

JCER Special Commentary Series

The 2009 Irish Referendum on the Lisbon Treaty

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The Context and Issues

The result of the 2008 Irish referendum on the Lisbon Treaty came as a considerable shock to the Irish body politic. The Irish electorate had, yet again, broken with the established political consensus on Europe. The vote on 13 June 2008 was based on a strong turnout (at over 53 percent) and a comparatively decisive result (53.4 percent 'no' as against 46.6 percent 'yes'). However, as the only EU member state ratifying the treaty by way of referendum, the electorate's decision placed the Government in an immediate quandary.

In the first instance, it was abundantly clear that there was no willingness among Ireland's EU partners either to reopen negotiations or to abandon the treaty altogether. The issues to be addressed, the proposed solutions and the balance of interests and arguments among the member states was the same as it had been when the Lisbon Treaty was signed on 13 December 2007. Second, the ratification process was already well advanced with over a dozen member states already having ratified the treaty. Finally, it was not clear precisely on what the Irish electorate's verdict had been based.

The Government's reaction to the defeat first centred on identifying the issues which had led to the 'no' vote. As part of this analysis, the Government commissioned Milward Brown IMS to conduct a detailed quantitative and qualitative survey with preliminary results published in September (Millward Brown IMS 2008). In their subsequent analysis of this data, a research team from the UCD Geary Institute concluded that the referendum result had been a function of general attitudes towards European integration, respondents' knowledge of the EU, a number of specific policy issues and some domestic political factors (Sinnott *et al.* 2009). The report noted that a low level of knowledge substantially increased the likelihood of a 'no' vote, not least due to misperceptions as to what the treaty actually contained. Notwithstanding strong support for the EU in general terms, there were also specific policy concerns underlying the 'no' vote. These included the loss of an Irish seat at the Commission, taxation policy, workers' rights, Irish neutrality and social policy (particularly abortion). Support was also weakest in specific demographic groups; women, urban manual workers and young people.

The author gratefully acknowledges the exceptionally helpful comments and suggestions of Dr. Jos Elkink, Professor Brigid Laffan, Ms. Claire Loftus, Professor Imelda Maher, Mr. Brian Murphy and Professor Daniel Thomas. As always, any errors or omissions are the author's sole responsibility.

<p>Tonra, B. (2009). 'The 2009 Irish Referendum on the Lisbon Treaty', <i>Journal of Contemporary European Research</i>. Volume 5, Issue 3. pp. 472-479. Available at: http://www.jcer.net/ojs/index.php/jcer/article/view/249/171</p>
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On 15 October 2008, the EU Council agreed that the Irish Government would 'continue its consultations' on a way forward. In the meantime, the head of the EU Legal Services, Jean Claude Piris, was tasked with investigating how Irish concerns might be addressed, without requiring amendment of the treaty and thereby restarting the entire ratification process. The Government also requested a Parliamentary Sub-Committee to consider Irish options on the Lisbon Treaty and their implications.¹

On 11 December 2008, the Council agreed an outline package of measures designed to facilitate the holding of a second referendum in Ireland. This followed a model used to secure a second and successful Danish referendum on the Maastricht Treaty in 1993. Following negotiation – and most especially difficult bilateral talks with the UK – the final package included: an EU Council Decision to maintain a single Commissioner from each member state; three legal guarantees on taxation, social issues and neutrality (which were registered with the United Nations and which are to be appended as protocols to the next EU accession treaty); and a Declaration on workers' rights. Based on this outcome, the Irish Government announced, on 8 July 2009, that a second referendum would be held on 2 October 2009 to ratify the 28th Amendment of the Constitution (Treaty of Lisbon) Bill 2009 (Irish Government 2009).

