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Lessons from the Treaty Fatigue

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Ireland will have a second referendum on the Treaty of Lisbon. There is now a distinct probability that the Irish will vote “Yes” after all. But what happens then? European policymakers, in the light of the forthcoming European elections, should first take to heart five lessons distilled from the debate about the treaty.

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The Irish government took a long time to reach this decision. In fact, it had originally intended to present its plans for a solution to the ratification dilemma at the October summit of the European heads of state and government. It has taken another two months of cogitation and tactical evaluation, but apparently it has been worth waiting for.

There is now a distinct probability that the Irish electorate will decide in favour of the Treaty of Lisbon in a second referendum. In times of economic uncertainty Europe is closing ranks. More than anyone else, the Irish, seeing that their economy heavily depends on foreign direct investment, are hoping that the EU will help to stabilize the situation in the current global financial and economic turmoil.

Support from the Electorate

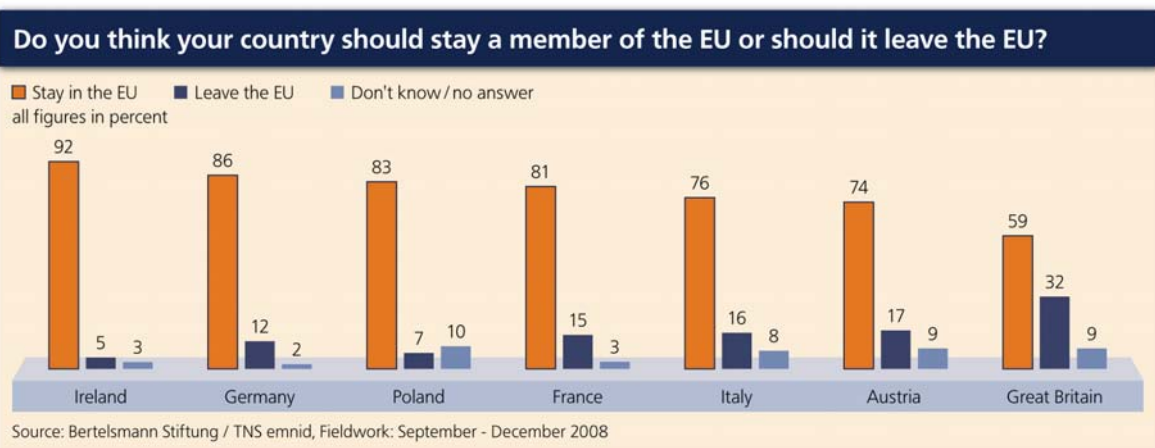
The public debate in recent years throughout the length and breadth of Europe gave the impression the electorate was generally sceptical about the European project. What has been dubbed the “enlargement hang-over” after the accession of first ten and then of another two new member states, the French and Dutch “No” vote on the European Constitution, and finally the Irish rejection of the Treaty of Lisbon ensured that there was smouldering and, so it seemed, growing criticism of Europe. From such scepticism about the direction of EU policymaking it was only a small

step to a general rejection of the European Union.

Opinion polls are now telling a different story. If citizens are given a choice between their member state staying in the EU or leaving, the vast majority are totally against leaving. 81 per cent of the French, 83 per cent of the Poles and 86 per cent of the Germans want their countries to remain in the European Union. In Austria, where the government broke apart a few

rather common among politicians and in the media in recent years.

Even among those who want their country to leave the EU, only a small proportion agreed with the statement that the EU had fulfilled its purpose and was no longer needed. Furthermore, the main criticism of these opponents of the EU is not the lack of EU democracy, but the disproportionate intrusion of the Union in the political affairs of individual member states.



months ago on account of disagreements about future policy towards Europe, only 17 per cent were in favour of leaving the EU. Even in the United Kingdom, which continues to be the most eurosceptical country of them all, only 32 per cent are in favour of leaving the EU, whereas 59 per cent of the British would like to remain in the EU.

