ireland presents a very interesting case study in the context of EU Treaty reform because of its constitutional requirement to hold a referendum after the two houses of its parliament have voted to accept changes to the EU treaties. In the approval of the Treaty of Nice and the Treaty of Lisbon, the Irish seem to have fallen into the habit of voting twice. On both occasions, voters rejected the treaties in a referendum and on both occasions a second referendum was called which

¹ The views expressed in this paper are those of the author and do not necessarily reflect the views of the EDRC.

effectively overturned the results of the first referendum. With four referenda on EU reform in the last decade behind us, we can now begin to better understand the dynamics of these events and what might have led to this somewhat unconventional behaviour on the part of the Irish people.

The Table below summarises the results of these four referenda. A number of initial observations can be made namely that voter turnout in last week's referendum was the highest of the four, even slightly above that registered in the 2007 national election to the Dáil (67.03%); that the majority achieved in this case was also the largest one of the four referenda; that a lower turnout is associated with a negative vote. However, these observations are less important than the political issues and public perceptions which dominated the Lisbon Treaty debate in Ireland and which lie behind the figures just shown.

I will now turn to the main focus of this presentation and analyse the main factors influencing voters.

Table: Irish Referenda on EU Treaty Reform	Number of Voters	Votes Cast	Turnout as a Percentage of total votes	Yes		No	
Referendum on Treaty of Nice 7 June 2001	2,867,960	997,826	34.79	46.13	53.87		
Referendum on Treaty of Nice 19 October 2002	2,923,918	1,446,578	49.47	62.89	37.11		
Referendum on Treaty of Lisbon 12 June 2008	3,052,278	1,621,037	53.13	46.6	53.4		
Referendum on Treaty of Lisbon 2 October 2009	3,078,032	1,816,098	59	67.13	32.87		

What Influenced the Vote?

In the literature on the last four referenda in Ireland one encounters many different narratives of what led to the results. Many of them are quite good and it's a pity that due to time constraints I cannot summarise their main findings. However, I have met some controversial claims such as the one which says that in last week's referendum economic factors played a central role. I also read some opinions to the effect that the negative results of two of the four referenda referred to here had a lot to do with protest voting against the Dublin government. After all referenda, just as

local elections and European Parliament elections are considered by many voters as 'second order' ballots in contrast to national elections. I tend to disagree with these assessments to the extent that although protest voting and the economic situation do influence voter behaviour, they only play a minor, supporting role and are less crucial than other factors such as information and a concerted effort to transmit it to voters. The Irish referenda have in a sense driven home the point that there is no substitute for good campaigning.

Turning to the referenda themselves and beginning with the low 2008 voter turnout in the first Lisbon referendum, post-referendum surveys of public opinion show that this may have been mainly caused by lack of information on the treaty. A *Flash Eurobarometer Survey* carried out between the 13-15 June 2008, found that 52% of those who had not voted claimed that they had not fully understood the referendum's issues, 42% had not been informed about the issues at stake and 37% felt they were not informed about the Lisbon Treaty's content.² This finding is backed by the results of another post-referendum survey held by Millward Brown IMS, one of Dublin's leading marketing firms, which found that the main reason for abstaining was lack of understanding / knowledge (46%), and that this was far in excess of any other voluntary or circumstantial reason given for not voting.³ In contrast to this, the 2009 campaign leading to the second Lisbon referendum was certainly not lacking in information about the Treaty and this must have played a crucial role both in persuading more voters to actually go out and vote and to vote in favour. While the 2008 campaign was characterized by a lack-luster approach on the part of those in favour of ratification, in the 2009 campaign, the "Yes" camp came down in full force and carried out an intense effort to inform the public and mobilize the Yes vote. The campaign was very similar to the ones organized in general elections.

We find a parallel to these events in the Nice Treaty referenda. In the first Nice referendum held in June 2001, a majority of Irish voters rejected the Treaty. Turnout was low and the low-key campaign by the treaty's supporters ensured that many potential "yes" voters stayed at home. In the absence of an effective Yes Campaign, the opponents of the treaty performed exceptionally well. The final negative result of the referendum shocked the Irish establishment and the EU and for good reason. For in the four previous referenda held since Ireland had joined the EU – i.e. the

² Flash EB No 245 – Post-referendum survey in Ireland Preliminary results

³ Post Lisbon Treaty Referendum Research Findings September 2008,

http://www.imsl.ie/news/Millward_Brown_IMS_Lisbon_Research_Report.pdf

membership referendum (1972), the Single European Act (1987), the Maastricht Treaty (1992) and the Amsterdam Treaty (1998), Irish voters had approved the treaty changes with a comfortable majority. The first referendum on the Nice Treaty showed that Irish voters were not to be taken foregranted and that complacency on the part of those who supported the EU treaty reforms led to disastrous results.