The referendum was conducted in the midst of a profound economic crisis and with unparalleled levels of dissatisfaction with the Government. The international financial crisis, which broke in September 2008, had a devastating impact on the Irish economy. By the summer of 2009, unemployment had risen by 85 percent to 11.7 percent, with medium-range forecasts of 15 percent. Property prices collapsed by upwards of 35 to 45 percent over the same period and Ireland had entered a deflationary cycle with prices falling by as much as 6 percent. The economy contracted sharply with GNP falling by just under 12 percent over the year. As a result, government finances fell into disarray, with a series of budgets and 'mini' budgets in 2008 and 2009 resulting in substantial public spending cuts and tax rises being implemented and planned so as partially to fill an estimated €22 billion hole in the public finances. All of this occurred as the Government unveiled plans in September 2009 to borrow €54 billion so as to purchase underperforming, property-related bank loans at a premium price over current market value in order to stabilise the banking sector. Unsurprisingly, an Irish Times/MRBI poll published in early September 2009 indicated that 85 percent of the electorate was dissatisfied with the Government's performance and that the main governing party in the coalition had only 17 percent support – a drop of more than 50 percent compared with its performance in the 2007 General Election.

The Campaign: Players and Themes

In the teeth of economic crisis and unparalleled electoral hostility, the Government was not well placed to conduct a successful referendum campaign. 2009 saw the establishment of a number of civil society groups dedicated to campaigning in favour of the Lisbon Treaty. Three of these groups are especially notable; *Ireland for Europe*, *We Belong* and *Generation Yes*. These groups were focused on bringing non-party political figures into the debate and translating the treaty into direct, succinct and accessible political messages. These centred on reaffirming Ireland's place in Europe, in strengthening Ireland's voice in the EU and the benefits accruing from Ireland's EU membership.

¹ See Department of Foreign Affairs website. Available at: http://www.lisbontreaty.ie/files/oireachtas_sub_cttee_eu_01122008-3.pdf, last accessed 4 November 2009.

The leaderships of the main social partners mobilised strongly. Employers and business groups, such as the main Irish Business and Employers Confederation (IBEC), as well as the Small Firms Association, the Irish Small and Medium Enterprises Association, the Irish Exporters Association and the American Chamber of Commerce Ireland all campaigned and argued for a 'yes' vote, with IBEC declaring that "The outcome of the next referendum will define Ireland's future relationship with Europe, and therefore with the world at large. A positive result is vital to ensure that Ireland remains a constructive partner in Europe and is an essential building block on the road to economic recovery," (*Irish Times* 2009a). Exceptionally, several individual companies also campaigned directly. The chief executive of Ryanair, Mr Michael O'Leary, argued that "Ireland's future success depends on being at the heart of Europe and our membership of the euro," while he – in his characteristically colourful manner – also condemned opponents of the Lisbon Treaty as being "headbangers", and "economic illiterates". Intel Ireland also secured its parent company's support to campaign on the treaty with its General Manager, Jim O'Hara, insisting that "Ireland has always punched above its weight in Europe, so why is it putting itself in a situation where it is cutting itself adrift from Europe? Luckily, we have one more chance to get it right" (Kennedy 2009). Their campaigns, including a substantial spend on print media ads, focused on the need for a 'yes' vote to underpin national economic recovery, to generate jobs and to send a clear international signal that Ireland was a committed member of the EU.

For its part, the Trade Union leadership – through the Irish Congress of Trade Unions and many of the largest individual trade unions – also rowed in to support the treaty. A dedicated campaign organisation, the Charter Group, was also set up a group of trade unionists to draw attention to the benefits of the Charter of Fundamental Rights. Significant, too, was the unqualified support on this occasion of the main farming organisations; the Irish Farmers Association (IFA) and the Irish Creamery Milk Suppliers Association (ICMSA). In 2008, the IFA initially withheld its support for Lisbon as part of its campaign against EU trade policy in WTO trade negotiations, although it ultimately endorsed the treaty on the eve of the vote. On this occasion, the IFA campaigned early for a strong 'yes' vote, insisting that "the future of the Common Agricultural Policy is up for renegotiation in the next couple of years, and we feel it is much more important for us to be involved in the heart of those negotiations, that we can influence what is likely to happen going forward rather than being on the periphery as we might be if we were to vote No" (*Irish Times* 2009b).

