

Lisbon means more health cuts

Summary

- Most of the health service at present is public which means it receives money from the government so as to achieve its main goal – looking after the well-being of people in Ireland.
- Lisbon, the treaties before it and the European Court of Justice are trying to turn the health service into a market where companies can compete with each other in different services to create a profit just like in traditional business areas. This may and probably will result in cuts in funding for the public health service.
- EU rules mean if health services are provided to make profit like they are in Ireland, that a government may not be permitted to give money to a public organization like a hospital to provide those services. This would happen if a company that ran a similar service to make money made a successful complaint to the European Court of Justice (ECJ).
- If the government did fund a public hospital where there was a private hospital providing the same service they may be required to 'open up' the market for that health service to private companies. If the government did not open up the market to private companies it would be seen by the ECJ to be giving the public hospital an unfair advantage over the private hospital. If a government did not open up the market they would be breaking EU law and they would be forced to do so by the European Commission.
- A health service open to being run by companies is dangerous because if making a profit is the most important thing to a company then the well-being of the patients cannot be.
- A high-quality, free/subsidized health service should be available to all; the area of health should not be open to EU market rules.
- Ireland and the rest of the EU need to reject Lisbon and demand a treaty that respects the rights of citizens not companies.

Full Explanation

Article 16 of the Lisbon Treaty amends the Treaty on the Functioning of the European Union (TFEU) and deals with the subject of Services of General Economic Interest (SGEI). This article gives the power to the EU to set the principles and conditions, “particularly economic and financial conditions” for the services that come under the category of having a general economic interest. The article also states that the principles and conditions that will be decided in the EU will set out how “to provide, to commission (authorise) and to fund such services.”

This article also changes the voting system for the setting of these rules from Unanimous voting to Qualified Majority Voting (QMV). For those not familiar with these terms, Unanimous voting means all the countries involved must agree on the laws being voted on. QMV means a 55% majority of countries (15 countries) that represent 65% of the EU's population (approximately 292.5 million people) must agree. By changing the system to use population size to decide how strong each country's vote is, small countries like Ireland move from having an equal vote to having about 0.8% of the vote.

The significance of SGEI is that the EU's internal market rules apply to services in that category and if Lisbon passes the rules on how exactly those services are set-up, financed, funded and regulated will be decided in the EU by a QMV. One of the founding principles of the internal market rules is ensuring that competition in the market is not distorted. This principle is found in the (existing) Treaty establishing the European Community (TEC) and can be seen in Articles 7, 87 and 94 of that Treaty. Avoiding “distortion of competition” means public funds cannot give an organisation an advantage if there is a business that wishes to compete in providing that service. Effectively, any service that is considered economic can only receive public funding if a company providing a similar service does not successfully complain. Such a complaint would have the effect of opening up the service to competition and will be open to privatisation/or competition from private businesses.

The key issue for what decides if health services are open to privatisation or prohibited from public funding is whether they are considered economic or not. The Treaties do not give a definition for the word “economic” but the European Court of Justice has made decisions on various cases explaining the term. To help the public understand its meaning the European Commission published a White Paper in 2007 based on the Court's judgements which described what economic services are. This paper stated that the deciding factor would be if a service is paid for or “provided for remuneration” then it is economic. The paper also explained that:

“The service does not have to be paid for by those benefiting from it ... In practice ... the vast majority of services can be considered as 'economic activities'.”

The area of health services appears to be protected in Lisbon under Article 152 of TFEU. It states that each country has responsibility for deciding their own health policy, organising and delivering their health services/medical care and deciding on the resources to be used. However, Article 90 of the TEC clarifies that no public services or works can breach the rules of

the internal market. This applies even to services that countries have complete control over such as health. Only if a country can prove that the market rules obstruct the service being provided can they avoid using the market rules.

The Irish state itself has been trading in health for over 50 years through its public hospitals. There is no protection therefore against the application of internal market rules

The privatisation effect that Lisbon Treaty would have on public services is not just argued by No campaigners. In a submission to the Forum on Europe April 29th 2008, IBEC, the Irish employers' group and strong advocates of a Yes vote said:

"A yes vote for the Lisbon Treaty creates the potential for increased opportunities for Irish business particularly in areas subject to increasing liberalisation such as Health, Education, Transport, Energy and the Environment."

Under the Lisbon Treaty the status of both health services and other public services such as education and transport will change. This change will see these services being opened up to businesses who would be free to compete without governments assisting any public organisation in a way that gives it an advantage over a business competing in the same area.

The effect of existing EU Treaties and rulings can already be seen in the health service in Ireland. Private companies are a growing presence and there are many indications of a two-tier health service being created. Lisbon will greatly increase the problems with our health service. Say NO to Lisbon and demand a Treaty that guarantees that "public undertakings" such as health and education or essential services such as water supply are not open to the internal market rules.

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