Most surprisingly, perhaps, 92 per cent of the Irish, whose “No” vote on the Treaty of Lisbon caused profound depression to descend on Europe’s political elite, would like to remain in the EU. A mere 5 per cent of the Irish want their country to leave the EU.

One could probably go through the EU country by country. If they were asked to choose, citizens everywhere would say that they are in favour of remaining in the Union. This shows that specific objections levelled at a certain EU project should not be construed as blanket criticism of the EU. It is a tendency which has become

It is worth mentioning that among the opponents of the EU the number of British interviewees who criticized the EU for providing insufficient social security for its citizens exceeded the number of French interviewees who made similar comments. Today French citizens, more than two years after their rejection of the European constitution, no longer consider the European Union to be a problem.

II

Irish Prospects

The EU summit on 11 and 12 December came up with a compromise that makes it possible for the Irish government to embark on a [second \(and hopefully successful\) referendum](#). The basis for this is that Ireland, like all the other member states, will be allowed to keep its EU commissioner, and the erstwhile plans for a reduction in the size of the Commission will be scrapped. The Irish electorate will be presented with the original text of the

treaty, though this time with certain declarations by the Irish government which emphasize national sovereignty with regard to issues that are sensitive ones in Ireland. In this way the Irish government might be able to neutralize the scepticism of the electorate, which was pinpointed in a post-referendum opinion poll. For example, Irish citizens were afraid that they might be called up to serve in a European army, or that there might be a Charter of Fundamental Rights which conferred too much power on the European Court of Justice.

Current opinion polls in Ireland suggest that the Irish could now vote in favour of the Treaty of Lisbon provided that Ireland (like every other member state) retains its commissioner, that the military neutrality of the country is emphasized in a separate declaration, and that national sovereignty is retained in questions relating to corporate taxation and abortion laws. Yet the poll data relating to what is evidently a change in the basic mood of the Irish population are no more than a hopeful sign. Before the [first referendum](#) on the Treaty of Lisbon it seemed for a long time as if the vote would not pose a serious problem.

Over and above these predictions it is of some interest to examine the intra-Irish decision-making. The position of the Irish government at the EU was based on a report on “Ireland’s future in the European Union” prepared by the [Irish parliament](#). This report is not entirely free of the usual pro-European clichés, but for long stretches, as [Hugo Brady](#) has remarked, it is impressively lucid and thoughtful. The Sub-Committee on Ireland’s future in the European Union dealt not only with the finer technical points of the ratification procedure, but in more general terms with the role and the position of the Republic of Ireland in the European Union. Among other things, the

Sub-committee came to the following conclusions.

- Ireland’s standing and influence in the European Union have diminished following the people’s decision not to ratify the Treaty of Lisbon.

Timeline: The Treaty of Lisbon

Until 2006

- 29. OCT. 2004 **Constitutional Treaty** signed in Rome.
- 29. MAY 2005 Constitutional Treaty rejected by **referendum in France**.
- 1. JUNE 2005 Constitutional Treaty rejected by **referendum in the Netherlands**.
- JUNE 2005 A **'reflection period'** on the future of the EU is launched – it lasts just under two years.

2007

- 25. MARCH **Berlin Declaration** for the 50th anniversary of the foundation of the EU. Heads of state and government agree to place the EU on a **'renewed common basis'** by 2009.
- 21./22. JUNE Success during the German presidency of the Council: the EU summit in Brussels agrees on the **mandate for an Intergovernmental Conference** and key points for a treaty to reform the EU.
- 23. JULY **Intergovernmental Conference** launched during the Portuguese presidency of the Council.
- 18./19. OCT. Agreement on the **Treaty of Lisbon** at an extraordinary summit in Lisbon
- 13. DEC. Treaty of Lisbon signed at a special ceremony in Lisbon.