Each of the main political parties supporting the Lisbon Treaty also dedicated resources to their own individual campaigns. Reflecting criticism that their efforts in 2008 had been lacklustre and more focused on developing local election candidate profiles, these parties linked a 'yes' vote to jobs, economic recovery and EU membership. For the very first time, the Green Party officially campaigned in favour of a 'yes' vote – having narrowly won a 2/3rds majority in a party plebiscite. While there were only limited instances of an intensive door-to-door party canvass, these parties held a variety of public meetings, publicity events and extensive national poster campaigns all of which marked a substantively higher level of party activity compared to 2008. Critically, the main opposition parties appealed to the electorate to refrain from using their vote as a means to punish the government. They insisted that the referendum was an issue above party politics and that the national interest depended on a 'yes' vote.

Those campaigning for a 'no' vote in the referendum presented themselves as political insurgents and the voice(s) of those marginalised from a well-entrenched political consensus. They contested the legitimacy of a second vote on a treaty which was unchanged from that on which the Irish electorate had already delivered a decisive verdict. They also sought to reassure the electorate that a 'no' vote would make no

difference to Ireland's rights or standing as a member of the European Union. The 'no' campaign was composed of a very heterogeneous set of political groups, with some shared themes centring upon national sovereignty, distinct visions of a 'different' kind of European Union and demands that the sovereign will of the Irish people, once expressed, had to be respected.

In the early stages of the campaign the conservative argument was most closely associated with C oir (English translation: 'Justice'). Set up in 2003, C oir brought together a number of conservative Catholic and anti-abortion activists. With a comparatively strong grass roots base and provocative campaign slogans and images, C oir swiftly emerged as a major force in the campaign. By and large avoiding major media debates and in the absence of a strong leadership figure, C oir focussed its efforts on local activism and a vibrant national poster campaign. Their concerns related primarily to the Charter of Fundamental Rights and the role of the European Court of Justice, which they argued opened the door towards further liberalisation in the areas of abortion and euthanasia. C oir also underlined economic fears by claiming – through one of its most high profile posters – that the Lisbon Treaty could threaten Ireland's minimum wage, driving it down to levels found in Central and Eastern Europe.

On 10 September 2009, in an interview with the Wall Street Journal, Declan Ganley gave the first public indication of his intention to re-enter the political fray and campaign against the Lisbon Treaty. His Libertas organisation had exploded onto the political scene in the successful 2008 campaign against the Lisbon Treaty. In the aftermath of his and his party's crushing defeat in the June 2009 European Parliamentary elections, Ganley had pledged to stand aside from any Lisbon rematch. Claiming in his Wall Street Journal interview that he had been provoked by the 'lies' of the government and pro-treaty campaigners, Ganley launched a new Libertas campaign on 14 September 2009. Having lost some key lieutenants from 2008 the second Libertas campaign centred on a series of high-profile national media events. A Libertas poster campaign emerged in the final weeks of the referendum. Ganley's campaign centred on the political and constitutional implications of the Lisbon Treaty, and claims that the undemocratic nature of the European project was exemplified in the lack of respect shown the first Irish 'no' and the EU's weak democratic foundations. Libertas also sought to address the economic themes of the campaign, by insisting that the only job that would be saved by a 'yes' vote would be that of the Taoiseach (Prime Minister), Brian Cowen.

The intervention by the UK Independence Party (UKIP) in the Irish referendum campaign generated considerable media attention. Mr. Nigel Farage, MEP, attended several media and publicity events in Ireland over the course of the referendum and was a comparatively prominent interviewee in the media. The Europe for Freedom and Democracy Group in the European Parliament (of which UKIP is the largest member) distributed a leaflet to all Irish homes that claimed the treaty would "... open the door to immigration" (EFDG 2009). Rejecting charges of racism and bigotry (the leaflet identified migration from Turkey as a particular cause of concern), Mr. Farage insisted that his party continued to deal with the immigration issue "in an utterly responsible way".

