

The Legitimacy of Governments' EU Referendum Campaigns in Question: the Case of Ireland

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Abstract

This paper stipulates a research on the challenges that national governments face in their public referendum campaigns about European integration. Over the last 50 years, more than 40 referendums have been organized about the EU mainly dealing with treaty ratification, accession or specific issues for example the adoption of the Euro. This paper seems to clarify the thesis that the relationship between the government and the people has been shaped by its government's publicity policy in order to explain their impact on democratic legitimacy. Further it questions whether this democratic relationship has been eroded and whether the central campaigns are able to change this relationship, either in a positive or negative way for the state of democracy are subject of scrutiny. Main starting point of the research is that public information campaigns about EU referenda have a delegitimizing effect on the state of democracy. The paper aims to contribute to the debate about the perceived legitimacy gap between formal legitimacy and 'social legitimacy' in contemporary Europe. The paper does explicitly not continue the discussion about the (non-)existence of a European democratic deficit, demos, public sphere or gap between citizen and politics. Its object is rather to add a more fundamental focus: whether the government and the people are able to understand each other and thereby contribute to the legitimacy of democracies. A case study on Irish EU referendums on campaigns on the Nice and Lisbon Treaty forms a suitable comparative instrument to measure this communicative-democratic hypothesis.

Key words: *democracy, legitimacy, governments' campaigns, EU-referendums*

"Referendums on European integration can serve to enhance the legitimacy of the integration process, but only if voters are capable of expressing their preferences concerning European integration and if politicians are responsive to their preferences...Competent voting [-] crucially depends on information and cues provided to citizens by political elites" (Hobolt 2007, 177)

I. Introduction

There is growing research on voting behaviour in referendums. However, the dynamics of the government's public information campaigns has not yet been studied. Referendums are becoming increasingly common in Europe. There were no fewer than 44 referendums on European integration since 1972 (Hobolt 2009, 8-9). Is the "referendum roulette" indeed "an unconscionable risk" for the integration process? Or as Majone put it: "One of the favourite arguments against ratification of European treaties by popular referendum is that voters cannot be expected to read and evaluate technically and legally complex texts running into hundreds of pages" (Majone 2009, 1).¹ This paper questions the relation between legitimacy and problem-solving effectiveness and aims to show how governments attempt to fill this information gap by organizing referendum campaigns. Probably this involvement is not achieved by mobilizing citizens to vote in pre-cooked referendum proposals.² Because the quality of a treaty is difficult to determine for the public, voters have therefore to rely on information gathered from the campaigns of the government, political parties and other interest organisations (Hug and Sciarini 2000, 7). Van Schie rightly argues that politicians who evaluate a referendum "according to a desired result are walking on thin ice. The value of such an instrument should be viewed as politically neutral as possible" (Van Schie 2010, 64). After all, it is precisely the minister and heads of state or government that participate in the (European) Council of the EU. Hence, does this justify a governmental information campaign why citizens should vote and if so, what?

For this paper, a theoretical analysis of the concepts democracy and legitimacy is linked to voter competence in EU referendums and second-order considerations. This paper does not question the referendum instrument in itself. A short comparative case-study focusing on some EU referendums is used to test whether governmental campaigns for EU referendums have a delegitimizing impact on the functioning of democracy. For scope of this research, I limit this only to the information campaigns provided by the national government on the last four Irish referendums on the Nice and Lisbon Treaties, deriving from so-called 'institutional sources of information' (i.e. formal, non-mediated sources). The Irish case is particularly interesting, because it is the country with the most and most recent referendums in the last decade and provides the best comparable data surveyed by Eurobarometer. Both the No's to the first Nice and Lisbon Treaties were followed by a Yes one year later, which enabled final treaty ratification in the EU and kept the integration process going. Therefore, it will be interesting for further research to study the dynamics of government's opinion formation and its campaigning activities in particular. It is up for further research and beyond the dimension of this paper, to reconstruct several governmental EU-referendum campaigns in detail.

