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“It’s the economy, stupid”: Changing Irish minds on the Lisbon Treaty

Mervyn O’DRISCOLL

Introduction

The rejection of the Lisbon Treaty in the Irish referendum held on 12 June 2008 (Lisbon I) was a “stunning rebuke” of the EU.¹ It compared with the French and Dutch rejections of the Constitutional Treaty. An Irish vote in favour of the treaty had been viewed as a formality. Ireland’s rejection of the Nice Treaty (2001) had receded into memory – a glitch in its otherwise unblemished reputation. Lisbon was a contender for “non-event” status, perceived by the EU as a circumscribed attempt to “rescue whatever was left of the EU Constitution after its failure” to convince the French and Dutch electorates in 2005.² Shaved of the Constitution’s most contentious aspects in the field of identity, the perception was that Lisbon’s sanction by Ireland’s electorate was cast-iron. After all, Ireland revelled in a national “reputation as a ‘good’ – or, at least, an ‘obedient’ member state” – and polls revealed popular support for the EU.³

Irish voters, however, confounded expectations. They rejected Lisbon despite general satisfaction with the economy. Surprisingly the defeat occurred after a general election which reinforced the pro-EU centre and pushed critics of the EU in the lower house of parliament (Dáil Éireann) further to the margins. The respectable 53 per cent turnout was higher than the second Irish vote on Nice in 2002 (49 per cent). Moreover, the winning margin was irrefutable (53.4 per cent versus 46.6 per cent). A second referendum was not automatic – it raised questions about democracy, the popular will, the EU’s unanimity principle, the voice of small member states, and the “democratic deficit”. Only two previous reruns of EU referendums had occurred – Denmark’s revote on the Maastricht Treaty and Ireland’s repeat of Nice.

Until June 2008, Ireland’s rejection of Nice (2001) was as an incongruity. But the rejection of Lisbon could not be easily explained. It generated a crisis over Ireland’s place in Europe. Ireland’s political mainstream disliked the country being

1. D. DINAN, *Institutions and Governance: Saving the Lisbon Treaty*, in: *Journal of Common Market Studies*, 1(2009), p.113.
2. J. DOOGE, R. BARRINGTON (eds), *A Vital National Interest: Ireland in Europe, 1973-1998*, Institute of Public Administration, Dublin, 1999; C. CLOSA, *The Politics of Ratification of EU Treaties*, Routledge, Abingdon, 2013, pp.124 and 133.
3. M. HOLMES, *The Referendum on the Treaty of Lisbon on the Republic of Ireland, 12 June 2008*, in: EPERN (European Parties, Elections and Referendums Network) *Referendum Briefings* 16, Sussex, 2008, p.9.

cast in a negative light. Such a portrayal destabilised its national strategy of cultivating a “good European” reputation; “Ireland at the heart of Europe” was “a vital national interest” for successive governments. Disregarding the result promised to fuel criticism of the EU, not least because it was the largest negative vote recorded in an Irish referendum relating to the EU.⁴ What followed was a tentative reframing that led to a second referendum. Voters eventually accepted Lisbon on 2 October 2009 when they were profoundly indignant towards their government for ostensible economic mismanagement.⁵

This paper argues that Ireland’s hesitant approach in the early 21st century is comprehensible if placed in the context of a prolonged period of the deepening and the widening of European integration. Soft Europeanism was now insufficient to secure popular approval of EU treaties. Referendums were lost when a complacent or distracted Irish political establishment supported ratification, assumed automatic public endorsement, and opinion polls displayed instinctive Europeanism. A crucial weakness was that traditionally Irish political elites and the cross-party centrist consensus had framed integration as an economic necessity and a means to empower the nation state on the global level, i.e. predominantly representing the EU in an instrumental nationalist mode. On encountering popular rejections of EU treaties in the first decade of the 21st century, Irish governments learned from Denmark’s fitful Maastricht Treaty experience. They allowed ample time for national reflection and investigation (a gesture of respect for the popular decision). Then based on in-depth post-mortems, which revealed the misapprehensions that had contributed to the negative vote, the Irish government secured European clarifications to defuse popular fears (about the implications for the “Irish” Commissioner, military neutrality, traditional values, national sovereignty and workers’ rights). Armed with these, it established an authoritative rationale to run a second referendum based on the evidence that substantial portions of the electorate confessed to a lack of knowledge about the treaty. The EU tactfully refrained from comment and most other member states progressed their ratifications. That placed Ireland in a marginal and exposed position. During the second referendum campaign the pro-European political and economic centre engaged in a sustained effort (in contrast to the fragmented and belated first campaign). The “Great Recession” and its decimation of Ireland’s open economy was pervasive in 2009. The central theme and context was that the state’s economic future was imperilled if Ireland failed to remain a full-member of the EU. The national and international setting had altered, impacting on the electorate’s perceptions. That was the defining milieu for the second referendum. It embedded the political mainstream’s traditional economic narrative and fed the prevailing apprehensions about national isolation.

4. S. QUINLAN, *The Lisbon Treaty Referendum 2008*, in: *Irish Political Studies*, 1(2009), p.115.

5. E.Ö. ATIKCAN, *Agenda Control in EU Referendum Campaigns: The Power of the Anti-EU Side*, in: *European Journal of Political Research*, 1(2018), p.106.

Soft Europeanism and a National Narrative

Eurobarometer polls revealed that Irish support for integration exceeded the European average by some margin from the 1980s. There was “a remarkable sustained rise (from 47 per cent in 1984 to 80 per cent in 1999)” in the public’s positive estimation of EU membership. After 1999, it declined marginally but remained within the range of 75 per cent to 80 per cent until 2007. However, relying on soft Europeanism was an unsafe approach in a period of copious treaty change.⁶ A sign that the permissive consensus was unreliable came in 1998 with the Amsterdam Treaty referendum, when 38 per cent of the vote went against acceptance. The unparalleled size of the No shook the elites.⁷ Rejectionist forces coined an effective slogan that was exploited in subsequent EU referendums: “if you don’t know, vote No”.⁸ In 2001, the electorate rejected its first treaty: Nice.

Table 1: EU referendum ratification results⁹

Year	Treaty	% Yes	% No	% Turnout	% Invalid/Spoilt
1972	Accession	83.1	16.9	70.9	0.8
1987	SEA	69.9	30.1	44.1	0.5
1992	Maastricht	69.1	30.9	57.3	0.5
1998	Amsterdam	61.7	38.3	56.2	2.2
2001	Nice I	46.1	53.9	34.8	1.5
2002	Nice II	62.9	37.1	48.5	0.4
2008	Lisbon I	46.6	53.4	53.1	0.4
2009	Lisbon II	67.1	32.9	59	0.4

Accordingly, the rejection of Lisbon (2008) capped a decade of a mounting popular predilection. Another observation from referendum data (1972 to 2008) is that turnout declined from accession (70.9 per cent), hovering in an uninspiring range from 44.1 per cent (SEA) to 57.3 per cent (Maastricht). It never approached general election turnouts. This worked to the advantage of the No side with its committed supporters – traditional Yes voters disproportionately abstain unless galvanised.¹⁰

6. R. SINNOTT, *EU Referenda: Selective Veto or Inclusive Consultation*, in: *Challenge Europe*, 16(2007), pp.84-85.

7. B. LAFFAN, J. O’MAHONY, *Ireland and the European Union*, Palgrave, Basingstoke, 2008, p.106; ANONYMOUS, *Europe: Euro-yawn*, in: *The Economist*, 347:8070(2008), pp.52-53.

8. J. O’MAHONY, *Ireland’s EU Referendum Experience*, in: *Irish Political Studies*, 4(2009), p.437.

9. Source: Ibid., p.431.

10. R. SINNOTT, *Funding for Referendum Campaigns*, in: T. GARVIN, M. MANNING, R. SINNOTT (eds), *Dissecting Irish Politics: essays in honour of Brian Farrell*, University College Dublin Press, Dublin, 2004, pp.163-164.

Historical poll data also reveal that the public displays “relatively low levels of knowledge regarding the European Union”.¹¹ Consecutive referendums since the 1980s show that the predominant reason offered for the decline in turnout, the decline in Yes voting, the rise in abstentions, and the rise in No voting was a lack of confidence amongst the electorate over their understanding of the issues. Thus, generic positivity was susceptible to critics nurturing specific doubts.¹²

This paradoxical result of a knowledge deficit and general positivity materialised because membership of Europe had been presented as a necessary condition for Ireland’s transformation from a poor, peripheral state. The commitment to integration as a solution to its national problems (mainly economic backwardness, peripherality, and asymmetrical relations with Britain) was amplified by failures (in 1961 and 1967) before accession could be secured in 1972. The collective exertion to enter the club metamorphosed membership into a component of the national project.¹³ The history of Ireland’s travails to enter the EEC discloses that while governments emphasised economic opportunity, the political implications of “ever closer union” were not adequately explored with the electorate.

