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FROM DUBLIN TO LISBON: IRELAND'S EU REFORM TREATY REFERENDUMS AND THEIR LESSONS FOR EUROPE

Katelyn Walker

The Irish people were long thought to be among the most enthusiastic Europeans. Since 1988, Eurobarometer polling¹ has shown that Irish citizens are significantly more likely to view their country's membership in the European Union (EU) as a good thing than citizens of other countries. Since the mid-1990s, approval of EU membership in Ireland was often twenty points higher than the EU average (Sinnott, Elkin, O'Rourke & McBride, 2009, p. 2). Despite this, a low turnout of voters rejected the EU's Treaty of Nice in 2001², and a relatively high turnout of voters rejected the Treaty of Lisbon in 2008 (*Ibid*, p. 6). The latter referendum launched a sense of "political groundhog's day" (O'Brennan, 2009, p. 270), as Irish politicians and European elites tried to discern how a country that has self-admittedly benefited so much from EU membership could squash the very reforms needed to make the Union operate more effectively—twice.

When asked why the Irish voted against the Treaty of Lisbon, former Irish Prime Minister John Bruton explained that the Irish view the European Union through their pocketbooks rather than through their hearts (2008). They had not been as affected by several shared European traumas (such as the Cold War and the two World Wars) as had the states in the geographic core of Europe. Thus, as many European states sought peace and prosperity from the Union, Ireland primarily sought prosperity. This analysis explains the referendum results for both treaties to some extent. Given that Ireland had recently joined the ranks of the wealthy nations within the European Union, it had achieved its goal of prosperity. By 2001, Ireland had grown so wealthy that it would lose many of its subsidies, thus removing the factor that had previously driven many Irish both to vote and vote yes in referendums on European Treaties. Ireland needed to re-evaluate its role in the European Union, and a new equilibrium within the electorate on European reform treaties would

1 Eurobarometer is a biannual series of public opinion polling released about the European Union and its member states.

2 Another referendum on the Treaty of Nice was held in 2002, and a much higher turnout of voters approved the treaty (Sinnott *et al*, 2009, 6).

logically follow. This search for a new role in Europe came at a time when Irish campaign laws were changing, several domestic concerns dominated, and outreach and education of European issues remained poor. This proved to be a toxic combination for the ‘Yes’ campaigns for both the Treaties of Nice and Lisbon.

This paper discusses why the Irish voted against Nice and Lisbon, focusing particularly on the Treaty of Lisbon. The first section briefly chronicles the history of European reform efforts since 2000 and summarizes the changes proposed in the Lisbon Treaty. The next section analyzes the debate over the necessity of a referendum on the Lisbon Treaty in Ireland, arguing that a referendum was politically unavoidable even if it was potentially not constitutionally mandated. The following section addresses several causes of the ‘No’ votes in the Irish referendums on both Nice and Lisbon and discusses two issues that played a particularly important role solely in the first Lisbon referendum. The next section discusses why Ireland overturned its decision in the second referendum on Lisbon. To conclude, this paper discusses the need for a common curriculum on European Union issues.

EUROPEAN REFORM EFFORTS IN THE 21ST CENTURY

As the European Union prepared to extend membership to several eastern European nations, EU leaders realized that extensive institutional reform would be necessary to streamline operations in an enlarged Union. Specifically, the existing fifteen members sought to reduce the size of the European Commission, remove unanimity requirements for decision-making in several topic areas, and establish the number of votes each member state would carry in the European Parliament and Council post-enlargement. The Treaty of Nice emerged in 2002 as the first attempt at reform; however, many viewed the treaty as a flawed and temporary compromise among states pursuing only their national interests (Dinan, 2005, pp. 170-171). The governments of Europe consolidated all existing treaties and proposed reforms into the Treaty Establishing a Constitution for Europe (commonly known as the EU Constitution) in 2004, but voters in France and the Netherlands rejected the treaty in 2005. Lawmakers repackaged most of the constitutional reforms into the Treaty of Lisbon, which was ratified in late 2009.