II. Democracy and Legitimacy

From the perspective of democratic theory the purpose of asking people to decide on a proposition concerning European integration may be to ensure ‘government by the people’, although modern democracies are merely governed by the principle of ‘government by the representatives of the people’. Yet it may be “public legitimisation or veto of an EU-related policy proposal” (Hobolt 2007, 157), but is it vital for liberal democracy to achieve the politically desirable outcome of legitimising a transfer of sovereignty via public vote? Legitimacy can be defined as “the capacity of [a] system to engender and maintain the belief that the existing political institutions are the most appropriate ones for society”, but one which cannot normatively be reduced to the instrumental notion of problem-solving effectiveness (quoted by Majone 2009, 17).

According to Thomassen, the three dimensions of legitimacy can be deduced, linked to Abraham Lincoln’s notion of democracy characterised by ‘government of the people, by the people, for the people’: performance, accountability and representation, and identification (Thomassen 2009, 2). ‘Of the people’ can be linked to identification, ‘by the people’ to accountability and representation -*input legitimacy*-, and ‘for the people’ to performance in politics -*output legitimacy*-.³ First, “[i]nput legitimacy refers to the acceptability and rightfulness of the political decision-making procedure” (Maas 2010, 16). Scharpf connects input to participatory quality, leading to laws and rules. This quality should be achieved via institutional forms: practices involving citizens’ articulation of their demands through electoral participation and other forms, such as grassroots’ campaigns. Political choices are legitimate if and because they reflect the ‘will of the people’. Second, output legitimacy exists if and because choices effectively promote the common welfare of the constituency in question. On the other hand, Scharpf’s concept of output-legitimacy focuses more on the prevention of the abuse of power by a system of checks and balances rather than on giving a say to the people – which, might limit the electoral authorisation of government and compromise on the fundamental democratic concept of *popular sovereignty* (Thomassen 2009, 5-6).

The EU has not a good infrastructure for deliberative legitimacy processes, since the public is fragmented at European and decision-making by political elites that are far removed from the citizens: “The deficiency in input legitimacy was concealed by enough output legitimacy. Europe’s success gave way to certain indifference among citizens” and could rationally be ignored” (De Beaufort 2010, 72). In the next paragraph, I will explore how the deliberative legitimizing instrument of referendum in the European integration processes can and have to be optimised by information campaigns.

III. Referendum campaigns, voter competence and second-order voting

Direct participation of citizens in the political process through referendums can be seen to maximize legitimacy of decisions. Voters however “routinely complain about insufficient information, confusing question wording, or contradictory lines of argument regarding possible consequences of a referendum vote” (O’Mahony 2009, 432). It is therefore argued that citizens should have access to sufficient information in order to make a well-informed judgement on certain policies. The first argument might be true but whether the second one is sufficient is questionable. Is just access to information for citizens enough or should the government prepare and serve the several ingredients of information on separated dishes? Does direct democracy also require “discursive conditions under which an actual debate can occur so that citizens are well-informed and can cast a well-considered vote” (Maas 2010, 17)? The process of opinion formation proceeds from an interaction of information and predisposition: when parties are internally divided, ideological alignments are unclear or an issue is new and unfamiliar, voters may be expected to draw more of their information from the campaign discourse. Question is whether the government should actively fill this information gap or let this to the campaigning activists (political parties, interest groups, NGOs etc.).

Sinnott indicates three key variables affecting referendum voting behaviour: first, the way referendums are initiated; second, the relationship between the referendum issue and the political party system; and third, the nature of the campaign. This paper focuses on the last variable, particularly on the added value and justification of the role of the government. Schneider and Weitsman discovered that voters in EU referendums evaluate both the treaty in question and the government’s performance, which makes referendums popularity contests for the government given voter uncertainty over the treaty (Ray 2003, 266).⁴ Does it therefore help the government’s position if it organises a public information campaign? For example, the 1992 Irish abortion referendum took place “because of the government’s desire to separate the contentious abortion issue from the debate on the Maastricht treaty, for which the government wanted a smooth ratification process” (LeDuc 2002, 148). This demonstrates the Irish government’s preconceived opinion, since it only had to call for an EU referendum in order to get it accepted.⁵ This applies to Sinnott’s first variable: the way the referendum is initiated. It is important to distinguish whether the referendum is (e.g. constitutionally, judicially or parliamentary) required and/or binding, since this has an impact on the government endorsement of voters. They tend to support the government more if it is binding and non-required.⁶ Although in some countries the citizens or the constitution ‘call’ for a referendum, they are generally proposed by the government which calls for a ‘yes’ vote. “As a consequence, the government is perhaps the real object of many referenda” (Franklin et al. 1994.).