In sum, in the official discourse and that of the major parties (Fianna Fáil and Fine Gael), the EU enabled the realisation of national self-determination in a largely utilitarian fashion.¹⁴ In August 1990, the Minister of State for European Affairs, Máire Geoghegan-Quinn, contended that Ireland was “conditionally integrationist”.¹⁵ The nation relied on integration to persist and remain relevant. It was, as Alan Milward observed, “the European rescue of the nation state”.¹⁶ Membership transmuted Ireland’s relationship with Britain from one frequently characterised by nationalist antipathy and economic dependence to one based on greater respect and

11. K. HAYWARD, *Not a Nice Surprise*, in: *Irish Studies in International Affairs*, 13(2002), p.168. Similar contentions about Irish voter ignorance are made in every publication and analysis of opinion polls on the matter of Irish European referendums. A sample includes: J. O'MAHONY, *Ireland's EU Referendum...*, op.cit., p.429; J. O'BRENNAN, *Ireland and the Lisbon Treaty*, CEPS Policy Briefs Paper, 176(2008); B. LAFFAN, J. O'MAHONY, *Ireland and the European Union*, op.cit., pp.106 and 118-122; B. TONRA, *The 2009 Irish Referendum on the Lisbon Treaty*, in: *Journal of Contemporary European Research*, 3(2009), p.472; R. SINNOTT, *Attitudes and Behaviour of the Irish Electorate in the Referendum on the Treaty of Nice*, in: *Survey Carried out by Millward Brown Irish Marketing Surveys Ltd*, www.ucd.ie/Dempart/Workingpapers/Nice2.pdf, 2001; J.A. ELKINK, R. SINNOTT, *Political Knowledge and Campaign Effects in the 2008 Irish Referendum on the Lisbon Treaty*, in: *Electoral Studies*, 38(2015), pp.217-225; M. HOLMES, *The Maastricht Treaty Referendum of June 1992*, in: *Irish Political Studies*, 1(1993), pp.105-110.
12. R. SINNOTT, *Funding...*, op.cit., p.164; K. GILLAND, *Referenda in the Republic of Ireland*, in: *Electoral Studies*, 3(1999), pp.435-436.
13. See M. FITZGERALD, *The “mainstreaming” of Irish foreign policy*, in: B. GIRVIN, G. MURPHY (eds), *The Lemass Era*, University College Dublin Press, Dublin, 2005, pp.82-98; M. O'DRISCOLL, *Ireland, West Germany and the New Europe, 1949-73*, Manchester University Press, Manchester, 2018, passim.
14. K. HAYWARD, *Irish Nationalism and European Integration*, Manchester University Press, Manchester, 2009, p.231.
15. B. LAFFAN, *Irish government and European governance*, in: T. GARVIN, M. MANNING, R. SINNOTT (eds), *Dissecting Irish Politics*, op.cit., pp.116-133.
16. A.S. MILWARD, *The European Rescue of the Nation-State*, Routledge, London, 2000, passim.

equality (a rule-based EU framework). In spite of benefits, Ireland remained an economically weak and peripheral subaltern within the EU. Ireland finally emerged in the later 1990s as a more confident “European republic”.¹⁷ In the early 1990s, it received circa 7 per cent of its GNP from EU funds (mainly from structural funding) after a decade of economic misery.¹⁸ This stimulated its economy for take-off during the Celtic Tiger phase. Membership broadened Ireland’s horizons and its economy outperformed the EU and OECD from 1987 from an admittedly low base. Its GDP expanded by 140 per cent between 1987 and 2000, in contrast with the 35 per cent growth in the EU as a whole.¹⁹ In effect, the evidence indicates the Irish people were favourable to integration that converged with national interests, notably economic development and the sustenance of the state.

Ireland’s Celtic Tiger model was a unique blend of Europeanisation and globalisation. The EU could not claim to be the sole cause of its economic success. Certainly, its currency became anchored to the Deutschmark in the European Monetary System and then merged into the single currency, granting it stability and low inflation, while its government promoted the diversification of its economy and trade towards Europe. Ireland embraced the completion of the Single Market to restructure its industrial and labour relations for peak competitiveness. But the seismic shifts in Europe coincided with globalisation. Fortuitous timing, policies, structural advantages (tax, education, language), and history (filial links and familiarity with the US produced by a populous diaspora) positioned Ireland to benefit disproportionately from the capital investment of US high-tech multinational corporations (MNC). Ireland renovated into a platform for American MNCs to export into the single market, and further abroad.²⁰

In sum, the “conditional strategy” of EU membership bore eventual benefits as part of an inimitable and interdependent set of modalities involving global shifts, regional integration and national positioning.²¹ The Europeanisation of society was limited. The Celtic Tiger was *sui generis* and not solely EU dependent. It was reliant on a Europe where small member states retained sufficient power to defend their vital national interests such as on corporation tax and in the identity field. All assessments of Irish Europeanism since the 1990s have concluded that popular support for integration “was strong, yet conditional”, and contingent on economic benefits, while the sense of nation remained robust.²² One scholar impishly posed

17. “European republic” is the term coined by B. TONRA, *Global Citizen and European Republic*, Manchester University Press, Manchester, 2006.

18. B. TONRA, *Global Citizen*, op.cit., p.62.

19. B. LAFFAN, J. O’MAHONY, *Ireland and the European Union*, op.cit., p.19.

20. See D. DONOVAN, A.E. MURPHY, *The Fall of the Celtic Tiger*, Oxford University Press, Oxford, 2013, pp.15-30.

21. Ibid., p.19.

22. J. O’MAHONY: *Ireland and the European Union*, in: M. COLLINS, T. CRADDEN (eds), *Political Issues in Ireland Today*, Manchester University Press, Manchester, 2004, 3rd ed., p.22.

the question in 2005 whether the Irish attitude to Europe were “to ask not what the country could do for Europe, but what Europe could do for the country”?²³

As a result well-founded scepticism prevails about the nature, scope and depth of Ireland's Europeanisation. It was an outcome of Ireland's national and economic formation. It was also an effect of its “top-down” mode of Europeanisation. The “pro-European cartel” at the apex of the principal national parties had not engaged in intensive Europeanisation of the citizenry, instead heavily justifying membership as a economic and national solution, or even policy. This created space for “Euro-questioning” among the population.²⁴ This is significant in the Fianna Fáil party which based its electoral dominance from the 1960s on its reputation as a pragmatic modernising party that secured Irish entry into the EU. It claimed to defend Irish interests “behind closed doors” in Brussels during its extended periods in government. Its rhetoric implied that the EU was a facilitator for Ireland, and the benefits derived from the negotiation and economic management skills of the natural party of government, i.e. Fianna Fáil. The challenge is that such top-down, thin Europeanisation is insufficient when referendums demand engaged and informed EU citizens. It is based on a utilitarian representation of the EU that fails to explain multifaceted integration.

Constitutional Constraints and Timing

Referendums were conducted in Ireland on every EU treaty after 1972. The Republic holds the record for conducting more EU referendums (nine including accession) than any other member.²⁵ This recourse to referendums is a product of a national constitutional history, but it became an impediment to EU treaty ratifications in the first decade of the 21st century. It compounded the vulnerabilities associated with Ireland's “soft” Europeanisation. Since 1937, eleven of the 39 proposals to amend the Irish constitution have been rejected, but the frequency of rejection increased with six of the 18 referendums since 2001 suffering defeat (33 per cent rejection rate). In the same period, the electorate rejected two of five (i.e. 40 per cent) EU referendums.²⁶

23. Quoted in B. GIRVIN, *Ireland – more referendums anyone?*, in: M. CARBONE (ed.), *National Politics and European Integration*, Edward Elgar Publishing, Cheltenham, 2010, p.127.

24. T. REIDY, *Blissful union? Fine Gael and the European Union*, in: *Irish Political Studies*, 4(2009), pp.512, 520 and 524.

25. M. MARSH, *Voting on Europe, Again and Again*, in: *Electoral Studies*, 38(2015), p.178. In addition to the eight referendums identified in Table 1, a further Irish referendum was conducted when the Fiscal Stability Treaty was put to a referendum of the Irish people in 2012.

