

Working Notes

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Perspectives on Europe

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Towards the Lisbon Treaty Referendum

The View from Europe

Frank Turner SJ

The title proposed to me implies a double focus: actually, a **double** double focus. If the rest of this edition of *Working Notes* offers perspectives **on** Europe, my task is to discuss perspectives **from** Europe. Two doublets are implicit in the title:

- ♦ ‘The view’: but whose view? The view of the political establishment in Brussels? (There is no single view, but a whole set of overlapping or contrasting views.) Or rather the view of a Jesuit organisation, or of the author?
- ♦ ‘The view’ – but of **what**? Of the merits and demerits of the Treaty of Lisbon itself? Or of the process of the Irish Referendum I (lost), through the subsequent inter-governmental negotiations to secure national concessions in view of Referendum II on October 2nd?

The following quadrant below therefore frames this essay.

1a. Political views of the Treaty of Lisbon	1b. Comments on the Treaty of Lisbon
2a. Political Views of the Irish Process	2b. Comments on the Irish Process

1a and 2a amount to a selective **report**. 1b and 2b are a personal view, or a report of those views of colleagues that I find persuasive.

1a. Political Views of the Treaty of Lisbon

The principal changes proposed by the Treaty include the extension of ‘qualified majority voting’ in the EU Council (that is, a differentiated majority of both states and citizens), the enhanced involvement of the European Parliament in determining legislation alongside the Council of the EU, and the legally-binding status given to the Charter of Fundamental Rights (subject to negotiated opt-out, as by Poland and the UK – which has no written Constitution, and did not wish to import one from outside).¹

For our purpose, I take the locus of euro-politics

to be the European Parliament. The European Commission is a civil service, and the opinions of civil servants, officially irrelevant, make themselves felt only indirectly. The Council of the EU hardly represents the ‘view from Brussels’ but rather the **views, argued in the Brussels context**, of the member states, typically in competition.

Within the Parliament – I mean the previous Parliament, since we now have a new one as of June, with 54 per cent of its members new – there was indeed a prevailing view of the Treaty of Lisbon. Some parties within the Parliament, such as the UK Independence Party, argue not only against the Treaty as such, but even in favour of national withdrawal from the EU itself. These parties form a kind of hospitably-hosted fifth column within the Parliament. However, in campaigning for the elections of June 2009, the then four largest party groups all endorsed the Lisbon Treaty. I take two examples: the Party of European Socialists (PES) and the broadly conservative group of Christian Democrat heritage, the European People’s Party (EPP).

The PES, dismissing opponents of the institutional reforms as ‘reactionary’, started from the premiss that ‘in today’s increasingly inter-linked world, no one country can solve global problems by acting alone’. Given the urgency of the socio-economic challenges, and given the PES’s core insistence that the market cannot be left to itself, ‘the entry into force of the Lisbon Treaty, subject to ratification by all EU Member States, would make Europe better able to tackle common challenges democratically, transparently and effectively’.

The EPP coincides with the PES in endorsing the main thrust of the Treaty of Lisbon: that is, its enabling of institutional changes intended to promote a closer European co-operation, in order to meet the challenges of the time. Where the groups differ is in the **rationale** for co-operation. Whereas for the PES, the main purpose is to control those features of the free market seen to have been culpable for our economic crisis, the EPP proclaims its belief in a common cultural identity (rooted in the Judaeo-Christian heritage, classicism, and the Enlightenment humanism) that is confidently called ‘our civilisation’. The EPP

wishes the deepening of the EU, but is reticent about enlargement.²

Electoral manifestos aside, the Parliament hesitated to debate the Treaty, fearing to ‘interfere’ with the second Irish referendum. However, in May it overwhelmingly approved certain key internal reports on the Treaty,³ especially the following elements:

- ♦ The community method (that is, the procedure by which Commission initiates, but the decision in almost all matters is taken jointly, by ‘co-decision’, by the Council and the Parliament). The Parliament would gain equal status with the Council in additional areas, such as agriculture, and justice / home affairs:⁴
- ♦ The Parliament would also gain equal authority with the Council in terms of the EU’s expenditure. However the Parliament ‘deplores’ that, in the crucial matter of setting the ‘Multi-annual Financial Framework’ – that is, the five-year budget – the Council’s **own** authority must be exercised in unanimity. In a Union of twenty-seven members, unanimity is a formidable hurdle, encouraging all kinds of political obstructionism.

