

## Background Briefing: The Lisbon Treaty and Ireland

### 1) Myths and facts about the Irish referendum

**Myth:** *"The Irish no campaign was led by Sinn Fein and the Socialist Workers Party." (Denis MacShane, BBC, 13 June 2008); "It's such a toxic cocktail of anti-globalisers, neocons, the clergy and Trotskyists. Frankly, we're in a big mess." (Andrew Duff MEP, quoted by Bruno Waterfield, 16 June 2008)*

**Fact:** The leading light in the Irish no campaign was Declan Ganley, a leading entrepreneur in Ireland who argued for economic liberalism alongside greater democracy, accountability and transparency in the EU. The latest poll showing Ireland would vote no also showed that 82% of those planning to vote no were supporters of the Irish political parties which were in favour of the Treaty. (Irish Times/TNS mrbi poll 6 June 2008)

**Myth:** *"The Lisbon Treaty was drawn up to streamline the EU and make it ready for enlargement." (BBC News 24 report, 13 June 2008); "We need the Treaty so that the EU can act and for future enlargements." (Angela Merkel, Le Figaro 17 June 2008)*

**Fact:** The Lisbon Treaty is essentially the same as the old EU Constitution. The Constitution was not drawn up for enlargement, but in response to the 2001 Laeken Declaration, which called for the EU to be brought closer to the citizens. Ironically, the Laeken declaration was largely a response to the first Irish no vote against the Nice Treaty, which had happened earlier in the year.

There is no evidence to suggest that the enlarged EU will 'grind to a halt' without this new Treaty. In fact, a study of legislation by academics at Paris-based university Sciences-Po found that the EU has in fact been adopting new rules and regulations some 25% *faster* since the EU's enlargement to 10 new member states in 2004. A more recent study by Professor Helen Wallace from the LSE confirmed that the notion that the EU has become "gridlocked" since enlargement is wrong.

Both the EU Commissioner for Enlargement and the foreign minister of current EU Presidency holders Slovenia, Dimitrij Rupel, have dismissed arguments that the Irish No vote damages prospects for EU enlargement. Rupel said: "The outcome of the Irish referendum in no way changes enlargement policy...The EU unanimously decided to invite the countries of the Western Balkans to take membership so there is no doubt about that." (EUobserver, 17 June 2008)

**Myth:** *"The posters that I saw on BBC and Sky had issues of abortion, tax and conscription, which are nothing to do with this Treaty." (David Miliband, BBC News, 13 June 2008).*

**Fact:** The latest poll showing Ireland would vote no revealed that the reasons for their planned rejection of the Lisbon Treaty were primarily to "keep Ireland's power and identity" and "to safeguard Ireland's neutrality". It was also clear that they voted no because they "don't like being told what to do/forced into voting yes". Abortion did not appear anywhere in the top ten reasons for voting no. (Irish Times/TNS mrbi poll 6 June 2008)

Tax did indeed feature in the campaign, driven by ongoing moves towards a common corporate tax base. On 9 June, during the campaign, the Irish Independent had a scoop on plans which will be presented by Taxation Commissioner Laszlo Kovacs on 2 July. Even the Irish business organisation IBEC, which was campaigning for the Treaty, described the proposal as "a Trojan horse to bring in common tax rates." The issue was linked to the Treaty because one proposal is to introduce the common tax base under enhanced cooperation, which the treaty enabled. So tax did feature in the campaign, and for good reason.

**Myth:** *"Every country needs to take its own view. We have a sovereign, democratically elected parliament. We are 95% of the way through (treaty ratification) and it would be a bizarre situation for every country in Europe to take a view on the Lisbon Treaty and for the UK not to do so." (David Miliband, PA, 16 June)*

**Fact:** Continuing the process of ratification in the UK reflects a presumption that the Irish will be talked out of their rejection – because otherwise, ratification is pointless. Surely the only way to truly "respect" the result of the referendum – as EU leaders keep saying they will – is not to have the Treaty at all? The whole point of continuing ratification is to put pressure on the Irish, so that EU leaders can tell Dublin 'look, all other 26 member states support this'.

Unlike in 2005, when French and Dutch voters rejected the Constitution, the calculation this time seems to be that Ireland – as a small member state – can be subjected to isolation and coercion following its No vote. "This time the scenario is radically different. The idea is to completely isolate Ireland", said Belgian daily Le Soir in an editorial (14 June).