26. See C. LYNCH, *Explaining the Outcome of Rejected Referendums*, in: L&RS (Oireachtas Library & Research Service) Note, 23.02.2018, p.27; G. BARRETT, *The Use of Referendums in Ireland*, in: *Journal of Legislative Studies*, 1(2017), p.77.

The Irish referendum has a revered quality that links concepts of self-determination and popular sovereignty. It reflects the idea of the democratic will which was invoked as the justification for the independence struggle (1912-1922). A referendum provision was enshrined in the first constitution of the Irish Free State in 1922 and the second (the current) constitution in 1937 was approved by a referendum. Under the 1937 constitution, all amendments required popular approval. By the 1960s, the Taoiseach, Seán Lemass, desired to remove that provision. The Committee on the Constitution in 1967 concluded that was untenable, observing that the people were “particularly attached to the idea that the Constitution is a charter which only they can adopt, enact, and give to themselves”.²⁷ A journalist observed in 1966, “[a] great thing about our constitution is that our politicians are constantly frustrated and irritated by it”.²⁸ The Attorney General’s legal committee, established by the government to advise on the legal implications of EEC membership, advised that the Irish government could not ratify an EEC accession treaty without a popular referendum.²⁹ A narrow constitutional amendment was enacted to enable accession via a referendum. The amendment stipulated that “no provision of this Constitution invalidates laws enacted, acts done, or measures adopted by the obligations of the European Union or the Communities”. The drafters calculated that future EU treaties would not require additional referendums, but the Supreme Court remained the final arbiter.³⁰

The restrictions on the government’s room for manoeuvre tightened markedly in the 1980s and 1990s. Three landmark court rulings—Crotty v. An Taoiseach (1987), McKenna v. An Taoiseach (1995, No.2) and Coughlan v. Broadcasting Complaints Commission and RTE—transformed the framework. The first was occasioned by Raymond Crotty’s challenge against Article III of the SEA (on foreign policy cooperation) to prevent its ratification by the Dáil. The Supreme Court judgement stipulated that Article III was outside the scope of the accession treaty and, therefore, a referendum was necessary. Ever since 1987, governments have called referendums to ratify EU treaties rather than risk unpopularity and legal challenge. There are well-founded arguments that many treaties do not extend the EU’s scope and some legal experts are critical of the Crotty ruling regarding it as an infringement of the state’s treaty making powers.³¹ Others characterise it as “unfortunate” that the Supreme Court has not been asked again to clarify its 1987 judgement.³² The government’s position that “when in doubt”, submit to the people

27. B. KISSANE, *From People’s Veto to Instrument of Elite Consensus: The Referendum Experience in Ireland*, in M. SETÄLÄ, T. SCHILLER (eds), *Referendums and Representative Democracy*, Routledge, Abingdon, 2009, p.24.

28. Cited in *ibid.*, p.25.

29. B. KISSANE, *New Beginnings : Constitutionalism and Democracy in Modern Ireland*, University College Dublin Press, Dublin, 2011, p.91.

30. B. KISSANE, *From People’s Veto...*, *op.cit.*, p.26.

31. G. BARRETT, *Building a Swiss Chalet in an Irish Legal Landscape?*, in: *Irish Constitutional Law Review*, 1(2009), pp.40-41.

32. J. O’BRENNAN, *Ireland and the Lisbon Treaty*, in: *CEPS Policy Briefs*, 176(2009), p.3.

prevails.³³ It “led to the deployment in Ireland of direct democracy in the place of representative democracy to an extent unparalleled in any other state in the European Union”.³⁴ The repercussions were fully exhibited in the rejection of the Nice Treaty. Paradoxically, the government calculated that Nice did not transfer sovereignty and a referendum was not legally required. But the Attorney General advised that this could provoke a Court challenge.³⁵

Two further judgements remodelled referendums with far-reaching consequences. In 1995, Patricia McKenna, a Green Party MEP and EU critic, campaigned against a divorce referendum, disputing the government’s investment of public funds in achieving a positive result. The resultant Supreme Court ruling, *McKenna v. An Taoiseach (No.2)*, reasoned that the use of public funds in this way undermined equality, democracy, and fairness.³⁶ Next, in 1997, a High Court ruling found in favour of Anthony Coughlan against the national public broadcaster’s (*Raidió Teilifís Éireann*) practice of allocating airtime based on electoral support for political parties. Equal airtime was mandated to both the Yes and No campaigns. Coughlan was a leading campaigner against European integration in Ireland’s EU referendums, having originally opposed Irish accession (1972). The McKenna and Coughlan cases changed the rules of the game.

Notwithstanding legal arguments about whether governments are strictly required to submit all EU treaties to a referendum (i.e., whether they extend the scope of the existing treaties), during such votes, governments are proscribed from campaigning in their favour. As such, they were progressively constrained at precisely the time that a surge in EU treaty-making occurred.

Honeymoon ending

The acceleration in the pace, depth, and scope of European integration since 1987 is vividly displayed by the unparalleled number of treaties proposed: the Single European Act, Maastricht (1992), Amsterdam (1997), Nice (2001) and Lisbon (2007). These were ratified eventually, unlike the failed Constitutional Treaty (2004). In the process, the EU grew from a relatively homogeneous Western European community of developed core states into a continent-wide union possessing a single market and single currency. The traditional “community bargains” of the Treaty of Rome were modified in an unequalled phase of incremental adjustments. That involved a complicated calibration of balancing state interests, expanding

33. SUPREME COURT, *Patricia McKenna v. An Taoiseach and Others (No.2)* [S.C. Nos. 361 and 366 of 1995], *The Irish Reports*, 1995, pp.10-56; G. BARRETT, *Building a Swiss Chalet...*, op.cit., p.44; J. O'MAHONY, *Ireland's EU Referendum...*, op.cit., p.434.

34. G. BARRETT, *Building a Swiss Chalet...*, op.cit., pp.44-45.

35. C. CLOSA, *The Politics of Ratification...*, op.cit., p.125.

36. G. BARRETT, *Building a Swiss Chalet...*, op.cit., p.51.

Community competences, and building effective institutions and policies to prepare for Central and Eastern European enlargement as well as the ramifications arising from the single currency decision.³⁷ This led to intricate and evolving decision-making processes and institutions, and created a sense of an EU under perpetual construction. The reform of the decision-making structures and policies after Maastricht (1992) was a taxing and charged process. A major reason the EU is multi-layered and poorly comprehended by many citizens is that state interests act as a brake on deeper and wider integration. The EU has been subjected to simplistic claims that it suffers from a democratic deficit and elitism. The latter criticisms developed after 1987 with the acceleration of integration. They partially reflected popular fatigue with the continual rounds of bargaining and treaty making.

The years 1986 and 1987 were therefore a watershed that held implications for Ireland's relationship with Europe. The "relaunch of Europe" instigated unmatched integration activity. From a legal viewpoint, the Crotty ruling prevented the Irish government from an automatic recourse to parliamentary ratification of new EU treaties. Simultaneously, the Irish party-political system experienced a shift; the electoral hegemony of Fianna Fáil since 1932 ended and its ability to set the national agenda was dulled. In 1987, the party formed a minority government; it would never form a majority government again. Two years later, Fianna Fáil finally rejected its aversion to forming coalition governments. The grave economic recession and fiscal crisis of the late 1980s induced the Fianna Fáil minority government in 1987 to pursue corporatist management and consensual government ("social partnership") based on tripartite agreements between government, employers, and organised labour.³⁸ Social partnership is subject to uninterrupted bargaining and was only as good as the next deal. Social partners frequently seek to extract government promises to protect their interests in EU and international negotiations. Social partnership intruded on EU treaty ratifications, making EU treaties part of normal politics.

The electorate was called upon three times in the following decade to pronounce on treaty changes (SEA in 1987; Maastricht in 1992; and Amsterdam in 1998). Voter turnout in EU referendums was falling and the margin in favour of ratifying the treaties was declining. All three referendums were carried securely, but by 1998 exit polls revealed a worrying number of voters who cited a lack of information as the reason for casting negative votes. One Eurosceptic (Anthony Coughlan) asked in 1998: was Ireland's "honeymoon with the European Union [...] coming to an end"?³⁹ The rejection of Nice in 2001 added credence to this speculation. Even if this was reversed in 2002, there was good reason for caution.

37. See J. BRADBURY, *The European Union and the Contested Politics of 'Ever Closer Union'*, in: *Perspectives on European Politics and Society*, 1(2009), pp.17-33.

38. G. MURPHY, *Interest groups in the policy-making process*, in: J. COAKLEY, M. GALLAGHER (eds), *Politics in the Republic of Ireland*, Routledge, London, 2009, pp.336-337.

