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Irish Vote, Europe's Future: Four options after the "No"

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Ireland has rejected the Treaty of Lisbon. More than six years after the start of the constitutional process, the work and effort of the European Union seems to have been in vain. The intention was to make the community more effective and far more democratic. All that remains is a feeling of helplessness. What, if anything, can European policymakers do in this situation?

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OPTION I

Repeat the referendum and insert a declaration

In a few months' time the Irish will hold another referendum on the unaltered treaty. From a European angle this would be the simplest solution, though the least likely from an Irish point of view. Hardly any of the Irish voters who said "No" in the first referendum will have been persuaded to change their minds by the time the second referendum comes along. Polite comments emanating from Brussels that all the other member states have already given or are about to give their assent to the treaty will do little to change this state of affairs.

However, the Treaty of Lisbon in its present form could be spruced up by adding a special declaration for Ireland. This might include a statement repeating the EU's attitude to Ireland's three "holy cows:" military neutrality, abortion and corporate taxation. The advantage of such an additional declaration would be that ratification in other EU member states would not become invalid, and the treaty would not have to be renegotiated.

OPTION II

A new treaty

The Treaty of Lisbon is sent back to the drawing board and is renegotiated from A to Z. The procedure would resemble the one which occurred after the referendums

in France and the Netherlands. What would seem to be the most clear-cut solution is in fact very risky in political terms and could easily end up in a quagmire when it comes to defining what the Treaty should in fact contain.

The member states which only grudgingly gave their assent to the Treaty of Lisbon because they were actually expecting a

This option would only be feasible if the way in which a new treaty is put to the vote were to be changed. The different national ratification procedures and the attendant possibility of referendums at various different times could be supplanted by a Europe-wide referendum on the new treaty. In this context it might be apposite to apply the principle of the dual majority. If fifty per cent of the EU electorate and at

EU options following Ireland's "No" vote

- I** **Repeat the referendum**, incorporating a special declaration: **Ireland** would issue a **special declaration about its national sovereignty** but take another vote on it.
- II** Come up with a **new treaty**: Going back to square one, the treaty would be fully renegotiated.
- III** The Treaty of Nice would remain in place, with just a few minimal changes: **The Treaty of Nice would remain the 'basis for business'**, with some minor changes.
- IV** **Establishment of a new, supranational union**: Those EU Member States wanting a deeper Union would join together, forming a **'core Europe'**.

greater degree of integration from a new treaty would do everything they could to prevent even more back-peddalling.

On the other hand there are the United Kingdom and the Czech Republic with their eurosceptical electorates and/or governments. They would prefer a treaty based on a completely different strategy and might reject any additional steps towards integration. This could be an ominous state of affairs. In the case of Ireland it would be compounded by the fact that the issues underlying the opposition to the treaty were rather vague and for this reason could not be used as the basis of a new and consistent negotiating position.

least fifty per cent of the member states were in favour of the new treaty, it would enter into force. It is conceivable that the governments might jointly declare that, come what may, they would abide by the result of a ballot based on such a procedure.

OPTION III

Keep Nice and make minor alterations

Is it really true that the European Union cannot function on the basis of the Treaty of Nice concluded in 2003? There can be

no doubt that the European Union has long since outgrown the made-to-measure suit it was given back in those days. A Union with 27 or what may soon be even more member states needs different decision-making mechanisms. Nevertheless, even with the Treaty of Nice, which is currently the basis on which the Union operates, the legislative machinery in Brussels would continue to function. Admittedly, the po-

Foreign Affairs. New treaties are not required in order to do this. What is needed is the political will. Steps leading to more democracy and co-decision-making by EU citizens are also possible. Thus the European Council could declare that it would appoint its candidate for the post of President of the Commission only if he or she is also being elected by the European Parliament.

Looking back: Consequences of the "No" to Nice

Ireland already rejected the European Treaty once before.

In June 2001, 54% of the Irish population voted against the Treaty of Nice. To secure voters' approval of the treaty in a second referendum held in October 2002, the Irish government implemented four measures.

