

THE FEDERAL TRUST

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European Newsletter

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Note from the editor

This monthly newsletter monitors and analyses institutional and political developments in the European Union, with a particular interest in any developments relevant to the Lisbon Treaty. It will regularly feature contributions from expert commentators on current European issues, providing a platform for differing opinions. Views expressed are those of the authors and are not necessarily shared by the Federal Trust. The Newsletter is available at www.fedtrust.co.uk.

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1. Editorial

The Lisbon Treaty contains a number of important provisions which are compromises between radically different views of the European Union's present situation and future development. The non-rotating Presidency of the European Council, the Charter of Fundamental Rights, the workings of the External Action Service and the future contribution of national parliaments to the Union's legislative procedure are all instances of where the Treaty's Janus-like clauses will need to be supplemented over the coming years by implementing agreements and the unwritten conventions generated by day to day practice. More pressing, however, than any of these certainly important issues is the role of the European Parliament in the election of the President of the European Commission. The new Treaty envisages an enhanced influence for the Parliament in this process. Next year's European Elections will provide a first testing-ground for the new arrangements.

It is a powerful testimony to the growing general standing of the European Parliament that the Lisbon Treaty generalizes the Parliament's hitherto only partial role of co-legislator with the Council of Ministers. In this respect, the Parliament is a major beneficiary of the Treaty, as a result of a change which does not seem to have been a particularly controversial one within the European Council. On the more contentious issue, however, of the European Parliament's role in the choice of President for the European Commission, widely differing views within the European Union had to be reconciled in the Treaty.

continued overleaf

The Federal Trust for Education and Research

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...is a think tank that studies the interactions between regional, national, European and global levels of government.

Founded in 1945 on the initiative of Sir William Beveridge, it has long made a distinctive contribution to the study of federalism and federal systems.

The answer to the question of what part, if any, the European Parliament should play in the election of the President, is largely dictated by the respondent's broader analysis of the European Union's political and institutional nature. Those regarding the European Union as an incipient polity, with a political and institutional identity of its own, tend to favour the largest possible role for the European Parliament in the election of the Commission's President. Those who see the Union as simply an intergovernmental arrangement will see no advantage in such an enhanced role for the Parliament, and may well wish to forestall claims by future Presidents of the Commission to enjoy a personal democratic legitimacy through his or her benediction by European parliamentarians.

The text of the Lisbon Treaty on the matter, which is similar to, but not identical with that of the European Constitutional Treaty, is predictably situated somewhere between these two views. The European Council will still be the proposer of the new President for the Commission. But the European Council is enjoined, when choosing its candidate, to "take into account" the preceding European Elections, and the high threshold of a majority of the European Parliament's members is set for the Parliament's endorsement of the Council's candidate. If the European Council's first candidate does not attain this majority, another candidate must be put forward within a month, with the Parliament once again needing a majority of its members to endorse the European Council's candidate. Although the Lisbon Treaty does not make this entirely clear, the Parliament would presumably also have the right to reject this second candidate and demand a third proposal from the European Council.

Although the Lisbon Treaty refers to the European Parliament as "electing" the new President of the European Commission, this is an overstatement of the Parliament's role under the new arrangements. But the reformed system certainly does open new possibilities to the European Parliament, both in the formal recognition that the European Council must take account of the

European Elections in choosing their candidate for the Presidency and in the demanding majority set for the ratification of the European Council's candidate by the European Parliament. It must be an open question whether the political groups represented in the Parliament will be willing and able to take advantage of these new possibilities. At least two challenging hurdles would need to be surmounted beforehand.

First, at least the major political groups within the European Parliament would need to choose and publicise beforehand their favoured candidates for the Presidency of the Commission. A previously named politician whose political family had garnered the largest number of votes in the European Elections of 2009 would be in a politically much stronger position to demand nomination from the European Council as President of the Commission than an individual whose interest in the Commission Presidency only emerged after the European Elections. Second, there would need to be an agreement between at least the largest political groups in the European Parliament that they would act together after the European Elections, and themselves respect the result of those elections, as they wish the European Council to respect them. There would be an enormous temptation for a political grouping in the European Parliament anyway to support a politically like-minded candidate for the Presidency of the Commission, even if this nomination did not correspond to the results of the European Elections.