Many of the reforms contained within the Lisbon Treaty are technical, complicated, and unglamorous. Generally speaking, reformers sought to increase the EU’s efficiency, grant a larger role to the member states, address the perceived democratic deficit within the EU, and pursue more areas of cooperation. Some of the key reforms are summarized below:

- A thirty-month presidency of the European Council (elected by the Council itself) will replace the current six-month rotating presidency.
- A “High Representative of Foreign Affairs and Security Policy” will be appointed.
- The Charter of Fundamental Rights will become legally binding.
- The number of commissioners in the European Commission will be reduced to two-thirds the number of member states, abolishing the current system of universal Commission representation³. However, the Lisbon Treaty allows the European Council to unanimously decide to have a different number of commissioners.
- Decisions in more areas will be made by qualified majority voting (QMV).
- National parliaments will have an official mechanism to review and challenge EU

³ However, the Treaty of Nice required that the number of European Commissioners be reduced to an unspecified number when the EU has 27 members. The 27th member of the EU joined in 2007.

legislation.

- Member states should pledge to defend one another in the instance of an armed attack or natural disaster⁴.
- Should the member states unanimously approve, the EU may develop a common defense⁵.

WAS A REFERENDUM NECESSARY IN IRELAND?

The Irish referendum on the Treaty of Nice proved what few thought possible: that the Irish people would vote against a European treaty despite holding the EU in generally high regard. Irish academics therefore briefly considered the possibility that Ireland not hold a referendum on the Treaty of Lisbon, lest history repeat itself. The 1986 Irish Supreme Court Case *Crotty vs. An Taoiseach* established that European treaties that significantly alter “the essential scope or objectives” of the EU must be amended to the Irish Constitution, which can only be amended by referendum. In its decision, the Court found that Title III of the Single European Act violated the Irish Constitution by introducing measures to increase cooperation in the realm of foreign policy. However, other aspects of the Single European Act—such as changes to qualified majority rules and expansions of the EU-level court system—were not found to be a violation of the Irish Constitution (Fanning, 2008, para. 8).

Since the decision, all reform treaties have been put to a vote. Accession treaties, however, have been ratified by the parliament, which undermines the commonly held viewpoint that all EU treaties must be submitted to a referendum in Ireland. One can interpret the Crotty ruling to mean that Ireland must amend its constitution to give the European Union entirely new responsibilities, but no amendment is necessary to approve changes to existing powers. Given this interpretation, it is not so clear that the Lisbon Treaty is unconstitutional, especially when one considers that the Crotty ruling did not reject changes in qualified majority voting structures (which would most arguably impinge upon Irish sovereignty). The Lisbon Treaty altered the structure of the EU in several ways, but it did not create entirely new responsibilities. Other contentious portions of the Lisbon Treaty, such as the loss of a permanent commissioner and increased peacekeeping responsibilities, existed in the Nice Treaty. The legal debate is whether Ireland would need to resubmit questions to the Irish voters that they have already considered (multiple times, in some cases) when they appear in new treaties.

No legal precedent has since been established for the use of parliamentary ratification procedures for European reform treaties. The Irish government is understandably reluctant to challenge the conventional wisdom on treaty ratifications because the consequences would be great if the government were to get it wrong. If the parliament ratified the Lisbon Treaty without a referendum, the same parties that brought about the Crotty lawsuit would surely launch a legal challenge to the Treaty. Should the Supreme Court determine that the Lisbon Treaty did, in fact, constitute a significant enough change to the nature of the European Union to require a referendum, it would be difficult for politicians to convince the public to vote for the treaty that they had tried to pass above the voters’ heads.

Such a judgment would also pose serious logistical problems to the EU at large if the

4 Neutral states are exempt, and NATO members are expected to fulfill this pledge through NATO.

5 For more information on these and other provisions of the Lisbon Treaty, please see the Department of Foreign Affairs White Paper on the Lisbon Treaty (2009) or the Referendum Commission’s Extended Guide to the Lisbon Treaty (2009).

treaty had already taken effect by the time the Supreme Court issued its decision. For example, the Lisbon Treaty fixed the number of members of the European Parliament at 751, up from 736: which of the fifteen parliamentarians would give up their jobs while the Irish re-ratified the treaty (DFA, 2009, p. 45)? Which country would hold the old, rotating presidency if the newly created permanent presidency were to suddenly and unexpectedly be abolished? Such questions may prove to be impossible to answer, and Ireland may thus need to leave the Union until it can ratify the treaty. Considering the possibility of such severe political consequences both domestically and at a European level, the Irish government was correct to take the safer route to ratification regardless of the constitutionality of the Lisbon Treaty. In the future, however, it would be most helpful if the Irish government submits a treaty to the Supreme Court for review prior to calling a referendum so that the Court may establish more precedents regarding the compatibility of several European practices with the Irish Constitution.

WHY HAVE EU REFERENDUMS FAILED IN IRELAND?