- **National Forum on Europe:** In October 2001 the non-party Nation Forum on Europe was set up, including both advocates of the treaty and Eurosceptics. The aim was to **reduce citizens' lack of information** and facilitate a broad debate on Ireland's EU membership and the future of Europe.
- **National Declaration by Ireland:** Although this declaration was not legally binding, in it the Irish government stressed that the country's traditional policy of neutrality would not be affected by the Treaty of Nice. Regarding Ireland's participation in EU military operations, a so-called '**triple lock**' was put in place, specifying that in future a mandate from the UN Security Council would be required in addition to the approval of the government and parliament.
- **Special clause:** This additional clause in the Irish Constitution guarantees that Ireland **may not take part in the Common European Defence Policy** before the country's citizens have expressly endorsed the taking of such a step in an **additional referendum**.
- **Supervisory powers:** The Irish government **shored up parliament's rights** regarding European policy issues, e.g. by setting up a new body, the Committee on European Affairs, and introducing a strict government information policy.

litical will and a determination to get things done would be lacking in the years to come. How is Europe supposed to assert itself in the world at large and in its dealings with other great powers if it cannot even do its homework?

Every single amendment of the institutional structure would have to be worked out painstakingly between the member states and the institutions in Brussels. That would be difficult, but not wholly impossible.

Thus it would certainly be feasible to set up the joint External Action Service and to create the office of a European Minister for

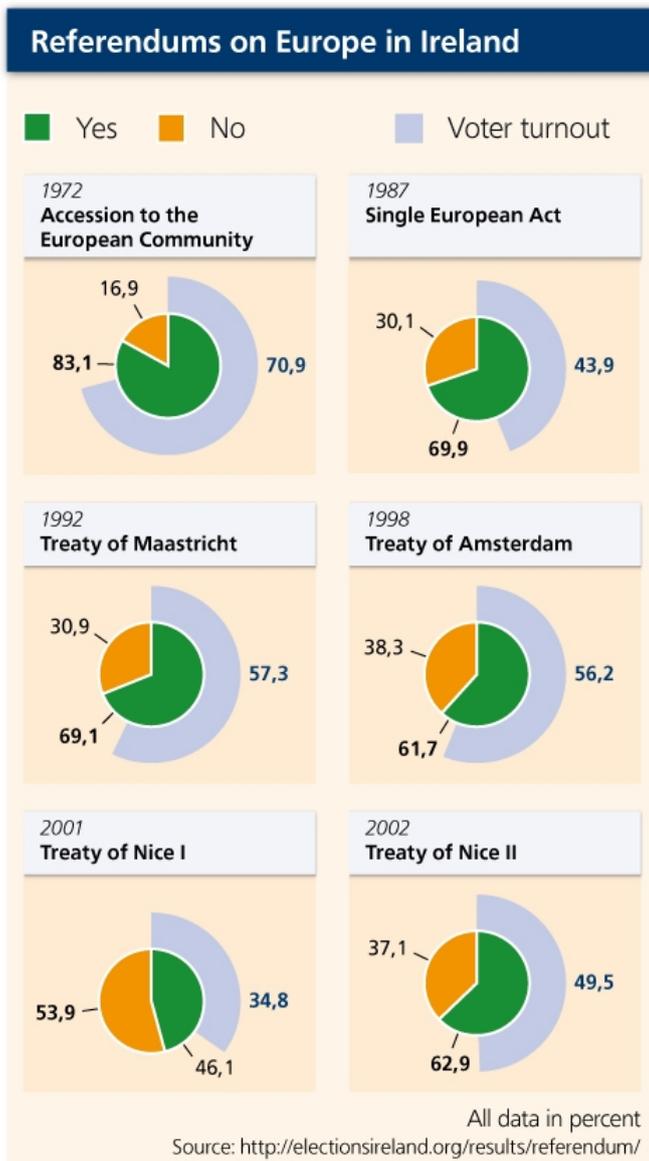
And why should a European citizens' initiative not be possible even though it is not provided for in institutional terms? With the help of inter-institutional agreements between the EU bodies or even by simply making changes in the procedural rules, European policymakers could easily demonstrate that they are being serious when talking about the advent of more democracy in Europe.