2008

- 12. JUNE Treaty of Lisbon rejected by **referendum in Ireland**.
No: 53.2% / Yes: 46.4%
Turnout: 53.1%
- 19./20. JUNE EU summit in Brussels: consultation on how the ratification process should proceed is postponed to give the Irish government more time to analyse the situation. **The ratification process continues** in Member States that have not yet ratified the Treaty of Lisbon.

- It is legally possible for the Union to stand still, though politically this seems unlikely. It is more likely that a mechanism will be developed by other member states which allows them to proceed with a process of further integration which excludes Ireland.

- The danger that Ireland will no longer belong to the inner core of the EU would seem to be a realistic prospect if it does not ratify the Treaty of Lisbon.
- Opt outs in EU policy areas, such as those secured by Denmark and the United Kingdom in the past, can have a detrimental effect. The Danish experience in particular shows that it minimizes the ability to shape and influence policy. The Sub-committee came to the conclusion that “opt outs are not cost free.”

“Small countries of the EU are under pressure.”

There is a great deal of fear among the Irish political elite that the electorate will once again reject the Treaty of Lisbon. Even greater is the fear that Ireland will become an unimportant and marginalized actor in the process of European integration - with unpredictable consequences. In the daily political life of the EU small countries are compelled to outline their positions at an early stage and look for possible coalition partners. Yet pro-integration countries will be very sceptical about Irish proposals of any kind if Ireland fails to ratify the Treaty of Lisbon.

Economic consequences are also being discussed in Ireland. For example, in the current turmoil isolation might mean that Irish banks would find it even more difficult to obtain money on the international markets. Foreign investors are perturbed by the uncertain political situation, but have faith in the foresight and the good sense of the Irish electorate with regard to EU issues. The nervous debate in the Irish business community also demonstrates that the widespread belief among euro-sceptics that it is possible to enjoy the economic advantages of EU integration without having to support political communitarization or closer coordination is no more than a figment of the imagination.

At any rate the alarmism of the parliamentary Sub-committee demonstrates that

smaller EU countries come under very great pressure if they fail to ratify treaties. It is a fact that the “No” vote of the French and the Dutch on the European constitution was accepted by the pro-European elite in quite a sympathetic manner. The Irish, possibly because they are among those who have benefited most from integration, were told on a number of occasions that their behaviour was detrimental to the process of European unification.

Not all of the member states are equal when it comes to the question of who is permitted to resist the will of the European majority (and how often). Smaller member states who did not help to shape the European Community from the very beginning are not in a very strong position. This fundamental attitude helps to explain the reaction (which was immediately retracted) of German foreign minister Frank-Walter Steinmeier, who, shortly after the first Irish referendum, said it would also have to be seen how one could move forward without Ireland.

III

And what happens next?

Trouble is still brewing in the Czech Republic. It is true that the Czech constitutional court has removed the obstacles standing in the way of parliamentary ratification of the Treaty of Lisbon. However, constitutional legality has been confirmed merely with regard to those parts of the treaty that the plaintiffs had called into question. Other submissions are still possible.

On the governmental level the Czech Prime Minister Topolánek has been strengthened by his re-election as leader of the conservative ODS party. Yet in his party, despite all its protestations of unity, the supporters and opponents of the Treaty of Lisbon continue to hold diametrically opposed views. The parliamentary decision will not be made before February 2009. In any case President Klaus has al-

ready announced that he will take his time when it comes to signing the instruments of ratification. Czech lawyers disagree about whether or not the signature of the president is of decisive importance in legal terms. The Czech debate about the Treaty of Lisbon has not yet come to an end. The story continues next year.

more than 736. This reduction affects a total of twelve countries.