39. K. GILLAND, *Referenda in the Republic of Ireland*, in: *Electoral Studies*, 3(1999), p.435-436.

The first campaign

In one sense, the omens for the Lisbon referendum were positive. The 2007 general election eroded the strength of peripheral parties critical of the EU; the Socialist Party lost its sole parliamentary seat, whilst Sinn Féin remained a marginal party, losing one seat.⁴⁰ The establishment parties and political centre preserved their electoral dominance. Fianna Fáil returned to office for a third successive term as the mainstay in a coalition government (with the Progressive Democrats and the Green Party). In a *volte face*, the Green Party's leadership overturned its traditional objections to European Treaties to back a positive vote on Lisbon, with 63 per cent of the party's membership supporting the move. Nevertheless, this did not meet the two-thirds majority criterion to become official party policy. The other mainstream parties, including the main opposition ones (Fine Gael and Labour), supported a Yes vote. The primary pro-European civil society actor was the Alliance for Europe, which comprised politicians from the main political parties. Predictably, the main economic interest groups, the Irish Business and Employers Confederation (IBEC) and the Small Firms Association (SFA), were also supportive.⁴¹

The preparations for the referendum, nonetheless, were hardly ideal from a pro-Lisbon standpoint. Elite withdrawal, or more accurately elite political distraction in the formative stages of the Lisbon campaign, created a vacuum. Ruadhan Mac Cormaic of *The Irish Times* reported that he had met a "puzzled" French journalist in April who had concluded "there was no campaign" and that the "rhetorical exchanges, such as they were, seemed to consist mostly of isolated low-level sniping".⁴² Instead, attention was devoted to a major public controversy surrounding Taoiseach Bertie Ahern's personal finances and allegations of political corruption. The rumpus was fed by a drip feed of revelations from the Mahon Tribunal. Ahern's personal financial mess dominated the newsfeed and led to interminable questions about sleaze. He announced his intention to "step down" in early April, leading to his swift replacement by Brian Cowen on 7 May. Until that point, the elite political classes of the state were distracted. Pro-Lisbon forces, nevertheless, were comforted by the **common** belief that the electorate was singularly pro-European and that the No vote on the Treaty of Nice in June 2001 (Nice I) was an aberration.⁴³

Political history and even national character were factors in the negative outcome of the referendum. Irish political culture is innately personalised and localised, partially reflecting the voting system of proportional representation by single transferable vote (PR-STV) used in general and local elections. The PR-STV system is not relevant to the simple majoritarian outcomes of referendums but creates a culture of expectation. The electorate anticipates a high level of local en-

40. M. HOLMES, *The Referendum on the Treaty of Lisbon...*, op.cit., p.2.

41. S. QUINLAN, *The Lisbon Treaty...*, op.cit., pp.108-109.

42. R. MAC CORMAIC, *Foreign views of our Lisbon debate*, in: *Irish Times*, 07.06.2008, p.4.

43. S. QUINLAN, *The Lisbon Treaty...*, op.cit., p.108.

gagement and visibility from their public representatives and political party workers, equating the intensity of canvassing with significance. However, there was a lack of door-to-door canvassing by the Yes side until the final week of campaigning.⁴⁴ Most voters were not canvassed door-to-door. And when they were it was generally by the No side.⁴⁵ Owing to Irish citizens' lack of direct experience of the EU and their admitted knowledge deficit, this was doubly important because "how domestic politicians present the referendum proposed to them matters".⁴⁶ Below par campaigning intensity by the dominant parties may be interpreted as granting voters the freedom to exercise their independent judgement, or simply assuming that their support was assured.

In contrast, there was early and plentiful activity by civil society actors opposed to Lisbon.⁴⁷ Only one party represented in Dáil Eireann campaigned for a No, the small left-nationalist Sinn Féin, but it was energetic and visible. Overall, the No campaign was not dissimilar from those conducted by the eclectic assortment of marginal parties and single-issue groups that had dominated previous No campaigns against European treaties. It was the traditional "melting pot" of miscellaneous special interests, mainly from the extreme left, with some conservative social groups who championed traditional family values and old-fashioned Irish nationalism. The anti-Lisbon campaign included groups such as the Peace and Neutrality Alliance, People before Profit, and Cóir (which can be traced to Youth Defence and other pro-life and anti-abortion groups). There was the People's Movement, a disparate coalition of some veteran EU critics such as Green MEP Patricia McKenna (who disregarded the official neutral line of the Green Party).⁴⁸ Another opponent with pedigree was Anthony Coughlan. His organisation, National Platform, had originated in the 1960s to oppose efforts to join the EEC. This disparate assemblage of No forces loosely congealed around three main arguments: the erosion of military neutrality; the decay of traditional, Catholic, and Irish family values; and the undermining of national sovereignty, democracy, and independence.⁴⁹ These motifs had formed an uninterrupted part of Irish No campaigns against EU treaties since 1972.

The novel addition was a libertarian economic interest group, Libertas. It was the most vocal and visible player in the No campaign, dedicated to corporate tax competitiveness, protecting sovereignty, and safeguarding an "Irish" Commissioner. It disputed the contention that increased European integration was in Ireland's

44. J. O'MAHONY, *Ireland's EU Referendum...*, op.cit., pp.438-439.

45. C.M. BRUGHA, *Why Ireland Rejected the Lisbon Treaty*, in: *Journal of Public Affairs*, 4(2008) pp.303 and 306.

46. E.Ö. ATIKCAN, *Agenda Control...*, op.cit., p.35.

47. K. SIMPSON, *European Union Crises and Irish Public Opinion*, in: *Irish Political Studies*, 4(2019) p.511.

48. G. MURPHY, *Interest groups*, op.cit., p.347; S. QUINLAN, *The Lisbon Treaty...*, op.cit., p.109; C.M. BRUGHA, *Why Ireland Rejected...*, op.cit., p.305; J. O'MAHONY, *Ireland's EU Referendum...*, op.cit., p.441.

49. B. LAFFAN, J. O'MAHONY, *Ireland and the European Union*, op.cit., pp.110-111.

best economic interest. By combining efforts to protect a low corporate tax rate with the loss of an "Irish" EU Commissioner, it linked economic interests and sovereignty. This sowed confusion among customary pro-European voters, who had internalised the national narrative that the EU enabled economic progress. Libertas became "the motivating force behind the new campaign in the referendum".⁵⁰

Libertas was founded by Declan Ganley, an entrepreneur, whose nationality and business interests were the subject of speculation and criticism.⁵¹ Its sole objective was opposition to Lisbon. Any efforts to discredit Ganley, a software tycoon, for links with US defence interests were frustrated when Ulick McEvaddy declared in April in favour of Libertas and the No vote.⁵² McEvaddy owned an aircraft leasing company (Omega Air) and added credence to Libertas' claims. A respected businessman, he was "no shadowy outsider" (as was said of Ganley). He hailed from a family in County Mayo, in the West of Ireland, with traditionally close associations with Fine Gael. He had links with the Progressive Democrats, Fianna Fáil's regular government coalition partner since 1989. He was a friend of Charlie McCreevy, a leading member of Fianna Fáil and Ireland's European Commissioner. In short, through McEvaddy's support, Libertas was granted "renewed respectability".⁵³

As the date of the referendum grew closer in May, the pro-Lisbon campaign displayed incompetence and naivety, and failed to counterargue the No side "with passion and knowledge".⁵⁴ As opinion polls revealed that the referendum was in question, the Yes side committed high profile own-goals. The Taoiseach conceded that he had not read the Treaty from "cover to cover". Charlie McCreevy, "Ireland's" Commissioner to the EU, joined in the Taoiseach's defence and also admitted to having not read it. He claimed on 23 May that he "would not expect any sane person" to devote the time to do so.⁵⁵ The Tánaiste (deputy Prime Minister), Mary Coughlan, compounded matters. Twice over four days she asserted that the EU's large member states had two Commissioners (they had lost them in 2004). This impelled the *Irish Times* to remark that "[h]ow someone who had spent several years around an EU Council of Ministers' table could not know that is extraordinary".⁵⁶

50. S. QUINLAN, *The Lisbon Treaty...*, op.cit., pp.109, 110 and 113-121.

51. C. KEENA, G. CARBERY, *Ganley Says He Gave 200,000 Loan to Libertas*, in: *Irish Times*, 19.09.2008, p.1.

52. *Clouds shroud the motives for aviation tycoon's attack on Lisbon*, in: *Sunday Times*, 27.04.2008, p.10.

