

ERA-Forum

scripta iuris europaei

3 - 2002

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Editorial

Ireland's Referendum on the Treaty of Nice

Richard Crowe*

On Saturday, 19th October 2002 the Irish people will go to the polls for a second time to vote on ratification of the Nice Treaty. The first referendum, in June 2001, saw the Treaty rejected by a majority of 53.9% to 46.1% on a turnout of 34.8% of the eligible electorate. This result was a source of great embarrassment for the Irish government and raised the prospect of an obstacle being placed in the way of the long-awaited Eastern enlargement of the EU. The second referendum campaign is being keenly contested and the outcome will have major implications for the EU enlargement process and for the future direction of the EU as a whole.

One of the greatest challenges facing the Irish government as it seeks to secure a Yes vote second time around is to establish a credible justification for putting the Treaty to the people yet again. Having rejected the Treaty once, many Irish citizens wonder why they are being asked to vote on it a second time. Would the government have called a second referendum had the people given the 'correct' answer first time around? Will the government keep re-running the referendum until it finally gets the answer that it wants? Is the government being pressurised by other Member State governments and EU institutions to come up with the result that they need? As citizens of a relatively young state once oppressively ruled by a more powerful neighbour, the Irish people are very sensitive to outside forces seeking to influence their domestic decision-making. One anti-Nice poster being used in the current campaign urges: "Same Bad Treaty: Don't be Bullied - Vote No".

Valid though these concerns about the legitimacy of running a second referendum on the same Treaty are, however, the context has indeed changed since the first referendum and the Irish people are not being asked exactly the same question second time around. Three significant developments have taken place over the past year which serve to justify a second ballot on such an important issue. Firstly, the influential argument that the Treaty of Nice provisions on security and defence pose a threat to the Irish tradition of military neutrality has been decisively negated by the Declarations of the European Council and Irish government issued at the Seville European Council in June of this year. The Nice provisions allowing for the creation of a so-called EU 'Rapid Reaction Force' were very well exploited by the No campaign in the lead-up to the first referendum to create widespread fear among the Irish electorate that Nice would compromise Irish military neutrality. The Seville Declarations set out beyond doubt that Ireland will only participate in overseas military operations within the context of EU security and defence policy where there is a UN resolution authorising the operation, where the Irish government is in agreement and where the Irish parliament has given its approval. Furthermore, the Irish government pledges that a referendum will be held in Ireland on any future EU decision or treaty which would involve Ireland departing from its traditional policy of military neutrality.

Secondly, proposals have been put forward and broadly agreed by all the main Irish political parties which will allow the Irish parliament to play a much more active and effective role in scrutinising policy and proposals emanating from Brussels and in calling government ministers

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to account in respect of their participation in the EU Council of Ministers. The debate after the first referendum in Ireland revealed that many Irish people regard the conduct of business between the Irish government and the EU institutions as a 'well-kept secret' over which they feel no control. Irish parliamentary scrutiny of EU affairs has, over the years, been particularly lax by comparison with that of other Member States' parliaments and the proposed reforms should significantly improve the transparency of Irish participation in the EU decision-making process.

Thirdly, and linked to the second point, a full and open debate on the Treaty has now been conducted in Ireland and citizens have been given the information they need to make an informed decision on the Treaty's merits. The Irish government admitted after the first referendum that it made a mistake in opting for an excessively short campaign and in not providing enough information on the Treaty to voters. These are factors which no doubt contributed to the extremely low turnout for the first vote. Since then, however, a 'National Forum on Europe' has been set up to debate the Treaty along with broader issues of Ireland's participation in the European integration process. The Forum has met regularly over the past year and has received and heard submissions from a wide range of interested parties. In a particularly successful initiative from which the Convention on the Future of Europe could draw some inspiration, the Irish Forum held many of its meetings in regional centres, thus bringing the debate closer to citizens outside the capital and allowing them greater opportunity to have their voices heard. The Chairman of the Forum has drafted interim reports which have provided feedback to the government on the views of the Irish people and which have served to focus and advance the debate at national level. In addition to the Forum, detailed booklets have been sent to every home in the country with a view to providing objective information on the contents and implications of the Treaty.