EU citizens will find it rather difficult to understand the institutional situation of the EU in 2009. It will have a Treaty of Nice which continues to be in force. It will also have a Treaty of Lisbon, which, it is

Another three "troublemakers"

Germany	Poland	Czech Republic
<ul style="list-style-type: none"> ▪ 24 April 2008: Federal Parliament (Bundestag) gives its assent. ▪ 23 May 2008: Federal Council (Bundesrat) gives its assent. ▪ 8 October 2008: ratification law signed by President Horst Köhler. ▪ Pending: signature of the instruments of ratification by the President – this will only happen after the Federal Constitutional Court has ruled on the matter. 	<ul style="list-style-type: none"> ▪ 1 April 2008: Parliament (Sejm) gives its assent. ▪ 2 April 2008: Senate gives its assent. ▪ 10 April 2008: ratification law signed by President Lech Kaczynski. ▪ Pending: signature of the instruments of ratification by the President – this will only happen when all other EU Member States have signed the Treaty. 	<ul style="list-style-type: none"> ▪ 24/25 October 2008: Eurosceptical governing party ODS loses its absolute majority in the Senate following by-elections. ▪ 26 November 2008: Constitutional Court rules that the Treaty of Lisbon does not violate the constitution. ▪ Pending: votes in the House of Representatives and the Senate, signature of the ratification law and the instruments of ratification by President Vaclav Klaus.

It is rather unlikely that the second Irish referendum on the Treaty of Lisbon will take place before the European elections. Members of the European Parliament have said on a number of occasions that it is important to hold the referendum actually before the [elections](#).

The European Parliament would have benefited a great deal from the new treaty. Thus the co-decision procedure would have been extended to 95 per cent of European legislation, the President of the Commission would have been elected by the Parliament, and in future it would have been obliged to give its assent to the EU budget.

There is another reason why the Parliament is interested in speedy ratification. The provisions of the Treaty of Nice, which remains in force for the time being, stipulate that the European Parliament will have to be reduced in size, more than under the Treaty of Lisbon. At the moment the Parliament has 785 MEPs. Lisbon would give it 751, and Nice envisages no

true, has been ratified by 23 countries, though it will first come into force, if at all, in 2010. And European elections of which a few months ago only sixteen [per cent of EU citizens](#) knew that they were to be held in 2009.

The Swedish Minister for European Union Affairs, Malmström, fears that the “[institutional limbo](#)” could lead to a renewed bout of euroscepticism among EU citizens. This is not as far-fetched as it might seem. For this reason the European Parliament, the European Commission and the Council of Ministers have concluded inter-institutional agreements on new communication campaigns in order to get across what they believe are the facts about the EU. Is this likely to prove a success in the run-up to the European elections?

IV

The European Elections Campaign

The supporters of European integration, that is, the vast majority of the political establishment in Strasbourg, Brussels and the EU member states, should deduce five lessons for the forthcoming European election campaign from the “constitutional treaty turmoil” and the debates in recent months after the debacle of the Irish “No” vote.

First, the EU has a problem with younger people, and not with the older generation. In Ireland the Treaty of Lisbon was rejected primarily by women and young voters. Thus 65 per cent of the 18-24-year-olds and 59 per cent of the 25-39-year-olds voted “No” at the first referendum. The Irish experience could no doubt be replicated in numerous member states, particularly in Western Europe.

“The ‘Yes’ camp must improve its campaign.”

However, most of the members of the younger generation are certainly not euro-sceptical. The opposite is the case. They (and not only “ERASMUS” academics) grow up as Europeans in a wholly natural sort of way. The difference is that the achievements of European integration are not a daily subject for rejoicing. The negative image of the EU is due primarily to a general dissatisfaction with politics and what are seen to be insufficient opportunities for political participation. Why should one give one’s assent to a treaty which even the Irish EU commissioner does not consider to be worth reading and believes to be incomprehensible?