53. J.M. BROWN, *Ireland's critical poll on Lisbon treaty poised on a knife edge*, in: *Financial Times*, 03.05.2008, p.10.

54. ANONYMOUS, *Political damage suffered by Cowen has yet to become clear*, in: *Irish Times*, 14.06.2008, p.13.

55. S. MILLAR, N. LYONS, *Cowen admits: I still have not read the entire Lisbon Treaty*, in: *Daily Mail*, 27.05.2008, p.16; M. MCENTEE, *You have to be insane to read Lisbon Treaty*, in: *The Sun*, 24.05.2008, p.2; ANONYMOUS, *Cowen, Coughlan, McCreevy have not read Treaty*, in: *BreakingNews.ie*, 23.05.2008; ANONYMOUS, *I have Not Read all of the Treaty, Admits McCreevy*, in: *Irish Examiner*, 23.05.2008; F. SHEAHAN, *McCreevy: You would be Insane to Read the Treaty*, in: *Irish Independent*, 24.05.2008, p.16.

56. ANONYMOUS, *Political damage suffered by Cowen has yet to become clear*, in: *Irish Times*, 14.06.2008, p.13.

Brian Cowen appeared to criticise the commitment of the campaigns of Europhile Fine Gael and Labour (the main opposition parties) when a united front and consistent messaging was essential.⁵⁷

The pro-EU consensus forces belatedly activated one week before the referendum, leading observers to characterise the effort as desperate and defensive.⁵⁸ Elite complacency had left extensive space to the rainbow of anti-treaty campaigners to reframe the treaty.⁵⁹ Up to this late stage, the pro-treaty parties had failed to articulate a compelling justification. Dinan observes that Lisbon “lacked a compelling rationale, such as the single market and structural funds in the case of the Single European Act, or economic and monetary union in the case of the Maastricht Treaty”.⁶⁰ It was a complex document that was inaccessible or impenetrable to the average citizen, who found difficulty interpreting it.⁶¹ Added to that was an inherent suspicion that the contents of the Lisbon Treaty were simply a repackaging of the earlier Constitutional Treaty, which French and Dutch voters had rejected in 2005.

French journalist Marion Van Renterghem was covering the campaign in Ireland and drew attention to the “dizzying array of themes raised by the No side and the Yes advocates” struggle to respond to “the disorder of the charges, whether true or false”. Tellingly, she noted that the Irish pro-European elites were displaying the same “feeling of exasperation” as characterised France’s campaign in favour of the constitution in 2005.⁶² Ironically, the incoherence in the arguments of the assorted No bedfellows was advantageous – it proved unmanageable for the Yes campaign to counteract all the diverse No arguments. According to Fine Gael TD Lucinda Creighton, “people needed only one good reason to vote against” Lisbon.⁶³ Added to that, the anti-treaty forces targeted “red line” issues for some sections of the Irish population (including abortion, moral matters, neutrality, and militarisation). Admittedly, these involved largely “nebulous concerns about Irish identity”, but they animated many voters. Brigid Laffan, then the Chairperson of Ireland for Europe,

57. F. SHEAHAN, *Taoiseach Brian Cowen is trying to prevent a repeat of the bitter in-fighting in the ‘Yes’ campaign in the Lisbon Treaty referendum by getting the parties to co-ordinate their efforts*, in: *Irish Independent*, 02.09.2009, p.15; ANONYMOUS, *Cowen Refuses to Withdraw Lisbon Comments*, in: *Irish Examiner*, 28.05.2008.

58. C.M. BRUGHA, *Why Ireland Rejected...*, op.cit., pp.306-307. See also: M. HENNESSY, *Pro-Lisbon campaign still to get off ground*, in: *Irish Times*, 01.05.2008; W.J. SCHÜNEMANN, *Almost the Same Stories: Narrative Patterns in EU Treaty Referendums*, in: *National Identities*, 2(2017), p.214.

59. See E.Ö. ATIKCAN, *Agenda Control...*, op.cit., pp.93-115.

60. D. DINAN, *Institutions and Governance...*, op.cit., p.116.

61. Report by the Sub-Committee on Ireland’s Future in the European Union after the Negative Referendum (November 2008), p.57, https://www.cvce.eu/en/obj/report_by_the_sub_committee_on_ireland_s_future_in_the_european_union_after_the_negative_referendum_november_2008-en-ef67309d-6856-437d-9265-9e651af7b80d.html (accessed 15.10.2021).

62. ANONYMOUS, *Foreign Views of Our Lisbon Debate*, in: *Irish Times*, 07.06.2008, p.4.

63. E.Ö. ATIKCAN, *The puzzle of double referendums in the European Union*, in: *Journal of Common Market Studies*, 5(2015), p.944.

termed these as “neuralgic issues”.⁶⁴ As the Europhile *Irish Times* perorated, the referendum became a “repository of the ills of all lobby groups, national and international”.⁶⁵ Its association with many unpopular themes or sacred cows eroded support and raised anxieties about national sovereignty.⁶⁶

Subsequent research has shown that “a majority of the anti-treaty campaigners” accepted that they possessed an advantage in the 2008 Lisbon referendum. They had learned from the referendum on Nice that the electorate could be leant upon to vote No in the first instance to secure a “better deal”. Thus, the anti-treaty side possessed an “asymmetrical advantage”.⁶⁷

In addition, the Irish Farmers’ Association (IFA), the main national farmers’ organisation, negotiated guarantees that its interests would be protected in international trade negotiations. It refused to declare for a Yes vote until one week before the referendum, when the Taoiseach was compelled to declare that Ireland was prepared to veto a WTO deal that was injurious to farming and rural interests.⁶⁸ The involvement of pro-business groups and farmers in criticising the treaty hinted at fractures in the national political consensus. The Services, Industrial, Professional and Technical Union (SIPTU), the largest trade union, also vacillated, fretful about the erosion of worker protections as part of globalisation. It refused to endorse a Yes vote but would not advocate a No either. Similarly, a poll of managers in the Irish Small and Medium Enterprises (ISME) association revealed that three quarters intended to reject Lisbon.⁶⁹

Ways Forward?

In retrospect, the outcome can be explained by many long-term and immediate factors, but it generated a political crisis. The second defeat of an EU referendum in less than a decade was detrimental to Ireland’s image and endangered the EU project. The instinctive response of many European statesmen – who had invested heavily in the Lisbon compromise after the Constitutional Treaty misadventure – was disbelief. Anger and incomprehension were betrayed in many immediate comments. The German Foreign Minister, Frank-Walter Steinmeier, argued that “Ireland could exit the integration process for a time”. Then there was Wolfgang Schäuble’s dissatisfaction over “letting a few million Irish make decisions for 495 million Europeans”.⁷⁰ Leaked private comments by the incoming EU Council Pres-

64. D. DINAN, *Institutions and Governance...*, op.cit., p.116; E.Ö. ATIKCAN, *The puzzle...*, op.cit., p.945.

65. ANONYMOUS, *A Cloud with No Silver Lining*, in: *Irish Times*, 14.06.2008, p.19.

66. E.Ö. ATIKCAN, *The puzzle...*, op.cit., p.938.

67. E.Ö. ATIKCAN, *Agenda Control...*, op.cit., pp.105 and 109.

68. G. MURPHY, *Interest groups*, op.cit., p.343.

69. M. HOLMES, *The Referendum on the Treaty of Lisbon...*, op.cit., p.4.

70. ANONYMOUS, *Ireland’s Voters Speak*, in: *The Economist*, 21.06.2008, p.61.

ident, Nicolas Sarkozy, that Ireland would have to vote in a second referendum were incendiary.⁷¹ Such remarks inflated Eurosceptic sentiments and nationalist emotions. A Red C opinion poll of the Irish voters conducted soon after Sarkozy's aside revealed that 62 per cent would vote No in a second referendum, while 71 per cent opposed a second referendum.⁷² The focus group research of Millward Brown IMS in July noted a consensus against resubmission of an unchanged treaty. Supporters of No were expressly offended by suggestions that the decision would not be respected.⁷³

The EU and Ireland faced a dilemma between two equally undesirable alternatives. A majority of EU members had ratified or were in the advanced stages of ratifying Lisbon. Ireland's vote should have terminated ratification in accordance with the unanimity rule, but as one EU official later remarked:

"If 26 countries say Yes and one country says No, what does it say about democracy? Why are the 26 countries penalized? It is not unreasonable to turn around to the No-voting country and ask what went wrong and address the problem".⁷⁴

An automatic Irish revote on a second successive EU Treaty would transmit negative messages about the voice and rights of small states and provoke questions about sovereignty and the popular will.