1b. Comments on the Treaty of Lisbon

The stated aim of the Treaty of Lisbon, according to the Preamble, is ‘to complete the process started by the Treaty of Amsterdam (1997) and by the Treaty of Nice (2001) with a view to enhancing the efficiency and democratic legitimacy of the Union and to improving the coherence of its action’. Accordingly, it promises pragmatic improvements to the functioning of the EU, and offers advances in democratic transparency (such as an increased supervisory potential for national parliaments) and in accessibility to citizens (any citizen’s initiative with 1 million signatures from ‘a significant number of member states’ will now compel the Commission to propose some relevant initiative).

These innovations are hardly the stuff of political passion. Remember how the President of the Commission, José Manuel Barroso, hailed the **signing** of the Treaty in 2007. Now that the institutional impasse seemed resolved for the time being the EU was free to address what ‘the people of Europe really care about’: for example, climate change, migration, globalisation, economic

growth, and security in the face of terrorism. In other words, not even Mr Barroso expected the people of Europe really to ‘care about’ the Treaty itself!

This very modesty means that the Treaty, the so-called ‘Reform Treaty’ has failed to achieve – but could not possibly have achieved – the ‘reform’ that is most necessary. Since ‘reform’ connotes fundamental changes of vision or ethos, perhaps it ought to have been termed the ‘Rationalisation Treaty’. The fact is that any such reform would have been unacceptable to the member states, for the very reasons that render it so necessary. I need to step back to explain.

The EU combines two complementary modalities, always in tension: **shared** sovereignty – not sovereignty surrendered, as some would have it – and **exclusive national** sovereignty. These tensions have long been managed through a careful institutional balance:

- ♦ The European Commission expresses the common life of the EU. Officials of the Commission serve the EU itself, **not** their own country.
- ♦ The 750 members of the European Parliament are elected by their constituents – that is, citizens of their own member state – and are accountable to those constituents.
- ♦ The Council of the EU represents the ‘inter-governmental’ dimension of the EU. It exists at two levels (The ‘European Council’ of Prime Ministers and Heads of State, and the ‘Council of Ministers’ of other government ministers, those with thematic portfolios). In each case, members represent their own mandating governments.

The Treaty of Lisbon in no way dissolves this tension, though it makes important amendments. The Presidency of the EU will no longer rotate every six months, building in discontinuity. A new post, elaborately titled ‘High Representative for the Common Foreign and Security Policy and Secretary-General of the Council of the European Union’ will combine the present roles of the Commissioner for External Affairs (i.e. a member of the Commission) and the Secretary General of the Council. Even so, this official, currently Javier Solana, will be far from ‘Foreign Minister of the EU’ since foreign policy remains the competence of the member states.

The Treaty stresses **subsidiarity** as a core EU principle: the EU may only act in areas that are not better tackled at the national level. National parliaments are given a stronger ‘watchdog’ role than before – including the responsibility to warn when draft legislative acts of the EU might weaken national sovereignty! Few critics of the Treaty have discussed this innovation. Similarly, it is nowhere claimed that EU law takes precedence over national laws. Those areas where EU law has exclusive competence are by definition **cross-border** – such as the customs union and the management of the competition rules of the internal market.

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Mr Barroso’s reaction, quoted above, indicates his belief that people ‘really care about’ Europe’s willingness to co-operate to stave off urgent global threats. Implicitly, he recognises that they do not care about constructing a deeper shared identity. This lesson has been learned all too well by the EU.

Here lies my regret: less about the Treaty as such, but about the inevitability of its lack of ambition. At its best the EU enables states to transcend (**not** to abandon) their national independence, identity and interests by exercising political authority together with other states; and by establishing economic arrangements that embody a transnational care for weaker states. The Treaty of Lisbon fails to challenge what seem to me the twin impediments to any form of Europe-wide (not to say global) social justice: that is, economic individualism and exclusive national sovereignty.