Both of these are difficult preconditions to put in place beforehand, not least because national political parties will largely determine the course of the European Election campaigns next year, and heads of state and government may be unwilling to have the choices restricted within the European Council by actions of their own political parties over the next eighteen months. If these and similar national considerations prevail, an opportunity will be missed to give meaning and substance to the European Elections of 2009. The institutional complexities and regional variations of the Union's political system make it very difficult to link the political choices of the electorate in the European Elections with

political outcomes arising from the results of those elections. A demonstrable link between votes cast in the European Elections and the identity of the next President of the European Commission would be a new and potentially energising aspect of the European Elections. Such a link would also have broader implications for the political legitimacy of the European Union. It is highly questionable whether the current system of European Elections can really be a worthwhile building-block for a democratic European Union. The persistently low turnout in these elections suggests that the electorate is at best confused, and more probably indifferent to this ambitious exercise in multi-national democracy. The lack of obvious political consequences following from the European Elections must be at least one correctable reason for this tepid interest from the European electors. There are of course those who doubt on general grounds whether a "democratic" European Union is either possible or desirable. For them, European Elections must be at best an irrelevance, and at worst a conscious fraud on the public. Those who believe that a democratic European Union is both possible and desirable will naturally take a different view. They will inevitably place the European Parliament at the centre of this democratic process. They will have every interest in lodging the question of the Presidency of the European Commission firmly on the agenda of the next European Elections.*

Brendan Donnelly
Director, The Federal
Trust

* For more on this question see www.who-is-your-candidate.eu and the Union of European Federalists: <http://en.federaleurope.org/>

2. Ratification in 27 Member States: An Overview

| <i>Member State</i> | <i>Progress Towards Ratification of the Lisbon Treaty</i> | <i>The Constitutional Treaty</i> |
|---------------------|---|----------------------------------|
| Austria | The Constitutional Committee of the lower house of the Austrian parliament has published a report recommending the ratification of the Treaty. The vote is expected to take place at the earliest in April and the bill will then move to the upper chamber. In both houses a two-thirds majority will be required. | Ratified in Parliament |
| Belgium | The Belgian Senate ratified the Lisbon Treaty on 6 March, with 48 votes in favour, 8 against and 1 abstention. It still needs to be considered by the lower house and the five regional/ community parliaments in order to be fully ratified. | Ratified in Parliament |
| Bulgaria | Bulgaria's parliament ratified the Treaty on 21 March by an overwhelming majority of 199 to 15. | " " |
| Cyprus | The ratification bill was submitted to parliament on 17 December 2007. Ratification requires an absolute majority in favour. | Ratified in Parliament |
| Czech Republic | In a first reading of the ratification bill the lower house of the Czech Parliament approved the Lisbon Treaty. Ratification will now continue with a final vote expected in autumn. | Referendum Abandoned |
| Denmark | The government decided against a referendum on the Treaty and presented the ratification bill to parliament on 9 January 2008. The parliamentary vote is expected to take place in the spring. There will also be a referendum on giving up Denmark's opt-outs, but no timetable has been agreed. | Referendum Abandoned |
| Estonia | The ratification bill was presented to parliament on 31 January 2008 and requires a simple majority to be passed. | Ratified in Parliament |
| Finland | Parliamentary ratification procedure requires a two-thirds majority in favour. | " " |
| France | The Treaty was ratified in the parliamentary sessions of 7 and 8 February 2008. The Chamber of Deputies voted in favour by 336 votes to 52, while the Senate's majority was 265 in favour, with 42 in opposition and 13 abstentions. | Rejected in Referendum |
| Germany | A first reading of the ratification bill took place in the lower house on 13 March. The European Affairs Committee is currently undertaking an inquiry into the Treaty. The bill will need to be approved by both chambers of parliament by a majority of two-thirds. The process is planned to be completed before the summer recess. | Ratified in Parliament |
| Greece | The timetable for parliamentary ratification, requiring a simple majority, has not yet been announced. | " " |
| Hungary | Hungary was the first country to ratify the Treaty, on 17 December 2007. The parliament voted in favour by 325 votes to 5, with 14 abstentions. | Ratified in Parliament |
| Ireland | Ireland is likely to be the only country to hold a referendum on the Treaty's ratification. The government announced on 3 April that the referendum will take place on 12 June. | Referendum Abandoned |
| Italy | Italy's timetable for parliamentary ratification has not yet been announced. A simple majority in both houses will be required. | Ratified in Parliament |
| Latvia | Parliamentary ratification will be by simple majority. | " " |
| Lithuania | Parliamentary ratification will be by simple majority. | " " |
| Luxembourg | Luxembourg intends to ratify by parliamentary vote, in which a simple majority is required. (A consultative referendum was held on the Constitutional Treaty in 2005; 56% voted 'for'). | Ratified after Referendum |
| Malta | The Maltese parliament unanimously ratified the Lisbon Treaty on 29 January 2008. | Ratified in Parliament |
| Netherlands | The Dutch government intends to ratify the Treaty by parliamentary vote, a decision based on the opinion of the Council of State. Both houses of parliament need to achieve a simple majority. The opposition has tabled a referendum bill in parliament, but it is expected to fail. | Rejected in Referendum |
| Poland | The lower house of Parliament ratified the Treaty on 1 April with 384 votes in favour, 56 against and 12 abstentions. The Senate followed on 2 April with 74 votes in favour, 17 against and 6 abstentions. The ratification was made possible by a deal struck between the prime minister and the opposition leader on a resolution to be adopted by parliament making references to Polish sovereignty. | Referendum Abandoned |
| Portugal | After a debate on how to ratify the Treaty, the Portuguese Prime Minister announced in January the decision to ratify by parliamentary vote. On 7 February 2008, parliament rejected a motion tabled by opposition parties calling for a referendum to be held. | Referendum Abandoned |
| Romania | Romania's parliament ratified the Lisbon Treaty on 4 February 2008, by 387 votes to 1, with 1 abstention. | Ratified in Parliament |
| Slovakia | The parliamentary vote on ratification had been planned for 7 February 2008. It has however been postponed due to the absence of opposition party delegates who were protesting against a domestic media law. The required 3/5 majority could therefore not be achieved. | Ratified in Parliament |
| Slovenia | Slovenia, currently holding the EU Presidency and keen to be seen as one of the first countries to ratify the Treaty, did so by parliamentary vote on 29 January 2008, by 74 votes to 6. | Ratified in Parliament |
| Spain | Spain is planning to ratify the Treaty by parliamentary vote, which requires the approval of both houses of parliament. No timetable has yet been announced. (A consultative referendum was held on the Constitutional Treaty in 2005, in which 77% voted 'for' and 17% 'against'). | Ratified after Referendum |
| Sweden | Sweden intends to ratify the Treaty in parliament, where a simple majority in favour is required. | Parliamentary Vote Abandoned |
| United Kingdom | The ratification bill was approved by the House of Commons on 11 March with 346 votes in favour and 206 against. An amendment calling for a referendum was defeated on 5 March. The bill has now moved to the House of Lords for ratification. | Referendum Abandoned |

