

The People's 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.

The guarantees

EU leaders agreed to attach the summit declarations as a protocol to the Lisbon Treaty **after the Irish referendum and once it is already in force**; but the summit conclusions state that **“the Protocol will clarify but not change either the content or the application of the Treaty of Lisbon,”** and the EU Presidency later confirmed that **“the text of the guarantees explicitly states that the Lisbon Treaty is not changed thereby”**.

“Declarations” or “guarantees” are *not* legally binding. A protocol, on the other hand, would require ratification by all the states signing it before it could come into force.

There is no guarantee that Ireland can keep its Commissioner indefinitely. EU leaders have agreed that, **once the Lisbon Treaty is in force**, they will vote unanimously to change the default Lisbon arrangement, which reduces the size of the Commission by a third. However, there is no legal obligation on the member-states to stick to their word, and the present EU leaders cannot guarantee that their successors will deliver on this pledge. A current parliament cannot bind its successor—otherwise there would be little point in electing new governments! The only way to ensure that Ireland keeps a Commissioner indefinitely is to change the actual text of the Lisbon Treaty to make this explicit.

The declaration from the European Council states: “The Lisbon Treaty does not affect or prejudice Ireland’s traditional policy of military neutrality.” However, **it does not exempt Ireland from the mutual defence clause in article 42 (7)** and the obligation under that clause to provide assistance to a member-state that is subject to armed aggression on its territory. This obligation means that Ireland has ceded the ability to adhere to the international customary law of neutrality.

The Government’s White Paper on Foreign Policy (1996) says that **“provisions committing the parties to collective action in the event of armed attack against one or more of them . . . would not be compatible with an intention to remain neutral.”** So, the proposed declaration does not address the concerns of those who rejected the Lisbon Treaty because of the loss of neutrality. **The conclusion to be drawn from this Government position is that a protocol excluding Ireland from all military obligations under the Treaty is the only means of providing legal certainty in this instance.**

Crucially, there is provision in the Lisbon Treaty (article 28A.6) to “establish permanent structured cooperation within the Union framework,” and this can be undertaken on the strength of a qualified majority vote within the EU Council. The “assurance” states that Ireland may choose not to participate *directly* in such initiatives, but **“by virtue of its participation in European Union Military Staff general business, and in all the other dimensions of EU military co-operation (including its financing),”** Ireland will help lay the basis for other states to engage in such co-operation, and such co-operation will be *perceived* as an EU undertaking, even if not all EU members are directly involved.

The protocol on “structured co-operation” declares that **“a more assertive union [EU] role . . . will contribute to the vitality of a renewed Atlantic Alliance [NATO].”** One must have concerns about enhancing the vitality of an alliance that retains a commitment to the “first use” of nuclear weapons and that has pursued an aggressive policy in Afghanistan, involving substantial civilian casualties. So, we depend on the independence of the present and future Governments to prevent us being mired in or supporting such conflicts; and once again, legal certainty requires a protocol.