

spotlight europe

2009/09 – September 2009

Ireland's Second Attempt

Dominik Hierlemann

Bertelsmann Stiftung, dominik.hierlemann@bertelsmann-stiftung.de

Irish voters are about to go to the polls for a second time to decide the fate of the Treaty of Lisbon. On 2 October the outcome of the referendum will determine whether or not the EU, after eight years of debate and numerous false starts, can finally adopt a new basic treaty. What are the chances of success? Here are a brief look at the ratification process, the mood in Ireland, and the consequences of the economic crisis—and five scenarios of what might happen if there is another No vote.

spotlight europe # 2009/09

Ratification Overview

The Treaty of Lisbon can enter into force only after it has been ratified by all of the 27 EU member states. In the meantime 23 countries have given it their assent. In Germany, Poland and the Czech Republic both houses of parliament have voted in favour of acceptance. In order to complete the procedural formalities, the heads of state merely have to append their signatures to the ratification documents. However, this still leaves us with Ireland.

In the case of Germany, President Horst Köhler, in the wake of the ruling by the German Constitutional Court on the Treaty

of Lisbon and the legislative amendments introduced during the summer months, may soon pick up his pen and sign on the dotted line. Similarly, his Polish counterpart Lech Kaczynski, despite his fundamentally euro-sceptical stance, will also sign the reform treaty if the other 26 EU states are all on board.

However, the situation in the Czech Republic is rather different. Czech President Václav Klaus seizes every possible opportunity to castigate the EU and avails himself of legal ruses to prevent further deepening of any kind. Although in May the Czech Senate followed the example of the house of deputies and finally gave its assent to ratification, self-appointed “EU dissident” Klaus sees no reason why he needs

to be in a hurry. Support for his tactical procrastination comes from some members of his ODS party, who are planning to file a second constitutional appeal against the Treaty of Lisbon. However, it is difficult to imagine that at a second hearing the judges of the Constitutional Court in Brno would reach a decision which differs from their ruling in November 2008, when they declared that certain controversial clauses in the treaty were consonant with the Czech Constitution.

All the same, if the Czech president manages to delay the ratification process until the British General Election in May or June 2010, the treaty could still end up on the scrapheap. David Cameron, the leader of the euro-sceptic Conservatives, has already announced that if they win the election (which seems probable), he will rescind British approval and have a referendum on the subject. That would be tantamount to a death blow for the reform treaty.

Yet for the moment the ball is back in the Irish court. If in the forthcoming referendum the Irish electorate gives its assent to the Treaty of Lisbon, then the chances that the new primary law will enter into force will be very good indeed.

II

Rejection and Negotiation

In the referendum on 12 June 2008 Irish voters either rejected the Treaty of Lisbon or abstained because they did not know enough about what it actually meant and felt they had not been properly informed. The most important reasons why people voted No were widespread fears concerning the loss of workers' rights, the surreptitious militarization of Ireland, and what seemed to be apparent threats to the restrictive Irish abortion laws. Nor were the Irish very happy about the envisaged reduction in the size of the Commission. Ireland simply insisted on having its own EU Commissioner.

For this reason the Irish government, in the wake of the first abortive referendum, entered into negotiations and secured a series of legal guarantees. At the EU summit on 18-19 June 2009 Prime Minister Brian Cowen came up with a declaration which was designed to deal with the Irish electorate's principal reservations.



The European Council made it clear that Ireland's strict abortion laws would not be affected by the Treaty of Lisbon if and when it entered into force, nor would its right to levy taxes and its traditional policy of military neutrality. Furthermore, in future every member state would still be

able to nominate its own EU Commissioner.

In addition the European Council adopted a "Solemn Declaration on Workers' Rights, Social Policy and other issues" which, without express reference to Ireland, emphasized the great importance that the EU attaches to social questions.

By means of a legal trick the ratification procedure in the other member states will not have to go back to square one. The decision of the heads of state and government is legally binding and comes into effect the day the Treaty of Lisbon enters into force. And in order to ensure that the guarantees have full Treaty status, they will be attached as a protocol to the Treaty of Lisbon after the ratification of the next accession treaty (presumably with Croatia in 2010 or 2011).