This strategy is summarised by FT columnist Wolfgang Munchau:

"The most important prerequisite of plan B is a 26-to-1 situation in terms of countries that have actually ratified the treaty. This outcome is far from assured and explains why Brussels, Berlin and Paris are so adamant that the ratification show must continue. So far 18 countries have ratified, with eight to go plus Ireland. Once 26 countries have ratified, EU countries accounting for more than 99 per cent of the EU's population will have approved the Lisbon treaty. The pressure on Ireland would then become unbearable."(FT, 15 June)

**Myth:** *"The Treaty is not dead. The Treaty is alive." (European Commission President Jose Barroso, Press Conference, 14 June)*

**Fact:** EU law clearly states that the 27 Member States must ratify the Treaty before it can come into force. Ireland has failed to ratify the Treaty, meaning Lisbon in legal terms should be dead. It is a point of fundamental importance to the viability of the

EU that the rule of law be applied consistently – whether to large or small countries. As Professor Willem Buiter at the LSE argues: “The rules for ratification of the Treaty were clear. To change the rules when you are losing is a violation of the rule of law. Respect for the rule of law is even more important than the fate of the Lisbon Treaty.” (FT, 16 June)

**Myth:** *“a few million Irish cannot decide on behalf of 495 million Europeans.”*  
(Wolfgang Schaeuble, German Interior Minister, Deutsche Welle, 15 June)

**Fact:** Ireland is the only country in the EU where citizens have had the chance to vote on the Lisbon Treaty: if other EU countries had been given a say, many would have voted no. Polling suggests that voters in Britain would reject the Lisbon Treaty by a margin of two to one (ICM, 13 June 2008).

Separate polling suggests that 75% of citizens across the EU (and a majority in all 27 member states) want a referendum on any treaty that transfers further powers to the EU. Majorities would vote “no” to such a treaty in 16 EU countries, including Germany (TNS, 23 March 2007). Perhaps most significantly, it is also worth remembering that France and the Netherlands have already rejected what is essentially the same treaty in their own referendums in 2005.

## **2) In quotes: reaction to the Irish No vote**

*“I don't think you can say the treaty of Lisbon is dead even if the ratification process will be delayed.”*

- Jean-Pierre Jouyet, French Europe Minister (Reuters, 16 June)

*“I am convinced that we need this Treaty. Therefore we are sticking with our goal for it to come into force. The ratification process must continue.”*

- Frank-Walter Steinmeier, German Foreign Minister (Reuters, 14 June)

*“Of course we have to take the Irish referendum seriously. But a few million Irish cannot decide on behalf of 495 million Europeans.”*

- Wolfgang Schaeuble, German Interior Minister (Deutsche Welle, 15 June)

*“We think it is a real cheek that the country that has benefited most from the EU should do this. There is no other Europe than this treaty. With all respect for the Irish vote, we cannot allow the huge majority of Europe to be duped by a minority of a minority.”*

- Axel Schäfer, SPD leader in the Bundestag (Irish Times, 14 June)

*The Treaty “will be applied, albeit a few months late.”*

- Lopez Garrido, Spanish Europe Minister (Forbes, 15 June)

*“The Treaty is not dead. The Treaty is alive, and we will try to work to find a solution.”*

- Jose Barroso, European Commission President (Press Conference, 14 June)

*"Citizens are transmitting signals of fear and uncertainty. You can say it's not rational, but we need to react because they are signs of difficulties with the democratic process."*

- Giulio Tremonti, Italian Finance Minister (FT, 16 June)

*"Now is the time for a courageous choice by those who want coherent progress in building Europe, leaving out those who despite solemn, signed pledges threaten to block it."*

- Giorgio Napolitano, Italian President (Irish Times, 14 June)

*"In no case should the Union be stopped in its tracks. We need to examine the existing possibilities to assure in any case the entry into force of the Treaty and to associate Ireland with it."*

- Yves Leterme, Belgian Prime Minister (AFP, 14 June)

*"The treaty is not dead. The EU is in constant crisis management -- we go from one crisis to another and finally we find a solution."*

- Alexander Stubb, Finnish Foreign Minister (Deutsche Welle, 16 June)

*"We shall effectively look for ways to ensure it comes into force. Irrespective of the results of the referendum in Ireland, I think that we can deliver an optimistic message - Europe will find a way of implementing this treaty."*

- Donald Tusk, Polish Prime Minister (BBC, 13 June)