In spite of these changes in context over the period since the first referendum, which should at least serve to justify the holding of a second referendum, the Irish government still faces an uphill battle in seeking to convince the Irish public to vote in favour of the Treaty. Many Irish people still regard Nice as simply a bad Treaty, which was intended to prepare the EU institutions for an enlarged Union but which serves in fact to upset the delicate balance of national representation in EU decision-making which has worked well for Ireland and for the EU up to now. Furthermore, discontent in certain quarters with broken election promises on the part of the recently re-elected government may lead to a backlash which will be expressed through a short-sighted anti-government vote in the second Nice referendum. The vast majority of Irish people, however, are acutely aware of the broader long-term significance of their vote for Ireland, for the EU and for the former communist applicant states of Central and Eastern Europe. Opinion polls consistently show support for Eastern enlargement to be higher in Ireland than in any other Member State. Many Irish feel, however, that Nice is a bad deal for the candidate countries and that enlargement can, and should, proceed without the Treaty.

This is not a view shared by the governments of the candidate countries themselves and on 25th September 2002 the European Affairs Ministers of ten applicant states meeting in Warsaw took the unprecedented step of issuing a joint plea directly to the people of Ireland calling for a Yes vote in the second Nice referendum. The Irish are not known for taking kindly to outside interference in their internal affairs, but it is to be hoped that this is one plea which they will heed. Nice is certainly not the most attractive treaty ever agreed at EU level, but it does allow for Eastern enlargement in the very near future. Once inside the Union, the former communist states will

themselves have the opportunity to participate in and influence the process of reforming the Union. This process is already under way in the context of the Convention on the Future of Europe and it is to be hoped that before long the provisions of a new and better structured reform treaty will supersede the messy compromise of Nice. To see and believe in this bigger picture requires courage and vision. The rest of Europe must hope that these are virtues the citizens of Ireland will exhibit in abundance on October 19th. ■

Governance in the Context of Services of General Interest*

Erika Szyszczak**

"Obviously, measures to improve the functioning of the EU's single market can and should take account of all interests affected by these measures. Indeed, it is in our interest to go to great lengths to consult all those who are affected by particular proposals. We must take account of their views so that the measures are adapted to the realities of the marketplace.

One of the fundamental problems is that interest groups may wield a disproportionate influence on the EU's open and democratic decision-making process. The efforts of interests to defend their corners are neither new nor surprising. What is new is that Europe has declared to the rest of the world that it wants to become more competitive than the United States, Japan or anywhere else. The need to make Europe more competitive should take precedence over the interests of particular companies, social groups, sectors, regions or countries.¹

Over recent years a new discourse on European governance has evolved. It is now not possible to speak simply about governance in the EU. Instead ideas of "modern" governance, "good" governance and "multi-level" governance are the code words for explaining the new processes of change in the EU. The Commission has defined governance narrowly as 'rules, processes and behaviour that affect the way in which powers are exercised at a European level.'² The Commission has gone on to identify five key principles of openness, participation, accountability, effectiveness and coherence³ which should be part of the process of the delivery of "good" governance in the EU. The White Paper identifies two key themes in the practice of good governance in the EU.

First, the question of input in to, and legitimacy of, the EU policy making process and how this process could become more accessible.

Second, the output and efficiency of EU legislation by considering how multi-level governance could become more involved with implementation of EU policy.

Throughout Europe – east and west – attitudes towards public services and the role of governments have changed dramatically. Governments are increasingly caught between declining revenues and rising demands for, and expectations of, public services. This in turn has led to fundamental re-thinking over the role of the state in the provision of public services and an active policy of "re-inventing government"⁴ which has embraced, *inter alia*, transferring some public

* This paper is the written version of a presentation given by the author at the conference "Services of General Interest in Europe" in Trier, 24-25th of January 2002.

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1 Frits Bolkestein, European Commissioner; *The World in 2002*, *The Economist*, 52.

2 COM (2001) 428. This definition is contained within a footnote in the White Paper.

3 *ibid* 10.

4 A term borrowed from D. Osborne and T. Gaebler, *Reinventing Government* (1993, New York).