After the shock result of the first Nice Referendum, the government pledged to fight the second referendum which was scheduled for October 2002 as if it was fighting a general election. Despite its declining popularity, the government managed to mobilize support for a yes vote. The turnout in the second Nice referendum increased to just under 50%. This was still below the 63% turnout obtained in the 2002 general election, but the Yes votes doubled so that the Treaty was approved by 62.89% of those who voted.⁴

Considering Ireland's experience with the Nice Treaty one is justified in begging the question: "how on earth did the supporters of the Lisbon Treaty get it so wrong in the first Lisbon referendum?" Interestingly, the same failures as had characterized the first Nice referendum were repeated in the first Lisbon referendum. As I have already underscored, the Irish government and treaty supporters ran such a disorganized and ineffective campaign that the No camp had a field day.

The main conclusion to be drawn from this assessment is quite straightforward: information is crucial. When the Irish people were properly informed about the treaty changes which they were being called upon to approve, they bothered to vote and the majority of them voted yes. When they were not properly informed, they preferred to abstain from voting or vote against.

Once again, empirical data supports this claim. In the first Lisbon referendum 68% of those surveyed claimed that the "No" campaign was more convincing than the "Yes" campaign. Only 15% thought otherwise. In addition, 22% of those who voted against the Treaty claimed that they had done so because they were not sufficiently informed about it – "When you don't know, vote no".

⁴ Gilland Karin, *Ireland's Second referendum on the Treaty of Nice – October 2002*, Referendum Briefing No 1, Opposing Europe research Network, Sussex University.

The popularity of the government of the day and protest voting played only a minor supporting role. The evidence provided by Eurobarometer shows that only 4% voted No in the first Lisbon referendum to protest against government policies.⁵

The dynamics behind this voter behaviour also appear to be very clear. When those in favour of the Treaty deserted the political battlefield, the campaign was dominated by the No camp which managed to project its own message more effectively and to highlight issues which were often irrelevant or only loosely connected to the Treaty provisions but which played on people's emotions and fears. Thus, in the first Nice referendum the main negative issue was that the Treaty would undermine Irish neutrality. Eventually this led to the *National Declaration by Ireland* and the *Declaration by the European Council* at Seville in June 2002⁶ which effectively clarified the issue, namely that the Nice Treaty would not compromise Ireland's neutrality. But this declaration alone would not have been sufficient to win the referendum had the Irish government and those in favour of the Treaty not decided to campaign strongly in the second referendum and properly explain the treaty's contents to the electorate.

A similar pattern of events unfolded with respect to the Lisbon Treaty referenda. In the 2008 campaign, the No camp successfully convinced voters that the treaty would undermine Irish neutrality, impinge upon national taxation policy, affect family law, raise social and ethical issues and that the Common Security and Defence Policy (CSDP) would undermine Ireland's traditional policy of neutrality. In December 2008, the European Council approved a declaration which amongst other things emphasized three main points, namely that:

- nothing in the Treaty of Lisbon makes any change of any kind, for any Member State, to the extent or operation of the Union's competences in relation to taxation;
- the Treaty of Lisbon does not prejudice the security and defence policy of Member States, including Ireland's traditional policy of neutrality;
- a guarantee that the provisions of the Irish Constitution in relation to the right to life, education and the family are not in any way affected by the fact that the Treaty of Lisbon

⁵ Flash EB No 245, p.8.

⁶ Seville European Council, Presidency Conclusions, 21 and 22 June 2002 Brussels, 24 October 2002 (29.10) (or. fr), 13463/02, Annex III and Annex IV

attributes legal status to the EU Charter of Fundamental Rights or by the justice and home affairs provisions of the said Treaty.

In addition, the European Council agreed that provided the Treaty of Lisbon enters into force, a decision will be taken, in accordance with the necessary legal procedures, to the effect that the Commission shall continue to include one national of each Member State.⁷ The Treaties currently in force require that the number of Commissioners be reduced in 2009. This too was intended to placate Irish fears that the Lisbon Treaty would erode the position of small states in the EU decision-making process. Again, although these concessions on their own were useful they did not remove the need for a strong information campaign to ensure that voters were properly informed about them and the main changes which would be brought about by the Treaty.

Concluding Remarks

Some of my conclusions have by now already become apparent. However, I wish to enlarge the discussion a little by trying to answer the question of what lessons are to be learnt from the Irish treaty referenda?