3. Ratification of the Lisbon Treaty in the UK – Half-way there?

In the House of Commons

The ratification process of the Lisbon Treaty in the British Parliament passed its first major test when the European Union (Amendment) Bill was approved by the House of Commons in March. The vote on 11 March 2008 produced a clear result, with 346 votes in favour of ratification and 206 votes against.

Previous to the final reading of the bill, at which the vote took place, Parliament had undertaken a detailed review of the new Treaty's provisions. The discussions took place on the floor of the House instead of in committee, allowing the government to claim the broadest possible involvement of MPs in the ratification process. The subjects of the topical debates included home affairs, justice and immigration matters, institutional reform, aspects concerning the single market, foreign policy, energy policy, human rights, international development, transport and the environment.

However, the press coverage did not devote much reporting to the many hours spent debating the policy contents of the Treaty, but instead was dominated by the question of whether Parliament would be able to force the government to hold a referendum on the Treaty. The issue came to a head on 5 March 2008, when Parliament voted on a Conservative opposition amendment calling for a referendum. After several hours of debate the amendment was defeated by 311 votes to 248. All three main parties were divided on the issue. 29 Labour MPs voted against the government and three Conservative MPs voted against their own party.

But the most obvious divisions were displayed by the Liberal Democrats. The party's leadership had called for its MPs to abstain from the vote, since the party wished neither to betray its pro-European beliefs (and those of the majority of their members) nor undermine its electoral chances in constituencies of strong anti-European sentiment.. The Liberal Democrats had tried to solve this dilemma

the day before by calling for an "in or out" referendum on the general issue of British membership of the EU, which they hoped would prove to the electorate their commitment to their manifesto promise of a referendum. The amendment of the Liberal Democrats in this sense was however rejected by a crushing majority of 471 votes to 68. In the end, 13 Liberal Democrat MPs defied the instructions of their leader and voted for the Conservative proposal calling for a referendum and 50 abstained. The ripples were felt even in the Liberal Democrat shadow cabinet, from which three frontbenchers resigned as a result. Compared to the heat of the debate and the vote on the question of a referendum the actual vote on ratification on 11 March was a far more peaceful affair.