Economic Crisis

In the economic and financial crisis the erstwhile "Celtic tiger" is suffering from a bout of the blues. In the final analysis the factors which were behind the Irish economic boom are the ones which have revealed their downside in the crisis and are helping to accelerate the decline. They include close ties with the crisis-ridden US economy, the high level of dependence on foreign direct investment, the strain placed on an export-based economy by the euro exchange rate, and the bursting property bubble with its ramifications for the financial and construction sectors. 94 percent of the Irish believe that the [economic situation](#) of their country is bad and no more than 17 percent think that the domestic economy will pick up momentum in the year ahead.

The Irish banks in particular continue to be affected by what is going on. In September 2008 the government announced a total guarantee of bank deposits amounting to €400 billion, and at the beginning of

the year it was forced to provide support for the two largest banks in the country (Bank of Ireland, Allied Irish Banks) in the shape of a financial injection in the double-digit billion range and to nationalize the Anglo Irish Bank. In April 2009 plans for the establishment of a state-owned "Bad Bank" were announced in Dublin. Its controversial structure is currently one of the biggest political bones of contention in Ireland. The opposition parties have announced that they intend to resist the measure during the legislative proceedings which are now getting under way.

The dramatic budgetary situation is causing some concern, since it makes it impossible to implement a state-funded economic stimulus package for the domestic economy. There is growing pressure on the government, after it has spent billions on measures designed to prop up the banks, to stop state finances from getting out of hand. The government of Prime Minister Brian Cowen has established two commissions of experts, and these have suggested comprehensive spending cuts. 7,000 jobs in the public sectors are to be axed; there are to be cuts in the educational, health and social sectors; and there will be new taxes and levies on property, water and child allowances.

Large parts of the electorate were outraged by these proposals. The fact that the government initiated the debate about its controversial cost-cutting and taxation plans shortly before the referendum completely defies all political logic. The result could be a protest vote against the unpopular ruling coalition of the conservative Fianna Fáil party and the Greens. According to recent surveys 75 percent of the Irish electorate are in favour of a change of government and early elections to the lower house, which are actually due to take place only in 2012. In opinion polls the governing coalition manages to get only a humiliating 20 percent approval rating.

On the other hand the economic and financial crisis might actually help to persuade

the Irish electorate to give its assent to the Treaty of Lisbon. Now more than ever the islanders believe that the EU is a safe haven which offers a place of refuge from the tempestuous blasts of the global economy. [44 percent](#) of the Irish are convinced that the euro has taken the edge off the negative effects of the current crisis. Only 30 percent believe that Ireland would have been better off with the Irish pound or punt Éireannach.

In the midst of the crisis Ireland continues to be one of the member states whose citizens have the most positive attitude towards European integration. On the basis of the data provided by the most recent [Eurobarometer](#), 69 percent of the Irish—in contrast to the EU average of 53 percent—believe that their country's membership of the EU is “a good thing.” As many as 79 percent are convinced that Ireland benefits from its membership of the EU.

However, the previous referendums have shown that positive approval ratings do not necessarily lead to a corresponding result at the ballot box. It seems that in Ireland the EU has a large number of “soft supporters.” They are, it is true, basically pro-European, but do not vote unless they are encouraged to do so, and may even cast a No vote.

IV

Campaign

Since the beginning of the year the polls have shown repeatedly that the supporters of the treaty are in the majority. In the [middle of September](#) nearly two-thirds of the Irish said that they would be voting Yes in the referendum. A crucial difference to the previous poll could be that the number of undecided voters is at about 20 percent, which is fairly low, and that the mobilization of treaty supporters seems to be proceeding more smoothly. Furthermore, the current [polls](#) seem to suggest that the informational campaign being mounted by the Yes camp is at last bear-

ing fruit. 60% of the voters and thus a majority of the Irish electorate now state that they understand what the Treaty of Lisbon is all about.

In addition to the large governing and opposition parties the most important figures in the **Yes camp** are numerous new civil society and business community actors. The supporters of the treaty now have far more clout and are better prepared to reach out to target groups than they were back in 2008. The new actors include [Ireland for Europe](#), which is led by Pat Cox, the former President of the European Parliament and President of the European Movement, who has attracted the support of celebrities from show business, sport and the business world. [We Belong](#) and [Generation Yes](#) are trying to appeal in particular to young voters who mainly voted No at the previous referendum.

Two pro-Lisbon campaigns from the business community are of some interest. Michael O'Leary, the head of Ryanair, is on record as saying that he does not want to have to rely on “[incompetent](#)” politicians. The support given by Intel is especially symbolic, for in May 2009 the EU Commission imposed a record fine of €1.06 billion on the company on account of its abuse of its market power and distortion of competition.