The campaign on the left of the political spectrum was perhaps more fragmented organisationally but arguably more coherent politically. A broad variety of smaller political parties, organisations, single-issue groups and bespoke campaign groups came together on a number of issues and themes. Perhaps the highest profile and most striking contribution came from Joe Higgins MEP. Fresh from his surprise victory in the June 2009 EP elections, Higgins headlined a small but committed Socialist Party campaign centred on the issues of workers' rights and anti-militarisation. His high political credibility, coupled

with his unique status as the only Irish MEP opposed to the Lisbon Treaty, gave him a strong media profile throughout the campaign.

Other left-wing groups (such as the Socialist Worker's Party and its allied *People Before Profit* movement) and trade union groups and a number of local government councillors, similarly coalesced around a political agenda that critiqued the 'neo-liberal' orientation of the European Union and its foreign policy aspirations. Their efforts were focused on door-to-door canvassing and media events. More traditional opponents and critics of the EU were to be found in the People's Movement and the Peace and Neutrality Alliance.

A key theme among all these parties and groups was workers rights and the threat seen to be posed to those rights by series of judgements from the European Court of Justice. These judgements, Vaxholm/Laval (2004), Viking (2007), Ruffert (2008), and Luxembourg (2008), it was argued, signified the predominance of the rights of capital over those of labour within the European Union. The Lisbon Treaty was represented as moving the European Project further in a neo-liberal, free market direction.

Sinn Fein provided another focus for left-wing and nationalist opposition. As the only political party opposed to the ratification of the Lisbon Treaty with national parliamentary representation, Sinn Fein played an important role in local canvassing and a national poster campaign. Their efforts were led by former MEP, Mary Lou McDonald and Sinn Fein party leader, Gerry Adams. Sinn Fein's efforts centred on a critique of the Government for not renegotiating the Lisbon Treaty after the first referendum and the weakness of the 'guarantees' obtained from the other EU member states. The party also underlined themes of EU militarisation, workers' rights and the threat of further market liberalisation.

A third set of actors arguably played a significant role in the referendum campaign. The Referendum Commission had a much higher profile in 2009 compared to 2008. Its Chairman, the High Court's Mr. Justice Frank Clarke, took an active media role in explaining the provisions of the Lisbon Treaty and addressing issues of fact as they arose in the debate. This generated some criticism – most frequently from 'no' campaigners – but the judge had strong public credibility and was seen very much as an independent figure. He was regularly interviewed in the media as an impartial source of information and in the closing weeks of the campaign had a weekly slot on national radio to address voter queries. The Commission's media and communications budget of just under €3 million was to fulfil its statutory role to encourage the electorate to vote and to provide impartial and factual information on the treaty.

The role of the media should also be addressed. Ireland has a mix of both public and private national and local media. In the aftermath of the 2008 campaign there was some comment on the role of UK-owned print media (particularly that of News Corporation) translating a British euro-sceptic editorial position into the Irish editions of many of their British-based titles. This was again highlighted in the 2009 campaign in the role of the Wall Street Journal (also owned by News Corporation) in profiling Declan Ganley's re-entry to the Lisbon debate and its subsequent, widely cited, editorial comment which argued that the core claims of the Irish Government's campaign were based on "patent absurdities" and that much of Ireland's earlier economic success had been achieved despite EU policy rather than as a result of it (Wall Street Journal, 16 September 2009). By contrast, many in the 'no' campaign were highly critical of the overwhelming pro-Lisbon editorial line maintained by almost all Irish-owned print media, and the statement from the Chief Executive of the Broadcasting Commission of Ireland that there was no requirement in its guidelines to ensure equal air time for both sides in a referendum, but that there was a requirement for fair and balanced coverage. It is notable too, that several of News

Corporations' Irish editions (such as the *Sunday Times*) did not offer as trenchant an editorial line against Lisbon in 2009 as they had done in 2008.