LeDuc distinguishes three types of referendum campaign: opinion formation, opinion reversal, and uphill struggle, depending on what happened during the campaign (LeDuc 2002, 158-60).⁷ I argue that government strategies in their campaign consequently have to differ in order to be desirable or effective: for opinion formation, voters need a lot of clear and objective information. For opinion reversal on the other hand, the government should stick to return

the framing of the campaign to the original subject, while for uphill struggle, the campaign simply has to ask for support for the government's proposal (like it does in parliament), without additional arguments.

Leading question is whether decisions in referendums reflect underlying policy attitudes or are the choices that citizens make capricious, reflecting elite manipulation? One of the most common criticisms of direct democracy concerns the lack of *voter competence* (Hobolt 2007, 65-152).⁸ Voter competence concerns the ability of individuals to accomplish their specific task – in this case make a rational choice in a referendum (vote yes: the ballot proposition; vote no: status quo; or abstain: do not care). Although doubts about the wisdom of the public opinion have been voiced over time, research on voter competence shows that the public is well able to make a rational choice, albeit on different levels of information and referencing parameters. Sometimes, voters answer on the basis of their feelings about the state of the national economy or their evaluation of the performance of the government (more about this 'second-order voting' is explained below). These reasons cannot be dismissed as irrational behaviour, but may be seen as normatively undesirable. While a *rational* choice may simply imply one that is based on (whatever) reasons,

“a *competent* choice is related to the accomplishment of a specific task and should thus be based on preferences pertaining to that task...A competent vote in referendums can thus be defined as one that is based on preferences specific to the issue on the ballot and that would be the same if full information were available.” (Hobolt 2007, 156).

Thus, voters will only be able to form opinions on new and (partly) unfamiliar ballot questions, through the various information sources available to them over the course of a campaign. On the one hand, information communicated during the course of a referendum campaign is often crucial to the outcome (relatively, since most voters have determined their choice before the campaign starts, but the swinging few might make the difference).⁹ On the other hand, knowledge about the EU does not guarantee a positive vote, but implies that people are more likely to rely on their own convictions and are less likely to follow the recommendations of national elites (Hobolt 2009, 107).¹⁰ The cost of becoming informed about the details of political issues generally outweighs the relative benefits to be derived from voting on an informed basis – too high for most voters rationally to invest the time, attention and resources needed to become politically informed (Majone 2009, 15). However, is this not the exact purpose of the government or constitution for asking a referendum that voters can decide – whether they take the provided information or leave it?

Voters namely intuitively rely on informational shortcuts such as elite *cues*. “Voters take their cues from these and other campaign sources, as well as from individuals, groups and organizations which they identify” (LeDuc 2002, 145). Moreover, partisan cues become more important when the advertising campaign is weak. On the other hand, research on Swiss referendums shows that increasing space of the advertising campaign seriously depresses the share of votes in support of the government if there is no wide consensus on the issue, because the polarisation is intensified (Bützer and Marquis 2002, 175).¹¹ If you are very knowledgeable about European politics, you will also be better equipped to choose the best alternative according to your own preferences and you will not be misled by elite cues that are incompatible with your own preferences. Moreover, party endorsements may in fact mislead citizens, certainly if parties use it for electoral objectives: “party endorsements may be potentially misleading if people have a very limited knowledge of party politics...since the EU dimension does not constitute an integrated part of the main political dimensions” (Hobolt 2007, 161-176).