The **No camp** comprises a very diverse mixture of groups from the right and left rims of the political spectrum. However, on this occasion the No campaign lacks a face, a voice and indeed the requisite funding. This is above all due to the fact that the anti-Lisbon movement [Libertas](#) has for the time being withdrawn from the fray in the wake of its dismal performance at the European elections. In the meantime its leader, Declan Ganley, has made a comeback, but the mobilizing effect has remained small.

The No camp has received staunch support from the euro-sceptics of the British UK Independence Party, which as a result of

its success at the European elections now has 13 MEPs in the European Parliament. The UKIP has sent 1.5 million brochures entitled "The Truth about the Treaty of Lisbon" to Irish households in which it claims, for example, that the Treaty would lead to a mass influx of immigrants from Turkey. Yet the involvement of the UKIP is actually to the benefit of the Yes camp, which promptly denounced its campaign as being anti-Irish. Do Irishmen and Irishwomen really want to be told what to do, especially by their British neighbours?

Perhaps the most noticeable player in the No camp is the conservative Roman Catholic organization C oir, which has attracted a great deal of attention on account of its provocative poster campaign. Its principal

Whereas the Yes camp has come up with slogans that are not particularly original such as "Ireland needs Europe" (Fianna F ail) or "Yes to Recovery, Yes to Europe" (Fine Gael), the opponents of Lisbon have once again plumped for a fear-ridden campaign based on distorted facts and untruths. Their posters and their pithy and emotionally charged messages are intended to exacerbate Irish fears about a loss of freedom, influence and money. Yet the thrust of the debate has changed. In the light of the guarantees secured by the government the warnings about a Europe-wide harmonization of taxes, a liberalization of abortion laws and a militarization of Ireland no longer seem as terrifying as they did a year ago. For this reason the opponents of Lisbon have homed in on a new topic, the supposed undermining of workers' rights by the EU's neo-liberal economic policies.

Yet this time round the Yes camp is much better equipped to fight these lies and distortions of the truth. The supporters of Lisbon have learned from their luckless campaign a year ago that half-truths can only be countered with a campaign which systematically sets out the facts. Leading politicians, journalists and internet fact checks have displayed remarkable resolve in demonstrating that the arguments of the opponents of the treaty are untenable and incorrect. But in addition to the professionalization of its public relations work, the Yes campaign has changed from relying on the media ("air war") and is now a street campaign with house-to-house canvassing ("ground war").

However, there continues to be one drawback, and that is the fact that the supporters of the treaty still find it difficult to say why anyone should actually give his or her assent to its complex provisions. The arguments are still centred on the notional costs of a No vote-which include the isolation of Ireland in the EU,

Is the Celtic tiger in a sorry state?

Economy is shrinking:
In 2008 Ireland's economic performance dipped by 2.3 per cent. Estimates for 2009 put this year's drop at around 7.9 per cent, with a further -2.3 per cent forecast for 2010.

Unemployment rate has doubled:
The unemployment rate has already risen from around 6 per cent to 12.5 per cent, and there are fears it may rise to 16 per cent in 2010.

National debt is rising:
Ireland's national debt will soar to 60.8 per cent of GDP this year. The European Commission fears it may skyrocket to 200 per cent by 2020 unless drastic cuts are made.

Budget deficit is escalating:
In 2008 the budget deficit totalled 7.1 per cent of GDP. Economics are expecting that figure will rise to 12.2 per cent in 2009.

Sources: Eurostat, ESRI, Handelsblatt © Bertelsmann Stiftung

topics are ethical questions such as abortion, euthanasia and stem cell research. The opponents of the treaty also include Sinn F ein, the Socialist Party and "Campaign against the EU Constitution," an umbrella organization of 15 left-wing groups.

the exodus of foreign direct investments, the exacerbation of the economic crisis, etc.-instead of asking for a heartfelt Yes.

V

A No vote after all? Five scenarios

Everything seems to be going swimmingly. So it is hardly surprising that Brussels has once again been overwhelmed by its ability to repress unwelcome facts. Yet what in fact will happen if the Irish reject the Treaty of Lisbon a second time? It is possible to imagine five scenarios, though they are not all equally probable.