On the other hand, the alternatives to a revote were unpalatable. There was no appetite among the preponderance of states to renegotiate Lisbon after eight years. Reopening "Pandora's box" was not an option. The other EU members recognised that loose commentary born out of exasperation was construable as intimidation, so a policy of not commenting except to state respect for the Irish decision emerged. Yet the EU remained unwavering – it would bring the treaty into effect. What transpired was that Irish and European leaders progressively co-engineered a solution to the impasse. That amounted to adapting the stratagem to reverse the Danish No to Maastricht (1992-1993) and the Irish rejection of the Nice Treaty (2001-2002).⁷⁵

At first, Dublin played to defuse tensions. The Minister for Foreign Affairs accepted that the government had run an ineffective campaign and there was an imperative to improve communication about European matters with the public.⁷⁶ That insinuated it was an "Irish problem", but the government respected the democratic

71. ANONYMOUS, *Vote early, vote often*, in: *The Economist*, 26.07.2008, n/a.

<https://www.proquest.com/magazines/europe-vote-early-often-ireland-lisbon-treaty/docview/223998094/se-2?accountid=14504> (accessed 15.10.2021).

72. ANONYMOUS, *'62pc Would Vote No' in Second Lisbon Run*, in: *Daily Mail*, 28.07.2008, p.4.

73. M. BROWN IMS: *Post Lisbon Treaty Referendum Research Findings*, Department of Foreign Affairs, Dublin, 2008, p.26.

74. Interview, 11.04.2011 cited in: E.Ö. ATIKCAN, *The puzzle...*, op.cit., p.954.

75. E.Ö. ATIKCAN, *The puzzle...*, op.cit., p.939.

76. COLLINS, SMYTH, *Failure to Understand Lisbon the Key Reason for No Vote: Opinion Poll Finds 42% Cited Lack of Knowledge of Treaty*, in: *The Irish Times*, 11.09.2008, p.1; C.T. JERZAK, *The EU's Democratic Deficit and Repeated Referendums in Ireland*, in: *International Journal of Politics, Culture, and Society*, 3(2014), pp.367-388.

will, as did its European partners.⁷⁷ The rejection, therefore, was not an expression of a flaw in the EU or the Lisbon Treaty, and the government's admission cleared the way for the European leaders to work with it in a supportive fashion. Taoiseach Cowen "pleaded for time to ponder what went wrong and was granted it" at the Brussels summit in late June.⁷⁸ The EU mainstream continued ratifications in other capitals. By late 2008, twenty-three states had ratified.⁷⁹

In the interim, the Cowen government set up a committee of enquiry, the Oireachtas Sub-Committee on Ireland's Future in the EU. Chaired by a member of the main opposition party (Fine Gael), Senator Paschal Donohue, its membership comprised all parties and points of view (including Sinn Féin, the Green Party, and Independents). Its task was to make recommendations about Ireland's engagement with the EU whilst considering public attitudes and national interests.⁸⁰ The Department of Foreign Affairs also commissioned a Millward Brown IMS opinion poll and focus group research. The Millward Brown account was published in September amid headlines that "[f]ailure to inform voters doomed Lisbon".⁸¹ It concluded that a knowledge deficit was the cardinal reason for abstentions (46 per cent) and voting No (42 per cent). Moreover, despite the referendum result

"Irish people remained among the most positive nations in terms of attitudes towards the EU [...] positive attitudes toward the EU stood at 70%, and even among No voters, 63% think the EU is a good thing, well ahead of the EU average of 52%".⁸²

It also concluded that 60 per cent of voters wanted Ireland to remain a full EU member, with 18 per cent advocating less involvement (22 per cent had no opinion).⁸³ In short, the Millward Brown IMS findings corroborated the Flash Eurobarometer poll taken from 13-15 June, which revealed that in excess of half of the abstentions were a product of a lack of confidence or understanding.⁸⁴ That poll also tellingly exposed that "76% of 'No' voters supported the view that the 'No' vote would allow the Irish government to **renegotiate "exceptions" within the treaty**". The Flash poll found that

"[t]he vast majority in either camp (88.5% of the "no" votes and 89% of the "yes") voters rejected' the contention that the negative referendum result 'could mean that **Ireland was on its way out of the EU**'.⁸⁵

77. C. CLOSA, *The Politics of Ratification*..., op.cit., p.135.

78. ANONYMOUS, *The unanimity problem*, in: *The Economist*, 28.06.2008, p.60.

79. C. CLOSA, *The Politics of Ratification*..., op.cit., p.136.

80. Sub-Committee on Ireland's Future in the European Union, Work programme, <https://www.europarl.europa.eu/document/activities/cont/200904/20090423ATT54328/20090423ATT54328EN.pdf> (accessed 15.10.2021).

81. ANONYMOUS, *Failure to inform voters doomed Lisbon*, in: *Irish Times*, 11.09.2008, p.7.

82. M. BROWN IMS: *Post Lisbon Treaty Referendum*..., op.cit., pp.i-ii.

83. ANONYMOUS, *Failure to inform*..., op.cit., p.7.

84. FLASH EUROBAROMETER, *Post-referendum survey in Ireland – Preliminary results*, 18.06.2008, p.2.

85. *Ibid.*, p.10, Bold print in original.

Cowen exploited the accumulating evidence. He argued at the European Council in October for additional time to find a solution, especially as the Oireachtas Subcommittee still had to report.⁸⁶

The government's hand was strengthened. All the evidence pointed to a public that was enduringly pro-European. Both the popular and government consensus was that full EU membership remained a priority. Jamie Smyth, the European correspondent for the *Irish Times*, wrote in the aftermath of the European Council on 21 October that, "as memories of the unsuccessful June referendum begin to dim, all the signs are that Cowen will order a revote sometime next year, most likely in the autumn". The official Irish position remained that no decision had been made. Regardless, from October, the government entered discussions with the European Council Secretariat seeking solutions to conciliate No voters without renegotiating the treaty. Sarkozy asked Dublin to consult Jean-Claude Piris, who was "known as something as a magician in Brussels". He was intimately involved in drafting every EU treaty since Maastricht and was the "key legal architect behind Lisbon".⁸⁷ Piris was the Director of Legal Services for the European Council, the "consummate" EU "insider", and a "rescuer" of EU treaties. He had fashioned the Danish opt-outs on the Maastricht Treaty, and he worked to meet Irish concerns.⁸⁸

In November, the high-profile Sub-Committee reported after hearing 110 witnesses from 40 diverse organisations. It concluded that six concerns had contributed to the referendum outcome:

- The need for a low corporate tax rate
- Worker's rights (including apprehensions about "a neoliberal tendency within the current Commission")
- A perceived threat to public services and ownership
- A "creeping" EU involvement in sensitive socio-ethical issues (including abortion and the family's role in society)
- The conceivable erosion of Irish military neutrality
- Declining Irish influence within the EU institutions (as a consequence of the reduction in the number of Commissioners).⁸⁹

The all-party and joint Sub-Committee emphasised that while the purpose of the Commission was

86. PRESIDENCY of EUROPEAN COUNCIL, Brussels European Council 15 and 16 October 2008 – Presidency conclusions, 16.10.2008, p.6 <https://data.consilium.europa.eu/doc/document/ST-14368-2008-INIT/en/pdf> (accessed 15.10.2021).

87. J. SMYTH, *Behind Global Financial Crisis Lurks the Spectre of Lisbon*, in: *Irish Times*, 21.10.2008, p.12.

88. P. CRAIG, *Two-Speed, Multi-speed and Europe's future*, in: *European Law Review*, 6(2012), p.800; S. QUINLAN, *The Lisbon Experience in Ireland: 'No' in 2008 but 'Yes' in 2009 – How and Why?*, in: *Irish Political Studies*, 1(2012), p.141; B. TONRA, *The 2009 Irish Referendum...*, op.cit., p.473.

89. HOUSES OF THE OIREACHTAS, SUB-COMMITTEE ON IRELAND'S FUTURE IN THE EU, *Ireland's Future in the EU: Challenges, Ideas and Options*, Stationery Office, Dublin, 2008, pp.36 and 39.

“sometimes misunderstood, it does appear that having a Commissioner nominated by the government is a matter of national sensitivity [...] Having a Commissioner all the time would also offer legitimacy to the proposals made by the Commission”.