Finally, it is also useful to review the financial resources spent in the referendum campaign. According to an analysis published in *The Irish Times*, the civil society groups, political parties, sectoral groups and major companies supporting a 'yes' vote in the campaign had a combined total expenditure of approximately €2.75 million. (*Irish Times* 2009c) Political parties and groups campaigning for a 'no' spent about €800,000. A further €5 million was spent by the Referendum Commission (€4 million), the Department of Foreign Affairs (€700,000) and the European Commission Office in Dublin (€150,000) in support of information campaigns on the EU, the Lisbon Treaty and the referendum itself. Much of this latter expenditure was criticised by individuals and groups within the 'no' campaign for being either implicitly supportive or insufficiently critical of the Lisbon Treaty.

The Result and Immediate Analysis

The final result was more decisive than anticipated. While opinion polls in the closing weeks of the campaign had signalled a strong lead for the 'yes' side, indications were that the as yet undecided voters – about 20 percent of the total – were breaking more strongly towards a 'no' vote. In fact, the reverse was evident in the final tally. When the ballot boxes were opened on 3 October 2009, it was soon clear that movement towards a 'yes' vote had been sustained and substantial. With an increased turnout (from 53 to 58 percent) compared to the 2008 campaign, 67.1 percent of the electorate voted 'yes' as against 32.9 percent who voted 'no'. This represented a more than a 20 percentage point swing from 'no' to 'yes' on the same treaty within 16 months. Of the 43 electoral constituencies, 41 voted 'yes' with just two (in the northeast of the island) voting 'no' by very narrow margins. In some constituencies, such as those in the southern Dublin suburbs, the 'yes' vote topped 80 percent.

Post-referendum analysis centred on the economic rationale behind the 'yes' vote. Whether out of fear or out of hope, the Irish electorate was characterised by many commentators as having voted in expectation that a vote for the Lisbon Treaty would underpin efforts towards economic recovery and jobs. For their part, most 'no' campaigners highlighted their limited resources, the overwhelming mobilisation of traditional political elites and the electorate's fear and insecurity as explanation for the nature and scale of the 'yes' vote. For their part, 'yes' campaigners pointed to the civic mobilisation of the political centre, the electorate's associated rejection of extremist politics and a more hard-headed assessment of Ireland's place in Europe and the national interest.

A post-referendum poll conducted by the European Commission and reported in *The Irish Times* (2009d) confirmed that a substantial number of voters had switched sides in the 16 months between the two Lisbon referenda. Among those that had switched to a 'yes', 25 percent believed that the treaty would help the economy through the economic recession, 29 per cent said they changed their vote as result of increased information and communication and 21 per cent claimed that they felt more engaged in the public debate this time. These results confirmed some trends identified in an earlier exit-poll conducted by the opposition Fine Gael party which surveyed 1,000 voters at 33 national polling sites.² This study also indicated that 17 percent of those voting in October 2009 had not done so in 2008 and that these 'new' voters supported the treaty by a margin of over two to one. Strikingly, the study also claimed that the 'gender gap' identified in the first referendum

² See Fine Gael Website. Available at: <http://www.finegael.org/news/a/1235/article/>, last accessed 4 November 2009.

had been eliminated but that there was an ongoing issue with younger voters, 41 percent of whom voted 'no'.

While it is possible to argue the merits and pitfalls of referenda as the means by which complex international accords such as the Lisbon Treaty are ratified, there is no doubt that it does force the body politic to engage seriously and substantively with the issues. While such efforts are rarely sustained over time – and in the Irish case even when the lessons learned are forgotten – their value should not be underestimated. There is also, arguably, some merit in the analysis proffered by the President of Ireland during her October 2009 State Visit to Luxembourg when she argued that those who had bemoaned the Irish referendum 'episode' had missed the point. She insisted that it had illustrated the nature of the Union as being one in which "the democratic and consensus-based credentials of the Union and its sensitivity to the customised needs of each of its sovereign members, its assertion of the value of the voice of its citizens, have all proved their worth, their strength, their integrity and ultimately their unity of purpose."

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