Several studies have shown that voters tend not to vote on the basis of European issues and instead vote on the basis of '*second-order*' factors such as the satisfaction with the national government. Studies on the Danish and French referendums on the Maastricht Treaty concluded “that shifting attitudes toward domestic political actors, or the relative popularity or unpopularity of the government of the day, can sometimes provide a more plausible explanation of changes in voter sentiment than feelings about the referendum itself” (LeDuc 2002, 146). Most of the time, these popular feelings are based on formal documents and statements, which are filtered and interpreted by the media, making the press at least as important. We can reason on the one hand that in countries where European integration has remained low-salient and parties have avoided competition, party endorsements may not provide reliable cues for voters and competence levels will be lower. On the other hand, we can argue that “government endorsements have a stronger effect on the opinions of people who support the government than on those who do not” (Hobolt 2007, 176; 2009, 117). Therefore, second-order voting behaviour is heavily influenced by first-order issue considerations. However, does this legitimise and justify that governments tend to organise additional information campaigns? Is it up to the government to provide the 'lacking, objective' information and to balance that with the level of party endorsements (in case this is lower)?¹²

IV. Reconstructing the Irish referendum landscape between Nice and Lisbon

Ireland has organised eight referendums on European integration since its accession to the EEC in 1972 (table 1).¹³ Although the government since then secured a majority at referendums on the SEA, Maastricht and Amsterdam Treaties, it failed to do so at the Nice Treaties (Sinnott 2002, 814). At the 1972 referendum, the government organised a systematic publicity campaign combining facts and issues, countering anti-EEC statements, propaganda materials and market surveys on weak areas. “The department hoped that the results of this research would enable publicity to be planned so as to reach the various sectors of the public ‘with maximum effect.’” (Geary 2009, 185). If the public would ask 'general information', the government would provide only the official government and EEC publications. An overwhelming majority of 83% voted in favour of membership. According to Geary, the success of the government's policy had much to do with the unlimited resources at its disposal. “The government was able to

spend public money campaigning for a ‘Yes’ vote, although this type of spending was later challenged in the Supreme Court and deemed unconstitutional.” The Court ruled that the government could not spend public money directly to achieve a particular result in a referendum. (ibid. 196)¹⁴. From a democratic point of view, this is a good thing but obviously this does not preclude the government to campaign verbally -not financially- for its desirable result.

Table 1. Irish EU referendums	Initiated by	Turnout %	% Yes	% No
1972 EEC Accession Treaty	Government preference	71	83	17
1987 Single European Act	Judicial intervention	44	70	30
1992 Maastricht Treaty	International imperative	57	69	31
1998 Amsterdam Treaty	International imperative	56	62	38
2001 Nice Treaty I	International imperative	35	46	54
2002 Nice Treaty II	Government preference	50	63	37
2008 Lisbon Treaty I*	International imperative	53	47	53
2009 Lisbon Treaty II*	Government preference	59	67	33

Source: Sinnott 2001/2003; * RTÉ News 2008/2009

After the first referendum called in 1972, the Irish government agreed in 1986 to Treaty amendments of the Single European Act (SEA) on the assumption that this would not require a referendum but could be secured by a vote in the Dáil lower house. However, the anti-integration campaigner Raymond Crotty challenged this assumption successfully at the Supreme Court. It set a precedent for new EU treaties that ratification of the SEA would not be compatible with the Constitution as it stood. Hence, also the Maastricht and Amsterdam Treaties were subject to referendums initiated by ‘international imperative’, which secured a safe majority until the process got stuck at Nice.

The first *Nice Treaty* referendum survey shows that none of the sources of information mentioned was found to be of value by even 50% of the respondents. Those of most value include media (~40%), and leaflets and brochures (~30%). It is striking that the rating given to the activities of the Referendum Commission¹⁵ of 30% is in fact a much worse result than for the campaigners on either side. 40% assigned little or no value to the adverts and leaflets of the Commission, while 30% did not notice or know.¹⁶ This confirms the claim that the quantity of information is important when it comes to advancing issue voting and turnout, but does not guarantee the outcome desired by national and European elites (Hobolt 2009, 107). The result of the Government’s White Paper or Summary was even worse: less than 25% found it valuable, for 37% it was of little or no value and another 37% did not notice or know at all the government’s activities, although the summary was distributed to all households (Sinnott 2001, 11/36). Consequently, the effective campaigning of the Yes-side made the issue of EU enlargement the key issue in the Nice II campaign, which successfully secured a majority of 63% in 2003 (Hobolt., 216).

