



# The Lisbon Treaty

## Issues for workers



Some things you weren't told!  
You weren't told you'd be paying EU taxes!

The Lisbon Treaty contained a provision entitled "The Union's Resources" under which the Union could provide itself with the means necessary to attain its objectives and carry through its policies. It could also establish new categories of 'own resources' <sup>1</sup>. Though these measures require unanimity in Council and shall not enter into force until 'it is approved by the Member States in accordance with their respective constitutional requirements', it is clear that it would have opened the way for an EU – wide taxation system which would have made the EU budget wholly independent of its Member States.

The main provisions of Article 269 inserted through amendments by Lisbon reads: 'The Union shall provide itself with the means necessary to attain its objectives and carry through its policies. The Council, acting in accordance with a special legislative procedure, **shall** unanimously and after consulting the European Parliament adopt a decision laying down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. That decision would not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

This Article was formulated in the Convention <sup>2</sup> which drew up the forerunner to Lisbon – the EU Constitution. The proceedings suggest that the rationale was that the Union would be 'able to rely on autonomous resources in the form of a European tax or participation in national taxes, without this leading to any increase in the tax burden on citizens'. Of course this would reduce the amount available for government expenditure on capital projects, healthcare and the numerous other areas with urgent requirements. That money would go instead to a body which a recent Commission report reveals lost 6.5 million euros a day to fraud and irregularities or a total of 1.4 billion euros in 2007.

'Own resources' are revenue which finance the Union's budget and is due to it as of right, within an annual ceiling fixed in terms of a percentage of the Union's gross national product. 'Own resources' currently fall into four categories: agricultural levies, duties from the common customs tariff, a percentage of the amount resulting from the application of a uniform rate to VAT and an amount resulting from the application of a rate, to be fixed under the annual budgetary procedure, based on the sum of the gross national products.

Article 269 would have allowed the EU Council of Ministers to finance the attainment of the Union's wide objectives by means of "new categories of own resources". These could include virtually any kind of tax - income tax, sales tax, company tax, property tax, carbon tax - as long as it was unanimously agreed and approved by the Member States in accordance with their respective constitutional requirements, which in Ireland's case would mean majority Dail approval if the Lisbon Treaty was ratified.

A recent plenary debate in the European Parliament <sup>3</sup> concerned at 'securing sufficient EU budget revenue to meet EU political priorities' recalled that the candidate taxes which were taken into consideration for this purpose during the exchanges with the national parliaments or in the Commission's reports on the reform of the own resources system included the following: VAT, excise duties on motor fuel for transport and other energy taxes, excise duties on tobacco and alcohol and taxes on corporate profits. Other possible avenues suggested by the European Parliament included: taxes on transport or telecommunications services, income tax, withholding tax on interest, eco-tax and taxes on savings. So the Irish government was aware of these proposals but kept quiet during the referendum campaign.

There would have been an obligation on the Council to agree such tax measures: 'The Council shall adopt a decision...' <sup>4</sup> Any such agreement would not have required a referendum in Ireland. Agreement by the Taoiseach at European Council and subsequent approval by the Dail where the Taoiseach would have a guaranteed majority would have been sufficient to validate it in accordance with Ireland's Constitution post-Lisbon. Lisbon would therefore have given permission to any future Taoiseach and Government to agree to EU taxes of all kinds without having to come back to the Irish people in a referendum. Finally, it is important to note that the taxes under consideration in this instance are not the corporation taxes which received such extensive publicity during the referendum campaign but taxes that would have a profound effect on the already meager public services in this country and which would ultimately be felt in worker's pockets.

**"We think it is a real cheek that the country that has benefited most from the EU should do this. There is no other Europe than this treaty. With all respect for the Irish vote, we cannot allow the huge majority of Europe to be duped by a minority of a minority."**

Axel Schäfer,  
leader of the German Social Democratic Party  
in the Bundestag  
*Irish Times, 14 June 2008*

**"They are bloody fools. They have been stuffing their faces at Europe's expense for years and now they dump us in the shit."**

Nicolas Sarkozy  
President of France  
*Times, 20 June 2008*

## **Neither were you told that there would be large – scale privatisation of public services**

The principle of an open market economy with free competition is reinforced by the fact that “the internal market as set out in Article [I-3] <sup>5</sup> of the Treaty on European Union includes a system ensuring that competition is not distorted.” <sup>6</sup> So, undistorted competition would become one of the European Union’s organising principles.

The Commission’s objective is to make offers opening “a market” in all public services—including health and education—to transnational corporations through the General Agreement on Trade in Services (GATS). At present, and under the Lisbon Treaty, neither the European Parliament nor Dáil Éireann is informed which services are “offered” for trade until the deal is completed. It is this process that leads to the privatisation of services, such as water and sewerage, and increased costs to the average citizen—as well as pressuring developing countries to privatise such services through EU trade agreements.