A Noncommittal Electorate

In order to succeed, proponents of Nice would have needed to overcome a particular weakness in the Irish electorate: that despite high levels of stated support for the European Union, voters generally lack enthusiasm for and knowledge about European issues. The Eurobarometer had continually shown the Irish were much more supportive of their membership in the EU than other Europeans were. However, the European Commission Representation in Ireland found that, “Issues having to do with the European Union are a minority interest in Ireland,” with half of the electorate (51%) placing themselves below the mid-point or registering no opinion on a scale measuring interest in European affairs (Sinnott, 2001, p. 3). The Eurobarometer has shown that levels of sadness over a hypothetical dissolution of the EU have ranged between 30% and 60% since 1973, significantly lower than the support levels for membership (which have ranged between 45% and 80% over the same period) (Sinnott *et al*, 2009, pp. 2-3). As a result, in order for a referendum to succeed, the treaty’s proponents need to overcome general lack of enthusiasm for and knowledge about European issues⁶.

A review of Eurobarometer surveys surrounding both the Nice and the Lisbon campaigns show that little has changed in the attitudes of the Irish electorate between the two treaties. In the months immediately preceding the first referendums on both the Nice and Lisbon Treaties, the Eurobarometer found levels of support of EU membership to be at 72% (Sinnott, 2001, p. ii) and 73% (Eurobarometer, 2008, p. 12) respectively—both well above the EU average. However, knowledge about the EU had appeared to increase since 2001. When Ireland voted on the Nice Treaty, only 12% of the electorate could answer at least two of three basic questions about European institutions⁷. Increases of the level of knowledge were measurable between the two Nice referendums (Sinnott, 2003, p. i.): 57% of

6 Richard Sinnott discusses this trend in depth in his 2001 report, “Attitudes and Behaviour of the Irish Electorate in the Referendum on the Treaty of Nice.”

7 True/False: (1) The EU currently consists of fifteen Member States; (2) Switzerland is a member of the European Union; (3) Every six months, a different Member State becomes the President of the Council of the European Union; (4) The euro area currently consists of twelve member states. The questioning from the Nice Survey excluded the fourth question, but all other questions were included (Sinnott *et al*, 2008, p. 5).

eligible voters could answer two of four questions by 2008 (Sinnott *et al*, 2009, p. 5). Given that the most commonly given reason for rejecting the Nice Treaty was because voters did not understand what the treaty entailed, and that voters who had less objective knowledge about the EU were more likely to abstain from voting or vote against the treaty, the Lisbon Treaty should have been more likely to pass than the Nice Treaty. The Lisbon Treaty did not pass, but it remained true that those claiming not to understand the treaty or the EU were less likely to vote and more likely to vote ‘no.’

Economic Transitions

When Ireland acceded to the European Union in 1973, it was one of the EU’s poorest states and thus the recipient of large subsidies. Even as most economic indicators in Ireland began to catch up to EU averages, Ireland still received €5826.1 billion from 1994 to 1999. As the Irish considered the Nice Treaty, their country was about to become a net contributor to the EU budget. The economic narrative presented during the Nice campaign held that the European Union was largely responsible for Ireland’s newfound wealth, and passing the Nice Treaty would allow other states to benefit from the same opportunities. Many supporters seemed to imply that the Irish were morally obligated to pass the Nice Treaty because of all the help Ireland had received from the EU. However, many feared the treaty would force Ireland to increase the low corporate tax rate credited with much of the Celtic Tiger’s economic rise (Miller, 2001, pp. 8-9).

Such fears did not dissipate upon ratification of the Nice Treaty. In fact, the fear of an EU-mandated corporate tax heightened as Ireland considered the Lisbon Treaty. At the time of the Lisbon campaign, many families thus owned homes worth less than their mortgages. Unemployment had also begun to rise (Kelly, 2009, pp. 4-6). The Irish economy was contracting at the time of the Lisbon campaign, and Ireland would formally become the first eurozone state to enter a recession three months later (O’Brien, 2008, para. 1). Ireland’s boom-and-bust cycle helped boost the ‘No’ vote (compared with the Nice campaign) for two important reasons. It allowed the ‘No’ campaign to redefine the role of the European Union in the Irish economy and sharpened the views of unskilled workers who felt they had lost out in the EU enlargement facilitated by the Nice Treaty.