In the House of Lords

The ratification bill then moved to the House of Lords for a first reading (without debate) on 12 March and a first debate on 1 April. Six sittings are envisaged for the committee stage, which will be undertaken by the "committee of the whole house", mirroring the process in the Commons. This process will last until the end of May before a final reading completes the ratification process.

Ahead of the first debate in the House of Lords two of its committees had undertaken inquiries into the treaty in order to inform the ratification debate. The EU Select Committee published its report *The Treaty of Lisbon: an impact assessment* on 13 March 2008. This very comprehensive report is a purely analytical assessment of the major innovations contained in the Lisbon Treaty and examines their likely impact on the UK. The report aims to inform the debate in Parliament and does not contain any judgement on whether the Treaty would be beneficial to the UK or not, nor does it recommend to Parliament whether or not the Treaty should be ratified.

The second report was published by the Constitution Committee on 28 March 2008 and is entitled *European Union (Amendment) Bill and the Lisbon Treaty: Implications for the UK Constitution*. In the report the committee concludes that the Lisbon Treaty will not substantially change the current balance of

sovereignty-sharing between the European Union's institutions and those of the United Kingdom. It welcomes the provisions contained in the government's ratification bill which require parliamentary approval of both houses for the use of the Simplified Revision Procedure and *passerelles*. But the Committee goes even further and recommends an amendment to the bill which would require parliamentary approval for any future government decision either to opt in or to opt out of measures proposed in the area of Freedom, Security and Justice.

In the first debate on the ratification bill on 1 April, which lasted almost 12 hours and included contributions from over 60 speakers, the question of whether a referendum should be held resurfaced in the form of an amendment proposed by the Conservatives. However, the amendment is unlikely to succeed after the announcement of the leader of the Liberal Democrats in the House of Lords that, unlike their colleagues in the Commons, most of whom abstained from the vote, Liberal Democrat peers would vote with the government against a referendum. Since the government holds no majority in the House of Lords the large-scale abstention of Liberal Democrat peers could have led to the adoption of the amendment favouring a referendum and the re-emergence of the referendum question on the House of Commons' agenda.

Ulrike Rüb-Taylor,
The Federal Trust

Links

[UK Parliament: Progress of European Union \(Amendment\) Bill \(read debates and follow progress of the ratification process\)](#)

[House of Lords Constitution Committee Report: *European Union \(Amendment\) Bill and the Lisbon Treaty: Implications for the UK Constitution*, 28 March 2008](#)

[House of Lords EU Select Committee Report: *The Treaty of Lisbon: an impact assessment*, 13 March 2008](#)

[Foreign Affairs Committee report on Foreign Policy Aspects of the Lisbon Treaty, 20 January 2008](#)

(The two latter reports contain quotations from the Federal Trust submissions to the Committees.)

4. The Lisbon Treaty Referendum in Ireland

Irish voters will go to the polls in the second week of June to decide on ratification of the Lisbon Treaty. Ireland is the only EU Member State to hold a referendum on the treaty and this will be the seventh Irish referendum on European treaties since 1972.

A Constitutional Amendment Bill has been published and will be debated by both Houses of the Oireachtas (Parliament) in the coming weeks. Once passed a Ministerial Order will fix the date of the referendum which is likely to be June 12th. A Referendum Commission has been established to inform the public about the treaty and encourage voting by media advertising and written communication to all households.

A Government information campaign has commenced with the publication of two short summary leaflets and the opening of a dedicated website, www.reformtreaty.ie, and a lo-call phone facility. A formal White Paper was published on 2nd April.

Opinion Poll

A recent opinion poll showed 43% Yes / 23% No / 34% Don't Know. The high level of 'don't knows' is understandable since knowledge of the details of the treaty text remain sketchy but is a stark reminder of the successful slogan in the first Nice poll – "If You Don't Know – Vote No!" A critical issue is the level of turnout.

Government and Political Parties

The Government will have a central responsibility in the campaign and "will put every ounce of energy into the ratification process because of its significance for us and for the Union."

The Fianna Fail Party will, therefore, campaign strongly for the Treaty as will the main opposition party, Fine Gael. The Labour Party is committed to campaign for a 'yes' vote. The Green Party, which previously campaigned for a 'no' is now part of the Government and has decided in favour of the treaty but with an insufficient majority to permit a formal 'yes' campaign. The Progressive

Democrats, also in Government, will support the 'yes' campaign.

The only party represented in the Dail which will campaign against the Treaty is Sinn Fein looking for an opportunity to strengthen its position in politics south of the border. They will be joined by three small leftwing parties and by a number of civil society groups campaigning on issues such as Irish neutrality and sovereignty. A new rightwing group – Libertas – has emerged to campaign against over-regulation of business.