The Sub-Committee confirmed the national consensus that Ireland's priority was to retain a place “at the heart of the EU”, but that a rejection of the treaty would be “detrimental” to national interests. It advised against opt-outs or solutions that left Ireland in “an outer or second tier of the EU”. Differentiated integration would be “devastating”, “dangerous”, and “catastrophic” for Ireland economically and politically. As for departing the EU, that was “unthinkable”.⁹⁰ Nor could the Sub-Committee support ratification through the Oireachtas as this would not respect the democratic will. Public opinion polls backed these findings. In November 2008, an *Irish Times/TNS mrbi* poll showed that 43 per cent of those questioned would vote Yes in a second referendum, outnumbering the likely No vote (39 per cent).⁹¹

Meanwhile, “behind closed doors”, the tracing out of possible declarations and guarantees was underway in Brussels, Paris, and Dublin. Political negotiation and choreography occurred, but by early December the chess pieces were in place for an accommodation at the EU level.⁹² The outlines of a “game plan” materialised. Cowen presented the conclusions of the Irish reflection to the European Council in December. It settled that if Ireland ratified the treaty by the end of the existing Commission's term, then each state would retain their right to appoint a Commissioner. It “carefully noted” the Irish people's concerns “relating to taxation policy, family, social and ethical issues, and Common Security and Defence Policy (CS-DP) with regard to Ireland's traditional policy of neutrality” and undertook to address them to the EU and Ireland's “mutual satisfaction”. The Council also consented to negotiate the “necessary legal guarantees” affirming that the treaty would

- respect state competency in taxation policy,
- “not prejudice [...] Ireland's traditional policy of neutrality” and
- not impinge on the right to life, education, and family provided in the Irish Constitution.

It acknowledged the “high importance” attached to “workers' rights” by the Irish people.⁹³

Negotiating the detail of the legal guarantees consumed the next seven months and was widely reported, which had an educative value for the Irish public. It proved time consuming since several member states, notably Britain, had concerns that an Irish protocol with legal guarantees represented a material alteration to the treaty that they had already ratified. Conversely, the Irish government desired the

90. Ibid., pp.3, 5, 27, 30, 42 and 51.

91. S. COLLINS: *Voters may approve new Lisbon Treaty, poll reveals: Yes vote would be boosted by concessions on Irish concerns*, in: *Irish Times*, 17.11.2008, p.1.

92. B. MADDOX, *A squabble over the housekeeping is really no big deal*, in: *The Times*, 11.12.2008, p.42.

93. PRESIDENCY OF EUROPEAN COUNCIL, Brussels European Council 11 and 12 December 2008: Presidency conclusions, 13.02.2009, 17271/1/08 REV 1, p.2.

strongest legal guarantees to assuage the concerns of its electorate. Matters were resolved satisfactorily at a European Council in June 2009 and Cowen confirmed that the second referendum effort would be held in October.⁹⁴

“Second chance”⁹⁵

The context and character of the second campaign was a major contrast to the first one. First, the Cowen government and national elites saw no alternative to a European future. This was not an improvised last-ditch campaign. The government’s approach progressively consolidated the argument that Ireland was pro-European, but that its electorate had experienced an information deficit and required protections for certain redline issues. In a sense, the Lisbon II campaign was underway for in excess of a year and was comparable in duration to the Nice II campaign.⁹⁶ That allowed the pro-integration forces to prime and frame the referendum. Complacency or lack of information were not hallmarks of the second campaign. The guarantees had been publicly negotiated over an extended timeframe nullifying the diverse first round criticisms.⁹⁷

Many of the deficiencies apparent in the first campaign were remedied, as has been rehearsed in the political science literature. There was no suggestion of infighting between the main pro-European political parties as the government built a cross-party campaign and included all parties in the inquisition on the first referendum (such as in the Oireachtas Sub-Committee). In the second referendum, the Yes campaign was invigorated after it realised the negative consequences of a repeat of Lisbon I. Yes campaigners reverted to type and resurrected the familiar discursive repertoire of Irish elites since the 1960s, i.e. the axiomatic importance of EU membership, in particular for Ireland’s economy and global position. This time the Yes campaign unequivocally framed the treaty, moving from the defensive mode of the first round to an assertive and compelling single message.

The economic context was central in the second referendum. During Lisbon I, the economy was beginning to falter but the Lisbon II referendum campaign occurred during a “full-blown economic crisis”.⁹⁸ Atikcan observes that

94. S. QUINLAN, *The Lisbon Experience*, op.cit., p.142.

95. L. VAN MIDDELAAR, *The passage to Europe: How a continent became a union*, Yale University Press, New Haven, 2013, p.91.

96. M. MARSH, *Voting on Europe, Again and Again*, in: *Electoral Studies*, 38(2015), pp.170-182.

97. There is an extensive literature that makes the case about the improved effectiveness of the second campaign. For example S. QUINLAN, *The Lisbon Experience*, op.cit., pp.139-153.

98. E.Ö. ATIKCAN, *Agenda Control...*, op.cit., pp.105-106.

“[a] comparative content analysis of Irish newspaper coverage discovered that the attention paid to economy/employment more than doubled in the second round, reflecting the new emphasis in the Yes campaign”.⁹⁹

The second vote on Lisbon was held during a period when satisfaction with the government was historically low.¹⁰⁰ This contrasted with Lisbon I, which was defeated when general satisfaction with the government was relatively high.¹⁰¹

However, the government and the pro-Lisbon side were armed with a clear argument that there was no alternative and, if Lisbon was defeated a second time, that Ireland would have to withdraw with severe economic consequences. The economic circumstances were decisive. Bear Stearns had collapsed in March 2008, leading to a precipitous decline in global stock markets. ~~However, most~~ voters ~~still~~ felt economically optimistic in June 2008 as the ripple effects remained limited. The next 16 months, ~~however~~, witnessed a spectacular fiscal and economic downward spiral. In September 2008, the US government intervened to save Fannie Mae and Freddie Mac, the mortgage companies at the heart of the subprime mortgage crisis, while the Lehman Brothers investment bank filed for bankruptcy. Central banks, including the ECB, pumped in liquidity to counteract the credit crunch. The Irish property bubble burst with profound implications for government revenue and economic activity, leading to a series of austere mini-budgets to cut public spending and find alternative sources of revenue. On 29 September 2008, the Irish government took the controversial decision to guarantee the deposits of domestic banks and prevent a run. The public mood was grim. Ireland was ensnared in a deflationary spiral with the economy shrinking by 12 per cent in approximately one year. Unemployment rose to 11.7 per cent (an increase of 85 per cent in just over a year) and was projected to rise far higher.¹⁰²

In these circumstances, the contention was that Ireland (in contrast with Iceland) was fortunate to be part of the EU. As early as mid-February 2009, 80 per cent of respondents in an *Irish Times/TNS mbri* opinion poll agreed it was preferable to be part of the EU “in the current crisis”, with only 13 per cent disagreeing.¹⁰³ The example of Iceland was particularly instructive. The dismal joke doing the rounds in Dublin was that the “[t]he difference between Ireland and Iceland ... is one letter and six months”. A Dublin economist reportedly countered that it was actually a “four-letter word: Euro”.¹⁰⁴ Another academic “expert” in Dublin argued that the “dominant factor here is just fear”.¹⁰⁵ In April 2009, Cowen acknowledged in the Dáil that mounting poll evidence revealed the public was displaying “a favourable disposition” toward Europe which might “reflect greater recognition of

99. E.Ö. ATIKCAN, *The puzzle...*, op.cit., p.951.

100. M. MARSH, *Voting on Europe...*, op.cit., p.174.

101. E.Ö. ATIKCAN, *Agenda Control...*, op.cit., p.106.

102. B. TONRA, *The 2009 Irish Referendum...*, op.cit., p.473.

103. C. FORELLE, *Irish reassess Lisbon Treaty – Iceland's experience causes many to back more EU integration*, in: *Wall Street Journal*, 17.02.2009, p.2.

104. ANONYMOUS, *Reykjavik-on-Liffey – The Irish economy*, in: *The Economist*, 07.02.2009, p.5.

105. C. FORELLE, *Irish reassess...*, op.cit., p.2.

the importance of the EU to Ireland in these economically challenging times”.¹⁰⁶ It was “back to basics” with an emphasis on jobs, the economy, and Ireland’s place in the world.¹⁰⁷ Abstract arguments and speculation (sometimes ill-informed) about the supposed meaning or implications of certain clauses of the treaty did not play a role this time. Lisbon paled in significance in contrast with the devastation caused by the Great Recession, and the need for EU assistance to stabilise the situation.