OPTION IV

A supranational Union

The old EU would continue to exist on the basis of the Treaty of Nice, whilst a num-

ber of pro-deepening member states would establish another Union of their own. The



threat of a separate European core can certainly be used in order to exert political pressure, but in practice such a new confederation would be confronted with numerous problems:

- *Who would participate?* Even in countries which are repeatedly mentioned as possible members of a European core, there is little willingness to surrender even more sovereignty to a supranational level. Neither German nor French citizens currently see European integration as the one and only solution for their national problems.

- *What will happen to transparency?* The new community would need its own institutions and its own financial resources. The EU originally wanted to become more transparent. This would definitely be a thing of the past. Citizens would find it very difficult to understand the new European institutional muddle and the need for financial resources.

- *How would the new Union work together with the old Union?* The countries of the new Union would constitute a power bloc wielding a very large number of votes in the old Union. The automatic result would be the formation of two competing camps.

- *What would happen to the common European idea?* Only a few years after eastern enlargement and the panegyrics on the unification of Europe the continent would once again be on the verge of new divisions and ruptures. The EU would once again have failed in its attempt to speak to the world with one voice.

The ongoing evolution of a project-based Europe is more probable than the establishment of a new Union by an exclusive group of member states. In various policy areas, countries with varying interests will team up in a number of different constellations to pool their policymaking.

"More likely is a differentiated Europe."

The euro and the Schengen area demonstrate that variable forms of deeper integration are not new. Unlike the idea of a European core, this kind of evolution would not lead to the formation of competing blocs. Thus the subsequent inclusion of other states would be an important constituent feature of this differentiated and project-oriented approach. As a result,

policymaking in various policy areas could proceed without immediately sowing the seeds of division and discord in the European Union.

Other alternatives are interesting, yet questionable

Another alternative, which is already being aired in the media, is whether and how Ireland should and could be forced to leave the European Union. European policymakers must reject this scenario swiftly and decisively. Even if the Irish “No” vote is a bitter setback for the development of Europe, it must be treated with respect. After the rejection of the constitutional treaty by France and the Netherlands, no one would have hit on the idea of expelling these countries from the EU. The same approach should apply in the case of Ireland. Pressing ahead with the Treaty of Lisbon without the Irish might be interesting in political terms, though it would be democratically questionable and legally impossible.

“The EU’s democratic legitimacy would vanish into thin air.”

The idea is that the 26 other member states would work on the basis of the new treaty from January 2009 onwards, and that ways and means would be found to enable the Irish to join in at a later date. In the weeks to come such political threats will be uttered on a number of occasions. They presuppose that the ratification process will continue in the EU member states which have still not completed it. Thus at the end of the day Ireland may well have been the only country in which the treaty was rejected.

However, in the light of European and international law this course of action is simply impossible. All signatories to the treaty, that is, all 27 EU member states, must have ratified the Treaty of Lisbon before it can enter into force. Furthermore, it would reinforce the image of the EU as an entity which does what it wants to do with or without reference to the electorate. The original constitutional process, which was designed to make the European Union more democratic and bring it closer together with its citizens, would have been turned on its head. The EU’s entire democratic legitimacy would simply vanish into thin air.

What needs to be done now?

In the immediate aftermath of the Irish “No” vote, European policymakers have very little room for manoeuvre. For the time being the present draft treaty should be retained, since this is in fact the backup plan many people are currently looking for. The Treaty of Lisbon was the answer to the rejection of the European constitutional treaty in France and the Netherlands. It is a compromise which was reached with great difficulty as a result of pressure exerted by the German EU presidency, and only to the accompaniment of a great deal of loud gnashing of European teeth.

“There is little room for manoeuvre.”

A renewed revision of the treaty would not only be difficult to accomplish in political terms. With regard to what it contains, it would also be moving on difficult terrain. What exactly needs to be revised? The clash of the various different integration policy paradigms—ranging from the idea that Europe should grow together as closely as possible to the vision of Europe as a loose free trade area—would be even

more pronounced. At the end of the day hardly any of the more substantial achievements of the constitutional treaty would survive, and the common European spirit would cease to be of much importance.

Thus the heads of state and government must send out a clear signal that the rati-

fication process in the last eight member states will continue and be completed. When all other EU countries have ratified it, the Treaty of Lisbon, to which a special declaration has been appended, could be submitted once again to the Irish electorate.

Responsible

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