



Nice for the second time – auction completed...

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On October 19th, the Irish voted in a second referendum on the Treaty of Nice – it was approved. Although we as a candidate country may feel some relief, the result nevertheless was a Pyrrhic victory. Polls indicated an indecisive outcome until the last moment, though eventually 63% of those who turned out on polling day voted in favour (with a considerably high turnout of around 50%). One has to consider the wider consequences of this vote, however, especially in terms of similar situations that might occur in the future.

Why again on the same matter?

The fact that the Treaty was presented to Irish voters for the second time in an unchanged version can in itself raise some doubts. *Ne bis in idem* (it is not possible to rule twice on the same matter); why should the Irish say yes to something they had already once refused? The answer is that the circumstances under which the referendum was held this year were not the same as those of last June. At that time, it was far from clear how accession talks would proceed and whether enlargement would be feasible within the foreseen timeframe. For this reason, questions other than enlargement were at stake.

The situation was different this year. More so than in 2001, the Irish were deciding whether enlargement would happen in the envisaged timeframe. The European Commission published its regular reports formally acknowledging that ten countries would be ready to conclude negotiations by the end of the year. Without the respective institutional frameworks set forth by this Treaty, the invitation of ten newcomers would not be possible.

An alternative would be to adopt “plan B”. This, according to the EU Enlargement Commissioner Günter Verheugen, did not exist. Much speculation has surrounded the issue, however, suggesting the possibility of including those parts of the Treaty of Nice dealing with institutional issues within the Accession Treaties with the candidates. One could argue that this would be circumventing the voice of the Irish people as they would not be ratifying accession treaties in a referendum. Apart from that, some member states may not want to sign up to this and use it as a pretext for opening up institutional clauses before enlargement takes place. In any case, this would lead to a delay of the enlargement process by months, possibly years.

Other issues surrounding the Treaty of Nice also showed dissimilarities from one year to the next. One controversial issue raised in the previous campaign was the participation of Irish troops in the peacekeeping missions of the EU and in the Rapid Reaction Force. At the European Council in Seville in June of last year, the fifteen member states adopted a joint declaration explicitly conferring to the Irish the right to decide whether they would participate in missions under the CFSP. Furthermore, Taoiseach Bertie Ahern’s government promised that this question would be the subject of yet another referendum. This fact contributed a great

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deal to reassuring that part of the Irish population that may have had some concerns surrounding traditional Irish neutrality.

Weaker Ireland in Europe and workers from the East

It was argued that the influence of Ireland in the EU would be weakened, not only compared to larger states, but as a result of an overall dilution of decision-making powers within an enlarged Union. Ireland would lose the automatic right to appoint a Commissioner, and its reduced Council vote and number of MEPs would not provide sufficient strength to defend its positions. It was Sinn Féin and the Greens who predominantly supported this argument.

In response to these arguments, it must be acknowledged that Ireland would lose its automatic right to a Commissioner. In the same way, however, larger countries would lose the right to a second Council member and, furthermore, this change would not happen before 2005 when a new system agreeing on the forthcoming IGC would be in force. As far as Council votes are concerned, Ireland would have the same number as larger Finland or Denmark. The number of MEPs elected per capita in Ireland would be about twice that of the UK, France or Italy.

A second possible negative consequence of enlargement, stressed more so than last year, was that of immigrant influx. It was argued that the Irish were threatened by this influx from poorer Eastern countries competing with their cheap labour force. Surveys suggested however that the Irish – unlike the British or the French – did not fear accession of new countries. Long-term support for enlargement in Ireland reaches around 60%, far above the EU average, while opponents rate at a mere 17%.

Most Irish citizens are aware that, upon accession to the then EEC in 1973, they were in a similar position and do not want to deprive citizens of candidate countries from using EU membership for their own development. The Irish economy is suffering from a shortage of qualified labour force, especially in the IT sector and the openness of the Irish economy and with its pro-export orientation further signalises that Ireland could benefit considerably from the enlargement of the European market.

It is evident that this year's "yes" vote campaign was far more intensive than a year ago. The Irish Government succeeded in tackling the problems that could deter undecided voters from a positive vote, especially in the field of European Security and Defence Policy (ESDP).

Lessons from the crisis

The approval of the Treaty in the second referendum gives the opportunity to governments of candidate countries to close the final chapters on their accession to the Union. It is necessary to deliberate however on what lessons can be drawn from the Irish Nice referenda and what this means for potentially important developments on the European political scene.

- 1) The previous Irish government was lulled into a false sense of security by relying upon traditional Irish loyalty to the EU. It also underestimated the need for an effective information campaign explaining to voters the importance as well as possible obstacles of the Treaty of Nice, which may have resulted in the very low turnout of only 35% last year. Irish representatives should have been aware of such potential risks when they were negotiating the Treaty.

- 2) Popular voting on extremely complex and sometimes very controversial issues can cause problems. It is of course impossible to prescribe to Ireland what should and should not be subject to a referendum – that is entirely a question of its constitutional system. The fact is that a broader trend can be traced in Europe concerning referenda on similar issues. In the last decade, the Treaty of European Union was rejected in Denmark for the first time and in France the approval was very tight. This comes as no surprise – it is difficult to raise a hand for a document that contains so many clauses, some of which voters are probably going to like and others dislike. Direct democracy is suitable in giving definite answers to simple questions. This, however, was not the case with the Treaty of Nice.
- 3) The Treaty of Nice was, from the very beginning, presented as a *conditio sine qua non* of enlargement, preparing the EU to function at a number greater than twenty. At the European level, however, it was never clearly articulated that this was a merely provisional solution, one not likely to survive past 2006. The Laeken Declaration in December 2001 called for the Convention on the Future of Europe, which is currently working on a far more complex reform of the Union after enlargement. This discussion did not precede the IGC concluded at Nice and its inconsistency is likely to have contributed to the failure of the first Irish referendum.
- 4) Treating Ireland differently to other EU players is disputable and relying on the fact that the Irish government will eventually convince its voters who have already once refused the Treaty is a political hazard that should not be repeated. One can pose a legitimate question as to why Ireland was not dealt with in the same way as Denmark was in 1992 when it refused to ratify Maastricht. Why were negotiations not reopened over questions that were of a particular concern to the Irish when possible changes could have been negotiated and approved softly by the other members? The urgency for enlargement and the fact that the Treaty was already ratified by some members would argue against such a step. In the same way however, the whole ratification procedure could have been in vain if the Irish had said “no” for the second time as obligations would have expired by end 2002 if not ratified by all the members.