Economic individualism

The last two centuries are unique in positing individual prosperity, with the corresponding hegemony of the market, as the prime indicator of the good life. The EU reflects this hegemony in its very institutional structure. The aspiration to render the EU an effective and competitive **market force** is well-supported, by structures that

are ‘federal’: the Trade Commissioner is effectively Trade Minister for the EU. But the declared objectives concerning social inclusion, and social solidarity (that is, market-correcting or market-supplementing mechanisms) are reserved entirely to the competence of member-states. This damaging asymmetry is manifestly willed by several member states.

A Brussels colleague, Pierre Defraigne has recently argued cogently that the social shortcomings of the EU are becoming ‘intolerable and dangerous’. It was originally understood that subsidiarity would allow the member states themselves to assure ‘the pillars of solidarity – progressive taxation and social security’. Now however, the ambition to tax progressively is far less: what is more, ‘the sovereignty of countries in social and fiscal matters has become a fiction’.

Unless the EU is awarded some authority and helps set a common framework, ‘the Member States will increasingly lose their ability to act and the social crisis will deepen and spread in Europe’. Yet no significant progress has been made [in the Treaty] in terms of the social and fiscal harmonisation that is necessary especially because of the EU’s enlargement to include countries that are economically and socially less advanced. In other words, the Treaty has failed to deliver on its pretension of addressing the new situation of the EU.

The rule of unanimity for these matters in an EU of 27 continues to prevail. The treaty changes nothing. The risk of a race for the lowest common social and fiscal denominator is therefore no longer a political fantasy; the facts already show that this is happening in both the new Member States, despite the catching-up process, and in the old Member States.⁵

National sovereignty

The second obstacle to an EU that seeks social justice is the doctrine of exclusive national sovereignty, the bane of the twentieth century, and the disease for which the EU was originally seen as the cure. A character in a novel by that most European-minded of English novelists, Nicholas Freeling remarks, ‘We [Europeans] do not find it easy to abandon several hundred years of nationalist propaganda; of having it drummed into us at school that we are French, or English, or Czech’. That goes for the present author, too: my school years were passed in a Catholic system that proclaimed a ‘universal community’ – yet

somehow combined this with unabashed nationalism.

As national sovereignty becomes an economic fiction (the economic downturn in Germany, as in Japan, is caused by the inability of **other countries** to afford their exports) it retains its political prestige. Lisbon changes nothing in this respect. It could not be expected to, depending for its signing and ratification on the support of governments which live by the ideology. What I hope for, in the longer term, is not at all the substitution of national sovereignties by a European super-nationalism, of the 'Fortress Europe' type (that would be no better), but a subtler conception of sovereignty, one that finds plural expression.

All political entities, whether national or continental, need to be open to goods deeper and broader than their own.

To take analogies from the world of sport, the multinational 'British and Irish Lions' rugby team seems to inspire as much partisan passion as the teams of its component nations: at local level, football supporters of Arsenal or Liverpool or Preston North End often care more about the fate of their club than about the England team. Yet in politics, the national dimension purports to be all.⁶ Every week, some Westminster MP will demand what effect European policies have on the UK. Imagine one's asking with concern what impact British policy might have on Europe. But why not? All political entities, whether national or continental, need to be open to goods deeper and broader than their own.

2a. Political Views of the Irish Process

This section will be brief, since most politicians outside Ireland have wisely held their tongues: less through fear of interfering in Ireland's business (since Ireland's vote is obviously, in this case, everyone's business) but in order not to allow the impression of 'bullying' from the strong majority of states (18 as at June 2008, 23 in July 2009) that have ratified the Treaty.

After the first Referendum, Mr Barroso reported the assurance given him by Irish PM Brian Cowen that this vote was not a 'vote against Europe'. He commented simply, 'The "No" vote in Ireland has not solved the problems which the Lisbon Treaty is designed to solve': namely that the provisions of the Treaty of Nice were inadequate for the Union of 27 members, with more in the queue.