Second, the “Yes” camp must finally get its campaigning act together. Here again a glance at the results of the post-referendum surveys in Ireland proves to be illuminating. The main reason for the

Irish rejection was not criticism of what was actually in the treaty, but a lack of knowledge, information and insight. Both among the “Yes” voters, the “No” voters and those who did not vote at all there was and there is a large majority of people who are convinced that it is in Ireland’s best interests to be part of the EU. However, moving from general approval of the EU to specific approval of a political project such as the Treaty of Lisbon calls for more than new communication campaigns funded by European institutions.

In the referendums in France, the Netherlands and Ireland emotional reasons had a decisive influence on the results. The campaigns of the opponents of the constitution and the treaty were snappier and funnier than those of the supporters. And finally, the virtual campaigns in the internet were closely interlinked. Once one had stumbled across a website critical of the EU there were numerous links to other websites with content of a similar kind. In Europe, so it seems, people have begun to grasp the Obama grassroots technique of an internet election campaign. And the critics of the EU are particularly good at this game.

Third, the political handling of the “No” vote could become an example of how to conduct European debates in future. After the initial shock, the official reaction on the national and European levels was staunch and level-headed. An important signal to the other EU member states was the fact that the treaty was actually ratified as planned in the United Kingdom, of all places.

The past few months in Ireland have shown that the electorate is certainly interested in an intensive debate on Europe. Instead of the usual shamefaced and intellectual approval of a complex treaty, Irish politicians first began to support Europe in a pro-active and emotional manner when the multi-millionaire Ganley appeared on the scene with his organization LIBERTAS. After the referendum in particular there

was a lively debate in Ireland about the pros and cons of EU membership and the further deepening of the EU. In the final analysis it remains to be seen whether or not this discussion will secure electoral approval of the Treaty of Lisbon. But it was only the recognition of what would happen to Ireland if it no longer had EU membership which made many people (including many politicians) aware of the significance of the European Union, and this is borne out by the survey results.

Fourth, there should be greater involvement in EU policymaking by the national parliaments, and Europe should become a career vehicle. The Treaty of Lisbon hopes to achieve the former with the help of the early warning mechanism, which gives the national parliaments a greater opportunity to play a part in shaping European politics.

“The European Union needs a new ‘story line’.”

Furthermore, the report of the Subcommittee of the Irish parliament suggests that national parliaments should be consulted formally about the European Commission’s annual policy strategy and legislative work programmes. However, such formal regulations would not change anything about the fundamental deficits of national policymakers, which include profound ignorance of and a lack of interest in European politics.

The EU heads of state and government should take this as their starting point. Far more effective than any kind of political

education is to begin with the basic instinct of every politician, which is the acquisition and the retention of power. If in future every new national government were to include several MEPs and European policy specialists from the national parliaments, there would be a rapid increase in the interest displayed in European politics. That could also be a lesson from the referendums, albeit an indirect one, which might prove useful in the forthcoming elections.

Fifth, the European Union needs a new “story line,” something that brings together old values and the challenges that lie ahead. The referendum debates have demonstrated that the emotional gap that separates citizens from Brussels and the EU cannot be diminished merely with the help of rational techniques. A “Europe of projects”, which José Barroso announced some years ago, is not an idea that will go very far. “Europe as a peace project” seems to have become part of the general vocabulary, but as something with which one can identify this term is no longer of much use.

Oddly enough, the global financial and nascent global economic crisis could prove to be the catalyst for a new idea for the European Union. A “Europe of Solidarity” may well materialize. There could be internal solidarity among its citizens and external solidarity with emerging and developing countries. However, could is the operative word here, for at the moment we are still immersed in a crisis.

For Further Reading:

Houses of the Oireachtas, Report of the Sub-Committee on Ireland's future in the European Union: Challenges, Issues and Options, November 2008

Institute of International and European Affairs, Ireland's Future after Lisbon. Issues, Options, Implications, November 2008

Milward Brown IMS, Post Lisbon Treaty Referendum Resarch Findings, September 2008

European Commission, Post-referendum survey in Ireland. Preliminary results, Flash Eurobarometer, Juni 2008

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