*"We shall see in the next few weeks more ratifications meaning that support for a strong Europe is there."*

- Dimitrij Rupel, Slovenian Foreign Minister (AP, 16 June)

*"The rejection of the Treaty text by one European Union country cannot mean that the ratifications which have already been carried out by 18 EU countries become invalid."*

- Hans-Gert Pöttering, President of the European Parliament (EP Press Release, 13 June)

### **3) However, some people who previously supported the Treaty are now calling for it to be abandoned**

*"However frustrating that it is to pro-Europeans such as me, respect for Ireland's treaty rights is crucial to the integrity of the European Union."*

- Stephen Wall, Tony Blair's Europe Advisor (Times letter, 17 June 2008)

*"Stop talking about Lisbon and get to work."*

- Philip Stephens, (FT, 17 June 2008)

*"I regret its demise. I am a European federalist, and the Treaty of Lisbon would have represented a small further step towards a federal Europe... It is, however, important that the death of the Lisbon Treaty is acknowledged in Brussels and in the national capitals that favoured the Treaty. Trying to achieve a resurrection of Lazarus for the Lisbon Treaty by telling the Irish people: 'keep on voting till you get it right', would be both contemptible and counterproductive."*

- Willem Buiter (FT, 16 June 2008)

*"Everyone is fed up with negotiating new treaties... The Nice treaty is not ideal, but losing Lisbon should not be seen as the end of the world."*

- FT leader (14 June 2008)

*"It is time for EU countries to think the unthinkable: integration by grand treaty is over...EU governments have no time for several more years of institutional navel-gazing. They must make what improvements they can on the hip and move on."*

- Hugo Brady, Centre for European Reform (Guardian, 16 June 2008)

#### **4) What strategies are EU politicians likely to pursue after the No vote?**

The Presidency schedule is likely to mean events will move very quickly over the next six months. France holds the EU Presidency for the second half of this year (starting in two weeks time). They will want to ramp up the pace over the next six months because in the first half of 2009 the Czechs are in charge and in the second half the Swedes are at the controls, and both are far more sceptical. Below are some of the possible scenarios for the French Presidency ranging from the most overt to the most covert. The most likely scenarios seem to be (a) or (d), with the latter the most likely of the two.

- (a) A new declaration or "Agreement" for Ireland and another referendum. This is difficult given that turnout was higher than during the second referendum held on Nice, and the clear reasons people voted against the Treaty. Brian Cowen would be taking a huge risk (he is already being dubbed "Gordon Cowen" by the Irish opposition parties). Nonetheless, the Irish are certainly coming under a lot of pressure to go down this route.

As declarations do not have legal force and an Agreement would not be appended to the treaty, this route would mean that member states like Britain which have already ratified the treaty would not have to ratify again.

- (b) Another rebranding and editing of the same Treaty – but having already reheated the EU Constitution in the form of the Lisbon Treaty, EU leaders may be reluctant to try the same tactic again.

- (c) Do most of the things in the Treaty by vote in the Council (for instance by using the 'passerelle' clause allowing a shift to majority voting on criminal justice) and then a much smaller 'mini treaty' for the core institutional changes that cannot be made in the Council, such as the voting weight changes to make it easier to pass legislation, the power of the Court over criminal justice and some of the new institutions like the diplomatic service.
- (d) As above, but putting the core institutional changes into the Croatian accession treaty next year. **Accession treaties don't require referendums in Ireland.** So Ireland could sign up and ratify the new arrangements through parliament. This would also have the advantage that calls for a referendum on such a treaty could be presented as "anti-enlargement" – effectively the Croatians would be used as human shields to protect the treaty.

One more complicated, and less likely version of the "Croatian" strategy would involve an awkward fudge: the Lisbon Treaty would come into force now for the other 26 member state, Ireland would somehow carry on participating in the EU as normal nonetheless, and then "catch up" via the Croatian accession Treaty. This has the "advantage" that Lisbon can come into effect now and the new institutions start work this year - but it is legally very questionable, and would only bring forward the entry into force of the Treaty by a year.

- (e) Continuation of 'salami slicing' approach, rhetorically justified through talk of a "Europe of Results"/ "citizens' agenda" / "global Europe"/ "social Europe" according to the audience in question. Many of the proposals, apart from some of the institutional changes, could simple be done by votes in the Council.

Ironically, abandoning the treaty is the one option that is clearly not being considered, despite the no vote.