

Turning us into real EU citizens

The constitutional aspects of the Lisbon Treaty have gone virtually unmentioned so far in Ireland's referendum debate.

This is surprising, for it is clear from the first sentence of the Amendment which the Government is asking us to insert into the Irish Constitution, that Lisbon would establish quite a new European Union which would be different constitutionally from the EU that we are members of today.

This first sentence of the Constitutional Amendment states that the State may ratify the Treaty of Lisbon and "may be a member of the European Union established by virtue of that [Lisbon] Treaty" This post-Lisbon EU would have the same name but would clearly be a different Union from the pre-Lisbon EU, which stems from the 1993 Maastricht Treaty.

The second sentence of the Amendment would then give the Constitution of this post-Lisbon Union supremacy over the Irish Constitution as regards its "laws, acts and measures", so long as these are provided for in the Treaties.

The Treaty would endow this post-Lisbon EU with the constitutional form of a supranational European Federation - in effect a State - in which Ireland and the other Member States would have the constitutional status of provincial or regional states.

From the inside the Union would look like something based on Treaties between States. From the outside it would look like a State itself. This constitutional revolution in both the Union and its Member States would be brought about by four legal steps which are set out in the Treaty - as they were in the previous EU Constitution which the French and Dutch rejected - each of them legally essential to the change being made

We would still retain our Irish national citizenship, but Lisbon would make our citizenship of the post-Lisbon Union "additional to" our national citizenship rather than "complementing" it as at present (Art.9 TEU; cf. Art.17 TEC). This would be a real EU citizenship rather than a notional or symbolical one as today.

Our new dual citizenship post-Lisbon would not be citizenship of two different States, but rather of the federal and national/regional levels of one State, as is normal in such classical Federations as the USA, Federal Germany, Switzerland or Canada.

We would still keep the Irish Constitution - just as the various states of the Federal USA still retain their constitutions - but it would be subordinate to the EU Constitution in any case of conflict between the two.

One indication of the constitutional change which Lisbon would bring about is that Members of the European Parliament, who under the present Treaties are "representatives of the peoples of the States brought together in the Community", would become "representatives of the Union's citizens" in the post-Lisbon EU(Article 14.2 TEU; cf. Article 189 TEC).

Another is that the European Council, the summit meetings of Prime Ministers and Presidents, would become an EU institution for the first time, legally bound to forward the interests of the European Union rather than of the national Governments or electorates concerned, so that its acts or its failing to act would become subject to judicial review by the EU Court of Justice (Article13 TEU).

Couple these constitutional changes with the power-political changes which Lisbon would make and it is clear that the Lisbon referendum confronts Irish voters with a momentous choice.

The most important power-political change is that Lisbon would base law-making in the post-Lisbon Union primarily on population size. This would double Germany's relative voting weight on the Council of Ministers from its present 8% to 17%. It would increase the voting weight of France, Britain and Italy from their present 8% to 12% each and it would halve Ireland's weight from 2% to 0.8% (Article 16.4 TEU).

As well as our being deprived of a voice on the EU Commission, the body which proposes all EU laws, for five years out of every 15, a hitherto virtually unremarked feature of Lisbon's provisions is that when it comes to our turn to have an Irish Commissioner, we would lose the right to decide who he or she would be. Henceforth Ireland would be able to make "suggestions" only - for the new Commission President to decide (Art. 17.7 TEU).

It is surely a major historical turning-point by any standard: this attempt to turn four million Irish people and nearly 500 million Europeans into real citizens of a real EU Federation, without most of them being aware of it, and without any but us Irish being allowed to have a direct say on it.

Whether we think Lisbon is a good thing or not, we should at least be aware of the constitutional significance of what we will be voting on.

*Anthony Coughlan is Senior Lecturer Emeritus in Social Policy, Trinity College Dublin, and Secretary of the National Platform EU Research and Information Centre.