Summits of the Council, therefore, have accepted amendments to encourage Ireland's acceptance, with little comment from the Parliament. Only when Mr McCreevy, the Irish Commissioner, recently raised the stakes was there an explicit response. He spoke, in a talk to accountants, of the reactions in Europe ranging from 'shock to horror, to aghastness and temper and vexation'. He added: 'I think all the politicians of Europe would have known quite well that if a similar question had been put to their electorate in a referendum the answer in 95 per cent of countries would have been "no" as well'.⁷

This 'shock' etc. was a construct of Mr McCreevy's own imagination, and the 95 per cent statistic, too, is fanciful. This intervention (which could be regarded as 'interference' in the affairs of all other states!) did provoke irritation, even 'vexation', given Mr McCreevy's responsibility for the EU as a whole. The principal fear in 'Brussels' is that of opening the whole Treaty to renewed bargaining. This is not, I think, because the Treaty is bad, but because hearts sink everywhere at the thought of pushing it again through so many parliamentary and popular processes, in each of which it becomes hostage to extrinsic political infighting.

2b. Comments on the Irish Process

I comment not about the pros and cons of referenda in 'representative democracies', nor about the hazards, in such referenda, of conflating national and international controversies: but to what the 'Irish process' reveals about the fundamental relationship between member states and the EU.

Outside Ireland, some politicians have, like Mr McCreevy, represented the first Irish rejection as the tell-tale verdict of a country where a referendum is, uniquely, a clear constitutional obligation. Opponents of the EU in the UK, for example, have done this by claiming an equivalent 'right to a referendum' on the Treaty even though the UK lacks Ireland's constitutional imperative.⁸

If the second referendum approves the Treaty, these opponents will quickly discard Ireland as a model.

However, other states view the Irish experience ruefully: a negative vote was followed by the securing of special concessions essential (as Mr Cowen persuaded his European colleagues) to promote a favourable vote second time round. The Irish process illustrates the incentive for intransigence, and might reasonably irritate countries who ratified quickly and therefore wrung out no such concessions. To reward such bargaining is, in the long term, a risky strategy. More fundamentally, such last-ditch demands fuel a destructive sense, one that too many national politicians love to cultivate, that the fundamental game is 'my country versus the other 26'.

From this viewpoint, the turmoil surrounding the Treaty of Lisbon and the Irish referendum reveals something wrong with the EU, rather than something wrong with the Treaty or with Ireland. Member states claim maximal benefits from the EU while minimising their commitments to anything that they, individually, find uncongenial. Since such an attitude is quite difficult to acknowledge publicly, a certain dishonesty is built into the whole debate. What is hidden from the public is not the presence of some supposed stipulation of the Treaty that would insidiously erode national sovereignty, but the nationalist solipsism that wants things both ways.

I appreciate the fundamental project of the EU, because it embodies, however imperfectly (political achievements are never total) a rich set of solidarities: within and between the countries of the EU, and Europe's with the wider world. But if, particularly at this time of global economic crisis, the EU cannot stand together to prioritise the needs of those members as hard hit as Estonia, Latvia or Hungary – and if it closes itself off to the even more immense needs of the developing world – I do not know why we should value it.

Notes

1. Other changes are noted below.
2. This EPP position explains why the British Conservative Party left the EPP group. From July 2009 they are founder-members of a new 'anti-federalist' group, the European Conservatives and Reformists Group, of 55 members (7.5% of the Parliament). It remains to be seen whether this group can gain much independent political influence.

3. By three influential MEPs Jean-Luc Dehaene, Elmar Brok and Jo Leinen - two EPP members and one PES.
4. In EU jargon, 'justice' refers to criminal justice and policing, not to 'social justice'.
5. Pierre Defraigne, 'Social Europe, the key issue for EU unity', Europe Infos, Jan 2008.
6. Symbols of European identity, the flag, the hymn, were stripped from the Treaty text, so as not to offend nationalists. Other and more significant symbols show that EU identity is **not** a fiction: the Euro-zone, the European Court of Justice, and the Schengen 'space'. Note the distinction at entry through EU airports, **not** between nationals and non-nationals, but between **EU citizens**, who pass through without formality, and others.
7. The online journal *EuroActiv*, June 29, 2009.
8. Whether or not the British Government 'promised' a referendum is naturally a different issue.

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