The arguments that the European Union had done much for the Irish economy do not resonate during a contractionary period. However, the false claim that the Lisbon Treaty would force Ireland to increase its corporate tax rate continued to resonate, this time with added urgency and a fear of higher unemployment. The assertion that Ireland would have to increase its corporate tax rate was demonstrably untrue, but those who believed it were significantly more likely to vote against the treaty (Sinnott *et al*, 2009, p. 31).

The influx of Eastern European immigrants helped fuel the boom by providing an ever-expanding pool of workers—eventually constituting 15% of all construction workers (Kelly, 2009, p. 6). However, many native Irish unskilled workers believed the immigrants’ presence led to a decrease in wages, and some also thought that foreign workers led to an increase in native unemployment levels (Sinnott *et al*, 2009, p. 36). The veracity of this claim is debatable, as aggregate wage levels had been steadily increasing until the contraction began (including through the 2004 enlargement) (Kelly, 2009, p. 8), and many unskilled foreign workers returned to their native countries when jobs began to disappear (The Economist, 2009). After the Lisbon referendum, the Irish Department of Foreign Affairs found that unskilled workers, particularly those who believed that the EU had driven Irish wages

down, were substantially more likely to vote against the Lisbon Treaty (Sinnott *et al*, 2009, p. 34). Ireland was one of three EU members to open its borders to the new EU members immediately upon their accession, but it attracted a disproportionate number of immigrants in relation to the total native population. Workers began to sympathize with France's fears of the "Polish plumber" stealing native jobs during this period. In these voters' eyes, the fact that Ireland had so many foreign workers and the fact that Ireland was the only contracting economy in the eurozone were linked.

Younger voters from lower socio-economic classes were less likely to support the European Union. Polling conducted on behalf of the Department of Foreign Affairs found that such voters could not identify specific benefits of the European Union, but could identify rising interest rates, prices, and immigration levels as negative consequences of the EU membership (Millward Brown IMS, 2008, p. 20). Young voters were born well after Ireland acceded to the European Union and came of age as the Celtic Tiger grew to be one of Europe's wealthiest states. It is not surprising, therefore, that they would take a more negative view on the European Union once the economy had soured. These voters' parents and grandparents, however, have stronger memories of the era during which Ireland was one of Europe's poorest countries, and tended to support the Lisbon Treaty to a much greater extent.

Irish Neutrality

One of the core themes of Ireland's statehood, one that figures prominently in their national dialog, has been neutrality in foreign policy (Hayward, 2002, p. 185). As a constitutionally neutral nation, Ireland had been an outlier within the European Union as a non-NATO member. However, Ireland had joined NATO's Partnership for Peace (PfP) in 1999 after the Government reneged on a promise to hold a referendum on the issue (Rees, 2005, p. 63). The Nice Treaty enabled the creation of a Rapid Reaction Force for peacekeeping efforts, which prompted fears the EU would eventually militarize. As a result, the loss of neutrality became a prominent issue in the 'No' campaign, and several 'No' voters were found to have factored it into their decision (Sinnott, 2001, p. i). When this fact emerged after the referendum, the Irish government sought and obtained a legally binding declaration from other EU members (the Seville Declaration) stating that Ireland could participate in UN-sanctioned peacekeeping assignments and in the EU Common Foreign and Security policy under certain conditions and that the EU would respect Ireland's neutrality. The Seville Declaration helped convince voters to eventually approve the Nice Treaty in 2002.

The Lisbon Treaty clarified, rather than changed, the role of existing European defense structures. Furthermore, Ireland and other neutral nations had successfully negotiated exclusions for neutral nations and requirements that major decisions be taken unanimously (Department of Foreign Affairs, 2009, p. 66-67). Under Lisbon, the only changes to Ireland's security policies would have been changes Ireland opted to take. Nevertheless, concerns about neutrality and conscription in a European army drove portions of the 'No' voters and helped explain the overwhelming tendency of women to vote against the treaty (Bruton, 2008). The fact that this issue was so easily recycled between the campaigns demonstrates that the EU has not done enough to assuage voter concerns.

Bertie Ahern's Resignation and the Mahon Tribunal

In 2006, Prime Minister Bertie Ahern faced allegations of financial impropriety. Ahern announced his resignation in April 2008 during his investigation by the Tribunal of Inquiry into Certain Planning Matters and Payments (commonly called the Mahon Tribunal), just over two months before the Lisbon referendum (Quinn & Cowell, 2008, para. 8). He has always maintained his innocence, but hoped that his appearance before the tribunal would be less of a distraction during the Lisbon campaign if he resigned. Members of his cabinet claimed the party lost no credibility amidst these allegations, but leaders in opposition parties complained the tribunal could damage the 'Yes' campaign (RTÉ News, 2008, para. 1), especially since the Mahon Tribunal dominated the news cycle in the weeks leading up to the Lisbon referendum. Ahern's replacement, Brian Cowen, was not particularly charismatic and never enjoyed the same level of popular support as Ahern (Qvortrup, 2009, p. 62).