First, the referendum will be repeated yet again. In this scenario the Treaty of Lisbon, much to the chagrin of all concerned, would be put to one side, and then, in two or three years' time, would be presented once again to the Irish electorate. The other EU member states would emphasize that nothing had changed with regard to the need for a new basic treaty. In fact, it was needed more than ever, and for this reason the Irish would be asked to approve its adoption in 2011 or 2012. What initially might seem either fanciful or totally absurd could in practice be presented by the supporters of such an option as a last-ditch opportunity to move ahead with integration.

However, game plans of this kind should be nipped in the bud at the earliest possible opportunity. The basic point, which is made not only by EU sceptics, is that one cannot let the electorate keep on voting until one gets the result one wants to have. In the final analysis what is at issue is nothing less than the democratic credibility of the European Union. So if the Irish were in fact to reject the Treaty of Lisbon a second time round, the heads of state and government should definitely exclude a third referendum.

Second, the EU member states decide to have a new treaty. The Treaty of Lisbon is taken to pieces and completely renegotiated. The basis for such a procedure would be general agreement that the EU 27 is no longer governable with the Treaty of Nice. However, even if the heads of state and government were to come jointly to this conclusion, there would in practice be a host of virtually insurmountable obstacles.

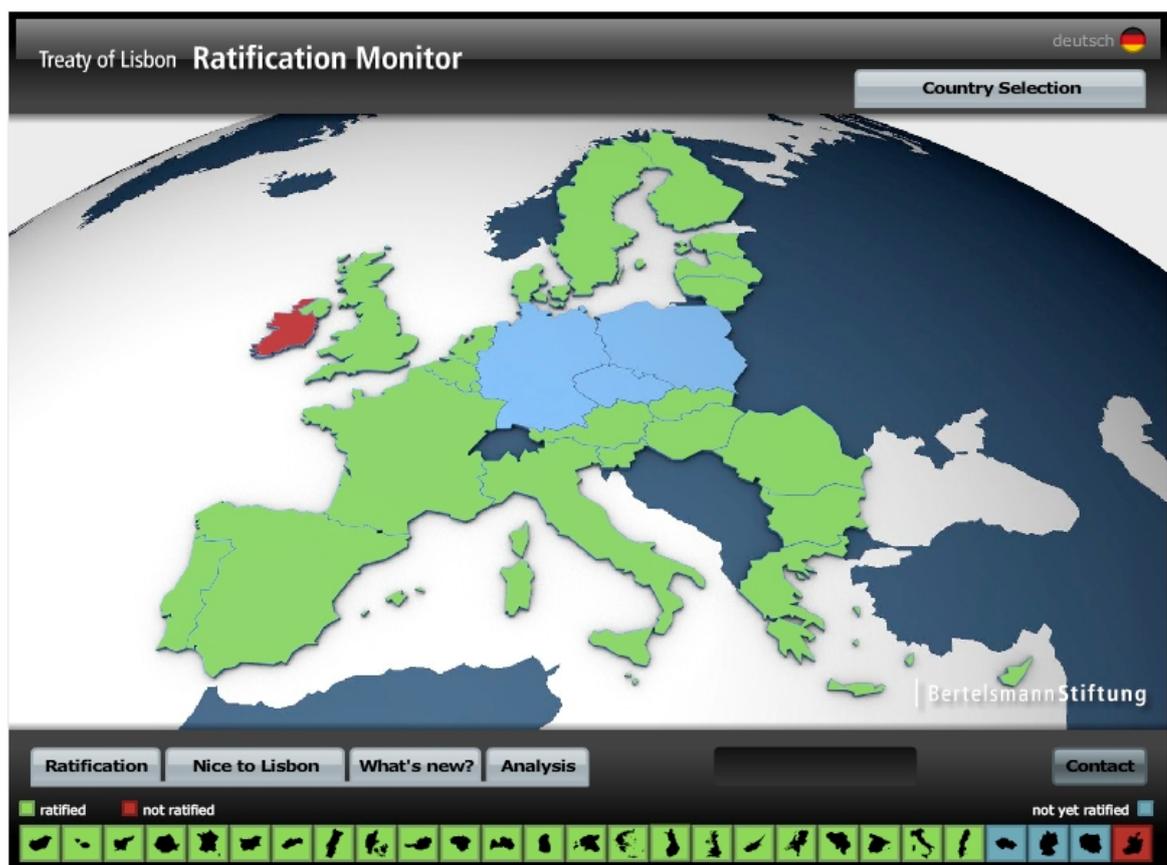
EU states such as Italy or Belgium, for example, which agreed very reluctantly to the emasculation of the original constitutional treaty would probably object vehemently against any further deceleration in the integration process. On the other hand, on account of changes in the domestic and general European political landscape, the Czech Republic and above all the United Kingdom might even use such treaty negotiations to bring about a total reversal of European integration policy. From now on the idea might be to work for less integration, and not for more. The risk that the EU, as a result of such discussions, might be drawn deeper and deeper into a crisis-ridden maelstrom is greater than if it did nothing at all.