The apparent weakness of the political base for a 'no' vote should not lead to the conclusion that the referendum will be easily carried. There will be an energetic and committed campaign by people who have opposed EU developments from the time of the first referendum 35 years ago.

The National Forum on Europe

The National Forum on Europe is already playing a key role. An attractive summary guide to the treaty giving an impartial account in clear language of the main features is being circulated widely. Plenary sessions have so far been addressed by the Taoiseach, Bertie Ahern, the Leader of the Labour Party, Eamon Gilmore, Commission Vice President Margot Wallström and Danish MEP, Jens-Peter Bonde. The Forum is also holding public information meetings around the country: as many as 8 plenary meetings and more than 20 public meetings will be held.

NGOs for Europe

A highly significant element in the successful 'yes' campaign in 2002 was the role of non-party political groups. In particular the Alliance for Europe, ably led by the well-known academic Professor Brigid Laffan, played a central role. The Alliance has been re-established and is planning a highly focused campaign. The European Movement Ireland has been reorganised and will play an important role in providing information.

Institute of International and European Affairs

The IIEA will have an important role in information, analysis and structured debate and discussion. Work is underway on preparing a comprehensive analysis of the Treaty text, which will be published in early April. The Institute has produced a widely praised consolidated version of the Treaty in printed form and on the website www.iiea.com. An annotated version, showing changes from both Nice and the Constitution is available.

Ask the People a Question

The classic difficulty of any referendum is likely to face us in Ireland. Issues unrelated to the treaty are likely to arise such as the unpopularity of the Government at a time of economic difficulty, pressures on public services and immigration. Matters arising from Tribunals established to look at political funding in the 80s and 90s which involve the Taoiseach, Bertie Ahern, might have cast a shadow over the campaign but the surprise announcement of his decision to leave office in May will remove that extraneous issue from the mix.

The actual debate on the treaty will see the 'yes' side arguing that the Treaty is a necessary advance in institutional and policy terms, making the enlarged EU more efficient in responding to challenges ranging from globalisation to climate change and from energy security to immigration. The clear assertion of the Union's values and the prime place of the social and human rights agenda will be stressed as will the creation of effective means of delivering the Union's largely 'soft' power in dealing with crises.

Opponents will focus on the perceived increase in the centralised power of the EU. The argument that the EU is becoming a military superpower will be highlighted because of Ireland's moves towards greater integration into military structures such as the recently formed Irish-Scandinavian Battlegroup within ESDP. Particular problems for the trade union movement – such as the Laval Judgement of the ECJ – and for farmers – such as the current developments in WTO negotiations – will figure largely.

The focus for the 'yes' side must be on clear and consistent explanation both of the complex text but also of its political and historical setting. Ireland's need to be at the heart of a European Union capable and - with the ending of years of institutional wrangling - willing to confront the challenges that everybody sees in the economy, the environment and wider society must be established and fully promoted.

Tony Brown
IIEA

Tony Brown is a Director of the Institute of International and European Affairs, Dublin, and a member of the National Forum on Europe.

5. News from the Federal Trust

Conferences

Friday, 25th April 2008, London

14.00 - 17.30, followed by a reception

"The European Parliament in an enlarged European Union: Beyond the Lisbon Treaty"

The event will examine the questions of a European demos, the relationship with the Council of Ministers and relationships with national parliaments.

Speakers will include Andrew Duff MEP, Dr Andreas Maurer, Professor Edward Best, Professor Simona Piattoni, Dermot Scott and Brendan Donnelly.

The full programme can be downloaded on the Trust's website:

www.fedtrust.co.uk/uploads/EP_workshop_Prog_25April08.pdf

To register please contact Ulrike Rüb-Taylor on ulrike.rub@fedtrust.co.uk or on 020 7320 3045.

Recent Policy Briefs by the Federal Trust

The Lisbon Treaty and the Ongoing Problem of Co-ordination of the EU's External Action

by Dr Ana E Juncos

www.fedtrust.co.uk/uploads/LisbonCFSP_Juncos.pdf

The EU's Member States and European Defence

by Jeannette Ladzik

www.fedtrust.co.uk/uploads/EU_Defence_Ladzik.pdf

Review of the EU Budget - Federal Trust Submission to the European Commission EU Budget Review 2008

by Brendan Donnelly and Mark Nevin

www.fedtrust.co.uk/uploads/EU_Budget.pdf

New publication

Federalism and the British

Edited by Stanley Henig

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