Polling conducted by the European Commission throughout the campaign shows that Ahern's resignation did little to restore the Irish people's faith in the government (Eurobarometer, 2008, p. 4). Dissatisfaction with the ruling government had a large impact on a voter's likelihood of approving the treaty. The Irish Department of Foreign Affairs found that roughly two thirds of voters stating they were "quite dissatisfied" or "very dissatisfied" with the ruling government voted against the Lisbon Treaty (Sinnott *et al*, 2009, p. 23). Given the level of dissatisfaction with the governing coalition and with Irish political institutions in general, the 'Yes' campaign could not rely on the broad level of political support that the political elites accorded to the treaty to deliver a favorable vote.

Declan Ganley and the Libertas Institute

Prior to the campaign on the Lisbon Treaty, the anti-EU elements within Irish society were often disjointed and underfunded. One unique feature of the Lisbon campaign was the emergence of Libertas Institute, a think tank which provided some 800,000 euros to the 'No' campaign (Keena, 2009, para. 9), which allowed the 'No' campaign to conduct a large-scale professional campaign for the first time. *The Irish Times* portrayed Libertas as "simply a name being used by Galway-based Declan Ganley for the expression of his views on the treaty and the direction of the European Union." Ganley is a wealthy businessman who has written for conservative American think tanks and who heads a defense contracting firm with several former high-level American military officers, prompting concerns that Ganley's involvement was part of a plot by British euroskeptics and American neoconservatives to prevent Lisbon's passing (Keena, 2008). Ganley's chief complaint was that Ireland's influence within the EU would be diminished under Lisbon, citing the decrease of Ireland's voting weights, the loss of national vetoes via increased use of QMV, and the ability of the European Court of Justice to overturn national legislation. Ganley further complained that Lisbon would force Ireland to cede its own powers to Brussels, particularly in taxation and security policies (McKrittick, 2008). Because of the amount of money at its disposal, Libertas was able to flood Irish towns with high-quality advertising material against the treaty. Though Ganley's claims tended to range from outright untruths to partial truths lacking proper context, his campaigns were able to give voters short, easy-to-remember, specific reasons to vote against the treaty⁸.

⁸ It is worth noting that the Libertas website and all of its platforms are no longer available on the internet.

THE DEFEAT OF THE FIRST LISBON REFERENDUM

On June 12, 2008, Irish voters rejected the Lisbon Treaty by 52.3%. Turnout was 53.1% (Sinnott *et al*, 2009, p. i). This means that about 28% of the total electorate voted against the treaty—compared with 19% of the electorate voting against Nice in the 2001 referendum. A higher percentage of the total electorate voted against the Lisbon Treaty than all other European reform treaties in Ireland’s history (Sinnott *et al*, 2009, p. 6). These results undermine the tendency to dismiss the Nice Treaty rejection as a fluke. At the time, some argued the rejection arose from complacency and low turnout⁹. According to this theory, many voters believed that there was no possibility of Nice *not* passing and could thus not be bothered to vote; still more people voted against the treaty (also assuming it would pass) as a small token of protest against an administration that was growing less popular. Because of this “accident,” voters developed a greater understanding of the stakes involved in European reform, and turnout increased to allow for the “correct” response in the second referendum—the response that voters intended all along. It may be plausible for voter complacency to catch a government off guard and potentially prevent reform once; however, it is unreasonable to assert that voters “not knowing better” would derail two treaties in less than a decade.

The alarming fact remains that several areas of concern to the Irish voters in the Lisbon Treaty are issues recycled from the Nice Treaty, which demonstrates that the Union has still not done enough to earn its citizens’ trust. Furthermore, as with the Nice Treaty, several of the common reasons for voting against the treaty are demonstrably false, showing that the Irish government and political parties (nearly all of which support the treaty) do a poor job of communicating European goals with their voters. It appears as though the voters, who turned out in large numbers to vote on Lisbon, did learn from the Nice debacle. One might argue, however, that their take-home lesson was not that European reform matters, but that a rejection of a treaty can yield a much-wanted concession—in this case an agreement to universal European Commission representation (Fitzgerald, 2009, para. 20–22).

