

“The government won’t accept our decision...”

FALSE

The Claim

There is only one answer to this referendum that this government will accept.

In an article in the Irish Times, Sinn Féin Dublin MEP Mary Lou McDonald makes the case that the Lisbon referendum must not be rerun but that the Treaty must be renegotiated.¹

“The only reason Ireland is having a referendum is as a consequence of our struggle for National Independence which ensures we have an Irish Constitution, that includes Article 6 that states that all power derives from the people and cannot be transferred from them to the institutions of the emerging European Superstate without their consent. Our Supreme Court made that judgment in favour of the case brought by Raymond Crotty.”²

The Short Answer

We voted no last June, stating a number of concerns we had with the Treaty, including not knowing enough about it. Since then we’ve got a deal on keeping our Commissioner and assurances that our national positions on neutrality, tax and abortion will not be touched by this Treaty. We still have to vote on this new package either way, on whether this is good for Ireland or not.

The Long Answer

The Lisbon Treaty was put to us in June and we said no. Since the rejection of the Lisbon Treaty in June 2008, Ireland has obtained legal guarantees that there will be a permanent Irish Commissioner, and that reaffirm that Irish neutrality, our corporate tax rate and our position on abortion will not be affected by the Lisbon Treaty.

Since these lead concerns which we said were our main reasons for voting no, the package of the Treaty, the deal on keeping our Commissioner and the other guarantees is now to be put to us again on 2 October. There is nothing undemocratic about asking the Irish people for their opinion on a document or issue more than once. It has been done in the case of divorce, abortion and the voting system, where the circumstances had not even changed.

Neither the EU nor the Irish government are ignoring the original “no” vote, rather they have responded and have provided solutions to the problems that led to the rejection of the Lisbon Treaty in the hopes that this is a deal that the Irish people support.



This European Movement Ireland fact sheet is part of a series of research conducted to clarify the issues in the Lisbon Treaty debate. European Movement Ireland is a pro-European non-profit organisation which does not advocate either side of the Lisbon Treaty Referendum, we advocate the facts.



Current legal situation

Within the European Union, each of the EU countries must ratify a Treaty according to its own national provisions. For Ireland, ratification means a national referendum.

And why we usually have a referendum here is due to a key legal judgment, the case of *Crotty v An Taoiseach*³ – usually known as the Crotty Judgment.

In 1986, when Ireland signed the Single European Act without holding a referendum, Mr. Crotty brought an action in the Court for a declaration of unconstitutionality. Prior to this, Ireland's legislative and sovereign relations with the EU were "derogated from the absolute power of the Oireachtas to legislate for the State by recognizing all acts *necessitated* by membership as being valid law in the State...As a result it was not always considered necessary to hold a referendum to change the Community's Founding Treaties."⁴

The final statement delivered by the Irish Supreme Court in this case pointed out that amendments to treaties by the Single European Act fell outside the original scope and objectives of

the Communities. As the EU was entering into 'new territory' that was not in the original Treaties, this necessitated a referendum. **The legacy of the Crotty case is that Ireland now takes as a matter of course that any amendment to the Treaty requires a referendum.**

In relation to voting twice on an issue, this is not the first time that Irish people have had to vote again in a referendum. In the European field, the last example can be taken from the Nice Treaty in 2001, when Irish voters rejected it on the first occasion but the result was overturned the following year in a second referendum when clarifying declarations were provided by the other EU members.

Moreover, in internal issues Irish people have been asked to come back to the polls twice for the same question:

- Twice for voting system (1958 – 1968)⁵;
- Three times for abortion (1983 – 1992 – 2002)
- Twice for divorce (1986 – 1995)

What Lisbon Introduces

The rerunning of the referendum is not in itself an issue directly relevant to the Lisbon Treaty. That said, it is useful to highlight that Article 357 of the Lisbon Treaty states that the Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements and that it shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State.

For full details on the guarantees, please see our factsheet that refutes the myth "*Ah, these declarations are useless...*"

¹ Mary Lou McDonald, "Renegotiate Lisbon instead of rerunning it", The Irish Times Tuesday 2 December, 2008. <http://www.irishtimes.com/newspaper/opinion/2008/12/02/1227910464232.html>

² <http://www.pana.ie/>

³ *Crotty v An Taoiseach* [1987] I.R. 713 ("Crotty").

⁴ Benoit Keane, "The Lisbon Treaty – does Ireland need a Referendum?", Irish Law Times – No. 7, 2008, p. 108.

⁵ That can become Four Times, if we add other two referenda about in the same subject: 1972 Voting age reduced to 18; 1984 Extension of Voting Rights.