These changes conform to a general policy of “the achievement of uniformity in measures of liberalisation,” <sup>7</sup> or deregulating the provision of goods and services. EU trade policy seeks to “encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade.” <sup>8</sup> This objective is reinforced and expanded through the commitment to “contribute, in the common interest, to . . . the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.” <sup>9</sup>

State aids or subsidies to industries or services “which distort or threaten to distort competition” continue to be forbidden.<sup>10</sup> The European Central Bank, which has “price stability” as its sole objective,<sup>11</sup> could, together with the Commission, take action with regard to members of the euro zone “to strengthen the coordination and surveillance of their budgetary discipline” and “to set out economic policy guidelines for them . . .”<sup>12</sup> In essence this would result in their reducing budget deficits, in turn leading to further cuts in public spending and general pressure to pursue a deflationary economic policy. <sup>13</sup>

### **The treaty is not dead. The treaty is alive, and we will try to work to find a solution.”**

José Manuel Barroso  
president of the EU Commission  
*press conference, 14 June 2008*

### **“I am convinced that we need this Treaty. Therefore we are sticking with our goal for it to come into force. The ratification process must continue.”**

Frank-Walter Steinmeier, German Federal  
Minister of Foreign Affairs  
*Reuters, 14 June 2008*

## **Nor that Civil and Criminal Law Procedures would be Harmonised throughout the European Union**

The “three-pillar” structure of the existing European Union would be abolished by the Lisbon Treaty. Under the Nice Treaty, justice and home affairs, as well as foreign and security matters, were treated as “intergovernmental” rather than supranational matters. Community law governed only the European Union’s economic “pillar.” The Lisbon Treaty would bring the European Court of Justice and the Commission into these policy areas for the first time. The treaties would give the European Union the power to harmonise civil law and procedures <sup>14</sup> and criminal law and procedures <sup>15</sup> in the member-states, with a view to bringing about an EU “area of freedom, security and justice.” The European Council would be empowered to establish an EU public prosecutor to bring charges against people for serious offences affecting more than one member-state. <sup>16</sup> This prosecutor could take cases in the Irish courts.

A dangerous prospect is opened up by extending the powers of the ECJ through its new fundamental rights jurisdiction, while the Commission’s role in “approximating” civil and criminal law and procedure could lead to moves to limit *habeas corpus* and trial by jury. *Habeas corpus* refers to the requirement that one be brought speedily before a court if one is arrested. It exists in common law legal systems, such as those of Ireland and Britain, but not in most Continental countries. These articles could also affect regulations regarding oral hearings, the use of live witnesses in civil cases, legal aid, the disposition of property under succession law, and many other matters of substantive civil and criminal law. At present these are entirely within the power of EU members, and many important differences exist between them.

The changes in the Lisbon Treaty in the area of EU justice and home affairs law (which concerns immigration and asylum, civil law, policing, and criminal law) are more far-reaching than the changes this Treaty would make to any other areas of EU law.

These changes entail a shift to “qualified majority voting” by the member-states in the EU Council as regards legal migration and most areas of criminal law and policing, along with much-increased powers for the Commission, the European Parliament and the ECJ in this area, as well as revised EU competences in this field—which would in many cases increase the powers of the European Union.

In the areas of policing and criminal law, Ireland was in most instances giving up a veto in return for an opt-out in the Lisbon Treaty. We secured the opt-out from policing and criminal law proposals as part of the deal to negotiate the Lisbon Treaty; this opt-out was *not* part of the treaty, and at no point was such an opt-out even the subject of discussion as part of the negotiations for the treaty. In any event, the government had stated its intention – in

anticipation of the Treaty being accepted - to review the opt- outs after three years and of opting in as far as possible. In other words, the opt – out gave no guarantees whatsoever.

Nevertheless, we would have been subject to the expanded jurisdiction of the European Court of Justice as regards asylum and civil law, legislation that we have already opted into (or would opt into in future), as well as any future policing and criminal law legislation that we would have opted into. And, to cap it all, the Council, acting by a qualified majority on a proposal from the Commission, could determine that Ireland would bear the direct financial consequences incurred as a result of the cessation of its participation in an existing measure.

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These are only a few of the issues that did not receive an adequate airing during the Lisbon Treaty debate. Each of the above statements are referenced back to the Treaty text, where even a cursory examination will confirm that they cannot be contested. They also form a small part of the substantive argument against the Lisbon Treaty and in particular, why any attempt to re-introduce it following its rejection, should be vigorously resisted.

- 1 Art 269 TFEU
- 1 CONV 602/03
- 3 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0098+0+DOC+XML+V0//EN>
- 4 Article 269 TFEU
- 5 Outlining the objectives of the union.
- 6 Protocol 6.
- 7 Treaty on the Functioning of the European Union, article 188c.
- 8 Treaty on European Union, article 10A.
- 9 Treaty on the Functioning of the European Union, article 188b.
- 10 Treaty on the Functioning of the European Union, article 87.
- 11 Treaty on the Functioning of the European Union, article 245a.
- 12 Treaty on the Functioning of the European Union, article 114.
- 13 Treaty on the Functioning of the European Union, article 104.
- 14 Treaty on the Functioning of the European Union, article 69 (d).
- 15 Treaty on the Functioning of the European Union, article 69 (e).
- 16 Treaty on the Functioning of the European Union, article 69 (i).
- 17 Protocol 20 (4a).



People's Movement  
Gluaiseacht an Phobail

## I WOULD LIKE TO SUPPORT THE PEOPLE'S MOVEMENT CAMPAIGN

**Peoples Movement campaigns against any measures that further develop the EU into a federal state and to defend and enhance popular sovereignty, democracy and social justice in Ireland.**  
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