THE SECOND REFERENDUM ON THE TREATY OF LISBON

Irish voters’ rejection of the Treaty of Lisbon triggered another panic among Irish and European elites. European Union leaders believed the fundamental institutional reforms contained within the Treaty of Lisbon were necessary as quickly as possible, and Ireland had the very real possibility of thwarting these goals. As a result, Ireland began a process of soul-searching after the first referendum on the Treaty of Lisbon. Two factors became instrumental in overturning the results of the first referendum: a series of clarifications and a concession from the European Council and the onset of the global economic crisis.

The European Council’s “Guarantees”

The European Council met in June 2009 to discuss the future of the Lisbon Treaty. At this meeting, the Irish government agreed to hold a second referendum in exchange for a series of agreements collectively known as the “Guarantees.” The Guarantees clarified several issues of concern to Irish voters. They also included a statement by the Irish government discussing how Ireland would interpret certain clauses. However, the most important

⁹ Turnout in the first referendum on the Treaty of Nice was 34%, which provided substantial justification for the second vote (Sinnott *et al*, 2009, 6).

product of this European Council meeting—the agreement to universal Commission representation—did not appear in the Guarantees. These Guarantees co-opted many of the ‘No’ campaigns talking points, giving the Government and other ‘Yes’ advocates more freedom to discuss the treaty on their own terms.

The first portion of the Guarantees is the “Decision of the Heads of State or Government of the 27 Member States of the EU, Meeting within the European Council, on the Concerns of the Irish People on the Treaty of Lisbon” (known as the “Decision.”) This agreement addressed specific areas of contention in plain terms. In its three sections, the Decision addressed social policies, taxation, and security and defense, stating that the Lisbon Treaty would not affect Ireland’s policies on “the protection of the right to life, [...] the protection of the family, [...] and the protections of the rights in respect of education” (p. 1), that it would not change the EU’s “competence in relation to taxation,” and that it “does not affect or prejudice Ireland’s traditional policy of military neutrality” (p. 2). It also formally states that the treaty does not create a European army, that it remains a member state’s choice to participate in the European Defense Agency and any military operations, and that all states must unanimously approve any move to a common defense (p. 2). The Decision is a legally binding document to be registered in the Treaty Section of the UN Secretariat along with the Lisbon Treaty (Institute of International and European Affairs, 2009, p. 3).

The Decision is convincing in its brevity. The treaty itself is 272 pages of legalese that virtually no one could be expected to understand. Thus, the ‘No’ campaign’s arguments could pass a certain plausibility test, as it was difficult to prove their claims were not true. The debate, therefore, often was about the source of an argument rather than the argument itself. The Decision is three pages long and written in plain English. Voters could thus easily ascertain for themselves what the Lisbon Treaty would and would not do with regards to these specific areas.

The National Declaration by Ireland affixes an Irish interpretation to the Council’s Guarantees. It seeks to allay concerns that Ireland would be forced to abandon its traditional neutrality. The Decision declares that all states would need to unanimously approve a move toward a common defense. In the National Declaration, the Irish government explains that joining a common defense would clearly violate the Irish Constitution’s requirement of military neutrality. As a result, the Government would need to hold a referendum authorizing an amendment to the constitution before considering such a move (p. 6). The National Declaration served as a promise to Irish voters that larger states could not bully Ireland into joining a common defense, nor can the Irish government pass such a measure over the voters’ heads. The Irish electorate would therefore hold veto power over any common defense plans.

The European Council’s most notable guarantee, however, was not formally contained within the Guarantees. At the June Council meeting, the Heads of State and Government all agreed to allow each state to keep its representative to the European Commission (Institute of International and European Affairs, 2009, p. 1). This concession is significant at both the Irish and the European level. It is significant domestically because Ireland had fought for universal Commission representation throughout the treaty negotiations, but lost. Richard Sinnott, a political scientist at University College Dublin, found that 65% of all voters considered Commission representation when voting in the first referendum on Lisbon, and those that prioritized Commission representation were more inclined to vote against the treaty (Sinnott *et al*, 2009, p. 28). Ireland’s ability to negotiate a deal to keep its

commissioner helped assuage voters' fears that Irish concerns would not be voiced in the Union. On a basic level, permanent Commission representation ensures that Ireland would always maintain a presence on one of the key European institutions. More fundamentally, however, the Irish government proved to its voters that on important issues, Irish priorities would not necessarily lose out to the wishes of larger and more powerful states.