My initial remark is that we have to understand that we must avoid a complacency and assume that the European publics have accepted European integration and are ready to support it reflexively whenever they are called upon to do so. We should have learned that lesson a long time ago after the first Danish referendum on the Maastricht Treaty. As a polity, the Union is still in its infancy despite the enormous progress that it has made, and the public needs to be continuously informed of developments and their implications. When we fail to do this, opponents of integration fill the vacuum and the knowledge/information gaps with their own narratives and conceptions. In this work I think that politicians, media personalities, opinion leaders and the academic world need to better combine and organize their resources. It is significant that the two referenda campaigns that went well in Ireland in the last decade were characterized by the participation of such personalities (e.g. Bridget Laffan and Ben Tonra from the academic world) who were able to argue the points well and make their arguments accessible to the general public.

Information is of vital importance. Other factors are also at play and influence voter decisions. In this analysis I have not mentioned the role of political parties in mobilizing supporters

⁷ Brussels European Council, Presidency Conclusions, 11 and 12 December 2008, (OR. fr) 17271/1/08 REV 1, Brussels 13 February 2009.

and the position of other important social actors such as the organizations of private enterprise, trade unions and in the case of Ireland, the Church on the question of abortion and the family. Their positions are obviously effective in swaying voters. The referenda in Ireland also confound a number of popular beliefs such as the one that it has all to do with the economic situation or the popularity of the government. In Nice 1, the government was riding on a wave of popularity and it lost the referendum. In Nice 2, public support for the Irish government and the Prime Minister Bertie Ahern had declined sharply but the referendum was carried. In Lisbon 1 the effects of the current international economic slowdown were not as salient as they are at present and the people voted No. This time round, in the second referendum the economic situation in Ireland is worse than it was then and the people have voted yes. Perhaps the gravity of the economic situation has convinced voters to play safe - or it may have instilled in them more realism which enabled them to take a better decision in a more information-rich situation.

There are obvious implications also for future EU treaty reform. In this case permit me to re-state a couple of points that have already been made by many others in the past. With twenty seven EU member states which may increase to 30 or more in the future, EU treaty reform has become a difficult and challenging task. For this reason we ought to refrain from further treaty upheavals and work with what we have for some years to come. It is also urgent for the Union to focus on the urgent global challenges which confront it and as long as it remains inward-looking and preoccupied with internal affairs it will not be able to do this. Hopefully the Treaty of Lisbon once ratified will permit the Union to do so.

The ratification process is by no means concluded and there are still a number of complications to be overcome. The British Conservative Party leader, David Cameron, shortly before the opening of his party's annual congress in Manchester this week, reiterated his intention to withdraw British ratification of the Lisbon Treaty and to call a referendum - but only if the text has not been approved by all the 27 EU member states. Mr Cameron recently wrote to the Czech president, Vaclav Klaus, pointing out his position on the subject. This letter has been interpreted by some as an appeal to Mr Klaus to delay signing the Czech ratification until the British conservatives return to power, which is expected to take place around May 2010 at the next general election. Both Mr Cameron and President Klaus categorically deny that they have such a strategy. Conservative Eurosceptics in Britain would like Mr Cameron to go further and pledge to hold a referendum on the Treaty even if it is ratified by all the EU member states. But as of now, the

timing of the ratification depends a lot on the events in the Czech Republic since Poland has already indicated that its president will sign the ratification bill shortly.

Last Saturday, the Czech President Klaus repeated that his signature was "*not on the agenda*" and that he would await the verdict of the Czech Constitutional Court before deciding whether or not to sign the ratification bill. It remains to be seen when the Court delivers its judgement what kind of judgement it will be, whether it will be in line with the previous one. It certainly cannot be considered a foregone conclusion. The case is being dealt with under the emergency procedure and the facts of the case have been put before the Court. Both Houses of Parliament and the government have two weeks to send in their comments to the Court and/or request a hearing before the judges. If no hearing is requested, the Court will be able to return its verdict very quickly, "*possibly even before the end of October*", a source from the Czech Constitutional Court told EUROPE. And even if hearings should prove necessary, the Court's decision could be ready in the first half of November. The Czech prime minister, Jan Fischer, indicated at the most recent European Council that proceedings could take "*between three and six months*", but he had not been aware that the case would be dealt with under the emergency procedure, EUROPE's source explained. The timetable is important, as the European Council of 29-30 October is supposed to decide on what legal basis (Nice or Lisbon) the next Commission will be constituted, a decision which also affects its size.⁸

⁸ EUROPE, Agence Europe, 06-10-2009