Third, Ireland leaves the EU. Numerous European politicians, at least in a discreet kind of way, emphasized that this scenario was a distinct possibility after the Irish No vote in the first referendum. Anyone who objects twice to an important European document that points the way ahead, so the reasoning goes, cannot continue to be a member of the European Union.

Even if the current treaty regulations do not explicitly provide for a member state to leave the EU, Ireland can take this step at any time. In the final analysis the Union is based on international treaties which can be revoked at any time. But could Ireland be forced to leave the EU so that the other states can continue with the ratification process? No, it could not. This would be possible neither from a European nor from an international law point of view. And in political terms it would deal a

death blow to the European spirit. How could policymakers tell EU citizens that they were serious about wanting to make the EU more democratic with the help of the Treaty of Lisbon if they decided to ignore the way a whole nation voted and in the final analysis were willing to punish the country concerned?

higher level. This applies especially to German policymakers, whose hands are tied as a result of the [Lisbon ruling of the German Constitutional Court](#). Furthermore, the political staff which might strive for such integration in a decisive and resolute manner simply does not exist. And,



www.ratification-monitor.eu

Fourth, the creation of a new supranational Union. The heads of state and government of the most integration-friendly countries in the EU could use an Irish No vote as the cue to create a new institutional structure outside of the EU framework. By building on the contents of the Treaty of Lisbon, they would implement their ideas of increasingly close cooperation between European states.

So much for the theory. In practice there is at the moment hardly a single national government in Europe which has the strength to throw national competences overboard in order to assign them to a

last but not least, this step in particular would alienate EU citizens even more from the European project. In economically difficult times Europeans do not have a lot of time for quarrelling and petty discussions about a treaty.

Fifth, the Treaty of Nice remains in force and a few small changes are introduced. Contrary to the official rhetoric surrounding the treaty, in recent months some slight doubts have in fact been voiced in Brussels. The changes envisaged by the Treaty of Lisbon signify progress as far as the European elite is concerned, though in many respects the actual consequences

are neither predictable nor have they been properly scrutinized. In the final analysis no one knows, for example, how the newly created offices or the incumbents will get on with one another. Yes, it would be perfectly possible to soldier on with the Treaty of Nice.

In fact the legislative machinery in Brussels would continue to function on the basis of the Treaty of Nice. Even changes in the institutional structure would be a possibility, though they would be onerous to implement. Thus it would be possible to establish both the office of a European Minister for Foreign Affairs and the European External Action Service. No new treaties are required for this purpose, merely the requisite political will. If Europe's politicians are really serious about embarking on more democracy, then they could also create a European right of initiative without waiting to include such provisions in a treaty. Thus in practical terms policymak-

ers in Brussels could show by means of inter-institutional agreements between various EU bodies and simple changes in the rules of procedure that they actually mean what they say when they hold out the promise of more democracy in the EU.

In this scenario, which is currently the most probable option, the EU would become even more differentiated internally. The countries which wish to work together more closely in certain policy areas would be able to do so on the lines of "enhanced cooperation," which has often been propagated but never tried out in practice. However, it is also clear that all this would spell the end of the political élan and the desire to create something new on the European level and to increase EU influence throughout the world. And in fact this would be difficult to revive for many years to come.

Responsible

Bertelsmann Stiftung
Carl Bertelsmann Straße 256
D-33311 Gütersloh
www.bertelsmann-stiftung.de

Dr. Dominik Hierlemann
dominik.hierlemann@bertelsmann-stiftung.de
Telefon +49 5241 81 81537

Joachim Fritz-Vannahme
joachim.vannahme@bertelsmann-stiftung.de
Telefon +49 5241 81 81421

Latest editions:

spotlight europe # 2009/08
Europe begins at home
Joachim Fritz-Vannahme

spotlight europe # 2009/07
Presidential Elections in Iran:
Is Cooperation possible?
Christian-Peter Hanelt

spotlight europe # 2009/06
EU Eastern Partnership:
Fine, but what about Russia?
Cornelius Ochmann