This concession also represents a significant departure from the European Union's previous negotiations with countries that had rejected European treaties. The agreement to universal Commission representation is the first time the member states approved a change that will directly affect the operations of the entire EU. When Danish voters rejected the Maastricht Treaty in 1992, Denmark negotiated a series of opt-outs for itself, but the treaty remained the same for the rest of the EU. As discussed in Chapter III, the Seville Declaration sought to ease Irish concerns following its disapproval of the Treaty of Nice, but it changed neither the contents nor the interpretation of the treaty itself. Following the Dutch and French rejections of the EU Constitution in 2005, the European Union agreed to renegotiate the Constitution, eventually producing the Lisbon Treaty. Arguably, treaty renegotiation can be a major concession. However, the most significant difference between the Constitution and the Lisbon Treaty is format, and Lisbon's format was designed such that fewer states would hold referendums on the same substantive reforms. As a result, the renegotiation of the Constitution was a circumvention of voters' wishes, rather than a concession to them. While the 2009 Guarantees are similar to those negotiated in the 2002 Seville Declaration to Ireland following its rejection of the Treaty of Nice, the agreement to alter the previously agreed upon nature of European-level reforms is unprecedented. This move played a sizeable role in the campaign and may have the greatest long-term impact on the European Union's operations. However, the drastic weakening of the global economy dominated Irish concerns during the second campaign and played the largest role in reversing the 'No' vote.

The Onset of the Global Recession

When Ireland voted on the Treaty of Lisbon in 2008, it was the only member of the eurozone to have just completed a second consecutive quarter of contraction. As a result, many voters did not accept arguments that the European Union helps the Irish economy. Several believed that the EU's enlargement had in fact hurt Ireland's economy. As stated in the introduction, former Irish Prime Minister John Bruton explained to an American audience that the Irish tend to view Europe "not from their hearts, but from their pocketbooks," and that this sentiment served as a partial explanation for Ireland's rejection of Lisbon in 2008. However, if Bruton's assessment is correct, this line of thinking saved the Lisbon Treaty in 2009.

By the second referendum on Lisbon in October 2009, the Irish economy had deteriorated. In May 2009, the International Monetary Fund (IMF) predicted that Ireland would see the largest negative impact in the current recession (p. 1). The Irish GDP contracted by 7.1% in 2009 (a figure which reflects some mild improvements seen in the fourth quarter of 2009—after the second referendum on Lisbon) (Central Statistics Office, 2010b, p. 1). Furthermore, unemployment stood at 12.7% in October 2009, compared with 5.5% when the Irish first voted on Lisbon in June 2008 (Central Statistics Office, 2010a, p. 4). Overall, the IMF predicted that Ireland's economy would contract by 13.5% from 2008 to 2010 (International Monetary Fund, 2009, p. 5).

This contraction had a painfully large impact on one of Ireland's biggest industries: construction. This sector constituted 20% of the Irish GNP in 2006 and 13% of total employment in 2008 (Kelly, 2009, p. 6). As noted earlier, a real estate bubble drove much of the growth in the construction industry in the 2000s. Housing costs in particular were overvalued prior to 2008, and there was wide availability of easy credit. These two factors artificially boosted the construction industry through the end of 2007 (Central Statistics Office, 2010b, p. 10). Ireland had also become the second most expensive place to do business in the EU (behind Luxembourg), and foreign direct investment (FDI) flows to Ireland were falling faster than in the rest of the eurozone (International Monetary Fund, 2009, p. 9). As a result, voters could predict that even when growth rates returned to normal, the construction workers would not be able to depend on getting their jobs back, and they may not be able to find work in the manufacturing sector. Ireland faces a structural readjustment to its economy that will disproportionately impact its poorest workers as Ireland transitions away from primary and secondary sector economic activities. Voters understood that EU membership could help ease the pains of this transition.

The Irish economy was clearly worse off in October 2009 than it was in June 2008. However, if one applies Bruton's analysis to the latter referendum, it becomes clear that two key differences prevented voters from deciding once again to reject the Lisbon Treaty in light of continued economic uncertainty. First, the global economic crisis plunged the entire European Union into a recession. Irish voters had held the attitude that they in particular had been negatively by the EU's enlargement and the disproportionate flow of eastern European immigrants into Ireland. That concern would have logically decreased when the rest of the European Union also faced an economic crisis. In fact, this may be modern Europe's first shared trauma in which Ireland is a full participant. Meanwhile, as Ireland's economy worsened, it became clear that Ireland was more secure within the European Union than it would have been as an independent economy. Ireland's membership in the eurozone has shielded it from the currency pressures that often accompany financial crises. It has also provided Ireland access to financing from the European Central Bank, which helped maintain liquidity in Irish banks (International Monetary Fund, 2009, p. 3). Both the IMF and Irish voters believed Ireland's membership in the EU would be instrumental to its recovery.