The full extent of the Global Financial Crisis was incontrovertible.¹⁰⁸ Irish collective memories of successive economic crises during the 1930 s, 1950 s, and the 1980 s, and the critical position that the EU had played in the Celtic Tiger phenomenon did their job. The focus was unswervingly on economic recovery, jobs, and growth, central points in Irish pro-EU arguments and treaty campaigns since the 1960 s. The narrative of the Yes campaign implied that were Ireland to vote down the treaty again, then it would have to withdraw and leave the EU’s safe harbour. The conversation revolved around whether Ireland’s future place was “in” or “out” of Europe. In effect, the establishment argued that the only variable preventing national insolvency and international isolation was the EU, otherwise Ireland would be Iceland.

Against this backdrop of national emergency, the leaders of the major social partners and economic interests mobilised without hesitation. It was highly unusual for so many high-profile companies, like Ryanair or Intel, to adopt a position on an EU treaty in Ireland; but this time they entered the fray and campaigned for a Yes vote. The expenditure of the Yes groups, political parties, firms, and social partners (including the main trade unions) was multiples more than the estimated No spend of € 800,000.¹⁰⁹

Ganley’s Libertas lacked the force and novelty it had possessed in the first referendum and Ganley’s efforts to transform it into a pan-European, anti-Lisbon party after its initial success miscarried. The party ran 520 candidates across the EU member states during the European Parliament elections in June 2009 but secured only one seat. Ganley failed to get elected in the Ireland North-West constituency. In the immediate aftermath of this calamity, Ganley stated that Libertas would not campaign in the second Lisbon referendum.¹¹⁰ However, he reversed his position in September – weeks before the second referendum – citing misrepresentations by

106. Dáil Éireann debate, 01.04.2009, <https://www.oireachtas.ie/en/debates/debate/dail/2009-04-01/8/>.

107. E.Ö. ATIKCAN, *The puzzle...*, op.cit., p.948; B. MORAN, *Biffo: Lisbon Yes Is Vital To Save Economy: Approval Will ‘Galvanise’ Country*, in: *The Sun*, 21.09.2009, p.2; E. PFANNER, *Ireland Set to Vote Again on Lisbon Treaty; Irish Vote on Lisbon Treaty Hinges on Economy*, in: *International Herald Tribune*, 03.10.2009, p.8; M. DE BRUYN, *The Irish Referendums on the Lisbon Treaty*, in: *Journal of Contemporary European Studies*, 1(2012), pp.91–101.

108. J.A. ELKINK, S. QUINLAN, R. SINNOTT, *Economic Voting in EU Referendums*, in: *Politics and Governance*, 2(2019), pp.338–339.

109. B. TONRA, *The 2009 Irish Referendum...*, op.cit., pp.474 and 477.

110. S. QUINLAN, *The Lisbon Experience*, op.cit., p.145; M. DE BRUYN, *The Irish Referendums...*, op.cit., p.96.

the pro-Lisbon campaigners as his justification.¹¹¹ The economic context had changed and the intervention came at a late stage in the campaign when the government and political establishment controlled the agenda and argued that the concerns of the people had been listened to and addressed.¹¹²

Overall, the Yes voters were mobilised and the rate of abstentionism declined. A 20-percentage point swing from No to Yes occurred between Lisbon I and Lisbon II. Of the 43 constituencies, 41 voted Yes, with No narrowly winning in the other two. In some South Dublin constituencies, the Yes vote exceeded 80 per cent.¹¹³ The result was incontestable: 67.1 per cent approval of the treaty.

The political enigma is that voter disillusionment with the Irish government, and in particular the dominant party of government (Fianna Fáil), was at a historic high. Fianna Fáil's image had been damaged; it stood accused of the economic mismanagement that had led to the property boom, and the subsequent crash and banking crisis. It haemorrhaged support in the local and European elections in June 2009. After garnering 41.6 per cent of the vote in the 2007 general election, it slipped to a historic low in the local and European Parliament elections in June 2009, winning an average of 25 per cent.¹¹⁴ Only 14 per cent of voters were satisfied with the government's performance at the time of the second Lisbon referendum. The two main opposition parties, Fine Gael and Labour, defended the government by asking voters to separate the referendum from support for the government.¹¹⁵ Brian Cowen and the leadership of Fianna Fáil mobilised the party rank and file, making the second referendum a matter of party loyalty and discipline. It became a test of the party's "vital survival instinct" to contest the campaign vigorously as they viewed it as a challenge to their leader and the party's reputation.¹¹⁶ The party's bold campaign performance, nevertheless, could not prevent the electoral "earthquake" of the 2011 general election. Fianna Fáil was admonished for its mishandling of the economy and its role in the Global Financial Crisis; it won a historically low 17.4 per cent share of the votes.¹¹⁷

111. D. DE BREADÚN, E. DONNELLAN, *Ganley attacks Yes campaign's 'half truths'*, in: *Irish Times*, 14.09.2009, p.7.

112. M. DE BRUYN, *The Irish Referendums...*, op.cit., pp.95-7; E.Ö. ATIKCAN, *The puzzle...*, op.cit., p.946; IDEM., *Agenda Control...*, op.cit., p.103.

113. B. TONRA, *The 2009 Irish Referendum...*, op.cit., p.477.

114. S. QUINLAN, M. OKOLIKJ, *The decline of a dominant political monolith: understanding Fianna Fáil's vote 1987-2016*, in: *Irish Political Studies*, 32:1 (2017), p.165.

115. S. QUINLAN, *The Lisbon Experience*, op.cit., p.148.

116. K. HAYWARD, J. FALLON, *Fianna Fáil – Tenacious Localism, Tenuous Europeanism*, in: *Irish Political Studies*, 4(2009), pp.505-506.

117. S. QUINLAN, M. OKOLIKJ, *The decline...*, pp.165-166.

Conclusion

Most European member states could encounter similar difficulties if they conducted referendums on EU treaties as frequently as Ireland. Irish governments prefer the option of simple parliamentary ratification, but political expectations and the constitutional framework prevent it. Unless Irish governments acquire the will to challenge the Crotty ruling or invite legal challenge, they are constrained to submit EU treaties to referendum. Additional developments in jurisprudence during the 1990s severely restricted governments' powers to influence the agenda during referendums, granting primacy to political parties and civil society actors. There is also the deeper historical problem of the "thin" or partial Europeanisation of Irish society. Successive governments, particularly those led by Fianna Fáil, depicted membership in terms of economic opportunity for the nation and less in terms of a European project.

It is correct that referendum campaigns are more influential on voter preferences than general election campaigns.¹¹⁸ EU treaties are notoriously complex and difficult for the average voter to comprehend. A product of protracted and intricate negotiations, the treaties are multifaceted products. The more multidimensional the treaty, the more openings there are for criticising the Yes side. This was the case in 2008. In retrospect, the pro-Lisbon campaign failed to take off and lacked energy in comparison with the No camp in the first round. It failed to articulate a convincing rationalisation for consolidating the EU's powers and it remained complacent and distracted until the ~~very~~ last opportunity. A pervasive lack of confidence on the part of voters about their knowledge was exploited by the sundry anti-Lisbon forces. The energetic and bottom-up No campaign, reinforced by the arrival of Libertas, fortified insecurities about "neuralgic" issues, but there was also a palpable concern about the EU diverging from Ireland's best economic and political interests.

An additional observation is that electorates incline towards risk aversion unless a persuasive case is made. In June 2008, voters remained satisfied with their circumstances. In October 2009 loss aversion worked in the opposite direction as the consequences of a second rejection was to drop out of the EU mainstream. Placed in the slow lane of a two-speed Europe Ireland would face additional insecurity and exposure in a global economic crisis whilst other member states integrated. There is no doubt that the first Yes campaign was gravely deficient for many reasons, and that the second was superior because the pro-Lisbon forces knew the criticisms that they had to defeat and the high stakes involved. The pro-Lisbon political consensus had ample time and the motivation to prepare. The repackaged, but identical, Lisbon Treaty was thus presented after a period of extended reflection, clarifying what was "already inherent".¹¹⁹

118. E.Ö. ATIKCAN, *Agenda Control...*, op.cit., p.95.

119. C. CLOSA, *The Politics of Ratification...*, op.cit., p.120.

Focusing solely on the quality of campaigns is insufficient, however. In the case of Lisbon, only 16 months separated the two referendums, but the political and economic milieu had changed dramatically. The Great Recession had a decisive effect on the public's perceptions ~~soon~~ after the June 2008 Lisbon referendum. It refreshed the customary top-down narrative about the economic necessity of EU membership. It granted the narrative renewed resonance after a period of questioning. Risk aversion meant that the EU was now interpreted as a safe port in the financial tempest. This historical case study of the Ireland's Lisbon experience reveals that context, framing, and narrative matter, as do sequencing and path dependency.