Statistically speaking, this belief was the most important factor in reversing Ireland's initial rejection of the Treaty of Lisbon. A Flash Eurobarometer conducted after the second referendum found that, among those who either did not participate or voted against the treaty in the first referendum, belief that the EU would help the Irish economy was the most commonly given explanation for their change of heart (2009, p. 20). Overall, 23% of 'Yes' voters cited this belief as the most important reason for their vote (*Ibid*, p. 9). The youngest voters were most likely to cite this justification, which is significant because young voters were most likely to vote against the Treaty of Lisbon in the first referendum (*Ibid*, p. 11).

The Second Referendum on Lisbon Passes

On October 2, 2009, Irish voters approved the Treaty of Lisbon with 67.1% of the vote (Eurobarometer, 2009, p. 4). Turnout had increased to 59% of the electorate (*Ibid*, p. 7), the highest turnout on an EU referendum since Ireland voted on the Single European Act in 1987 (Sinnott *et al*, 2009, p. 6).

CONCLUSION: WHAT DOES THIS MEAN FOR EUROPE?

Too many Eurocrats are stuck in their belief that European citizens will embrace further integration because its benefits are self-evident. Since 2001, four referendums on European treaties have failed in three countries. This is no coincidence, and the European Union can glean much from these results. One of the most significant trends to note is that many voters do not know much about the European Union—both by their own admission and as demonstrated by their inability to answer basic questions about the EU. More importantly, those who do not understand the EU or its proposed reforms tend to view the EU less positively and vote against its treaties when given the opportunity (if they vote at all—abstention rates are also much higher). In short, if they do not know, they vote no—in line with a popular slogan in the Nice and Lisbon campaigns. Furthermore, voters not sufficiently educated on the EU can also fall prey to misinformation (such as that distributed by Declan Ganley). They can also misunderstand the impact of a proposed change. For example, many voters in the Lisbon referendum believed Ireland would go entirely without representation to the EU in the years it did not have a commissioner (Millward Brown IMS, 2008, p. 14)¹⁰. For these reasons, one can question the wisdom of allowing voters to decide a complicated and wide-reaching set of amendments to EU treaties. However, to deduce that the European Union should ignore the problem by avoiding referendums would miss the point. What can the European Union do to keep voters informed?

The key to ensuring European success is education. Citizens in well-functioning democracies learn about their own political institutions during their primary and/or secondary schooling. Education about European-level governance in the individual member states is inconsistent, at best. This is not acceptable in an increasingly integrated EU, where countries have estimated that at least 10% (and in some countries much higher) of all legislation passed at the national level is passed to come into compliance with European regulations (Clive-Matthews, 2009), and where the European Central Bank directly dictates many economic policies. In Ireland, a three-year course on civic education has been required of middle-school students since 1997 (Curriculum Online). Its efficacy is debatable, however; program graduates fall in the age range that is most likely to abstain from voting and least likely to vote for the treaty (Sinnott *et al*, 2009, p. 16). In the Irish case, a more focused curriculum on the European Union is necessary, something the Sub-Committee on Ireland's Future in the European Union noted after the failure of the first Lisbon referendum (Oireachtas, 2008, pp. 60–61). The European Union itself should also take steps to ensure a universal curriculum imparting a core set of knowledge (such as the duties of various European institutions and the process of passing legislation). Member states should have the opportunity to inject additional components into the curriculum as they see fit, and the EU should not dictate national curriculums in other subjects. However, the European Union must ensure that each of its citizens—citizens that vote in the European Parliamentary elections, citizens that vote in referendums on EU reform and accession treaties, citizens that live under the Union's rules every day—adequately understand the workings of the EU itself. Improved education may not guarantee that any given European treaty will pass: voters who once rejected EU treaties out of apathy may find very concrete reasons to justify future 'No' votes. However, thoughtful debate will strengthen both the European Union and its opponents, and the EU can form a more perfect Union of its own.

¹⁰ The loss of a commissioner was a statistically significant reason for voting against the Lisbon Treaty in research conducted by Millward Brown IMS (2008, p. 14) and the Department of Foreign Affairs (Sinnott *et al*, 2009, p. 14).

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