Table 2. Referendum issues of voting No, abstention and institutional sources of information	Nice I (No)	Nice II (Yes)	Lisbon I (No)	Lisbon II (Yes)
Voting No because of lack of information	49 / 39 %	14%	22 / 45 %*	4%
Abstention because of lack of information	44%	26%	42%	32%
Abstention because of non-understanding	44%	26%	52%	39%
Voting No because protest against government’s policies	-	10%	4 / 9 %*	5%
EC Information Office as primary source of information	14%	15%	26%**	10%
Irish government as primary source of information (White paper/summary)	24%	40%	54%**	37%
Referendum Commission as (valuable) primary source of information	30%	45%	NA	24%
Voting no because of distrust in politicians	-	-	6%	10%

* Eurobarometer surveys of June and October 2008 resulted in different outcomes. Millward Brown IMS research tops at 42%.

** This means that these percentage non-voters would have preferred more information. Source: Sinnott 2003; Eurobarometer 2008/2009

Concerning the *Lisbon Treaty* of 2007, we have to keep in mind that it was a classical ‘reform treaty’ which was not supposed to reflect the failed Constitutional Treaty of 2004. Member state governments afraid of facing another negative referendum were denying this, but other European leaders had mostly domestic reasons to state that “the core is left”¹⁷

We have to note further that Ireland’s governing parties had their own troubles prior to the first Lisbon campaign: Taoiseach Bertie Ahern faced a corruption scandal and was forced to resign a month before the referendum and had dismissed ‘No’ campaigners as “lunatics”. His successor Brian Cowen immediately promised “the most extensive referendum campaign undertaken by Fianna Fáil in many years”. However, throughout the campaign, Cowen and his colleagues were never in complete control of the message: ‘Vote Yes, because not to do so would have profound consequences for Ireland’s relations with its EU colleagues. Trust us, the Treaty is complicated but we know it is in your best interest’. The Yes campaign only ignited one week before the referendum when a poll clearly indicated that the referendum could be lost. There was no coherent message. This became more visible by the quotes of some Irish major politicians who admitted that they either had not read the Lisbon Treaty (Ahern), “no sane person would” (Commissioner McCreevy), or that parts of the text are difficult to understand (High Court judge O’Neill). As Geary writes:

“both the Taoiseach and the Commissioner had been involved in the drafting stages of the treaty and clearly were conscious of what was included in the various articles, but acknowledging publicly that they had never read something that they wanted the Irish electorate to vote in favour of became a public relations disaster” (Geary 2009, 210).

The No camp (mis)used this uncertainty by instilling fear into the minds of an electorate, and voters did not have the knowledge at hand to be able to properly scrutinise the various statements (O’Mahony 2009, 440). Moreover, the Green Party had entered the pro-European government in 2007, but had always campaigned against all previous treaties. Its ministers performed a *volte face* and expressed unequivocal support for the Treaty. (O’ Brennan 2009, 261). The issue of possibly losing an Irish European Commissioner became particularly salient, gratefully claimed by the ‘No campaign. Other issues included Ireland’s sovereignty on corporate tax rates, abortion, defence, euthanasia and neutrality. The main parties took a consensus-approach, to allow themselves to spend an absolute minimum in money and effort, regarding their recent expensive national elections (Geary 2009, 210-16). Hence, also the (international) context of a particular campaign determines how voters make up their minds.

The three surveys after the first Lisbon referendum reveal that 22 up to 45% of the no-voters did so because of a lack of information or because the treaty is too complex¹⁸ (Eurobarometer 2008/2009; Table 2). If we look at the trusted sources of information – if this information was desired at all – we find that family/friends/colleagues, journalists and the European Commission were trusted most by 41%, 36% and 35%, respectively. It is relatively shocking that the Irish government, the Referendum Commission and political parties follow only at 27%, 23% and 16%, respectively (ibid., 16).¹⁹ Like in other cases, ‘bad or unclear’ qualified information is linked to blaming the government (Baaden and De Vreese 2008, 128). Like in the Nice referendum, the Irish government negotiated an additional declaration about the Treaty in the European Council and secured a large majority in the second referendum in 2009. The Eurobarometer survey after the *second Lisbon referendum* provides very valuable sources of information about the added value of referendum campaigns:

“Almost half (48%) of respondents had recently heard or seen a “campaign about the EU’s role in Ireland”, a considerably larger group than a few months earlier (38%). The vast majority (80%) of respondents were, however, unable to associate any name with the campaigns.” (Eurobarometer 2009)

Table 3. Why citizens changed their mind between Lisbon I and Lisbon II	Yes-voters (previous No-voters)	Yes-voters (previous non-voters)*
Information was provided and communication satisfactory	22%	4%
Helps the Irish economy in recession	19%	4%
The public was more included and efforts were made to help to make informed decisions	16%	9%

* The most important reason to vote yes for this category was simply because they did not take the opportunity to vote (and did not change their opinion). Source: Eurobarometer 2009.

The main reasons for voting Yes are completely different (see also Table 3): here the “best interest for Ireland” and “the Irish economy” play a major role, as well as the overall positive Irish attitude towards the EU. Furthermore, it is interesting to note that the number of voters that based their ‘no’ on the fact that they did not trust politicians rose from 6% to 10% - probably because the government presented the same treaty to vote for. Even after the second vote, more voters disagreed with the proposition that the Yes vote means the Irish government negotiated good exceptions for Ireland, than the number of no voters; since only 55% of the voters characterised the Yes vote as a success of the government. Moreover, 20% of the people did *change* their mind during the campaign, while 60% *made up* their mind during the campaign. However, this does not necessarily mean that people changed or made up their mind *because of* the campaign.

Finally, the analysis of support levels by party affiliation showed – especially when looking at the parties with major popular support as Fianna Fáil and Fine Gael – that backing the Treaty was a non-partisan issue in Ireland. Sinn Féin supporters were at Lisbon I firm against the ratification of the Treaty (95%; following the line of the party), while the supporters of the governing Fianna Fáil were in favour of ratification (60%). Outside parliament Sinn Féin was supported by millionaire businessman Declan Ganley’s organisation Libertas, running an expensive national billboard campaign (Geary 2009, 211-12).²⁰ Party choice according to the last national elections in 2007 was only weakly related to voting behaviour in Lisbon I. Party cues might therefore less cause the referendum to be a ‘second-order election’, as is confirmed by the low amount of no-voters basing their choice on government’s policies or distrust. Before Lisbon II, the Yes-parties were about to acquire more support, not the least because of the broken out financial crisis which forced Ireland to be saved from bankruptcy by its European partners.

V. Conclusions and interpretations

This paper questioned whether governmental campaigns for EU referendums have a delegitimizing impact on the functioning of democracy. Looking at the concepts of input and output legitimacy, it has become clear that the surplus of output legitimacy does not have to be compensated by additional input legitimacy by the government. The study of the concepts of voter competence and second-order voting makes clear that voters are able to frame informational shortcuts via elite and party cues in order to make a simplified rational choice, which might be irrational from a knowledge perspective, but still competent and legitimate – even by other considerations. The general lack of information does not necessarily mean that the government has to inform its citizens.

It is still unclear whether the government intends to leave the citizens with their full decision-making discretion ('let the people decide'), or that the government has a certain interest to call mostly for a Yes-vote, formulates the referendum question and correspondingly starts campaigning. Interestingly, it is mostly the government which calls for the referendum and initiates and facilitates a big part of the campaign activities. Moreover, as the setter of the referendum, the government (or its supporting parties) have considerable signalling power in terms of deciding the specific timing and wording of the referendum proposal. Probably not in a certain direction, but the intensity of the government's campaign has a decisive impact on the saliency of the issue, the level of information, awareness and endorsements by its supporters. Second, if the institutions want to 'let the people decide' does it mean that -at least constitutionally- that the people are able to decide themselves, i.e. without 'help' of the institutions? Is it the task of government to pull voters in a certain direction? Or does this fundamentally undermine the legitimacy of the referendum instrument itself? At least it is vital for the government's operation that if it wants to act independently, it should watch out for subjective frames. Ideally speaking, politicians should not pay attention to the referendum result, because the reason that they ask an opinion of the people, means that the politicians are not supposed to take a final decision. When the government connects itself to a referendum campaign, not only the incumbent parties, but also the government itself can put the legitimacy of the referendum into question as a result of government (un)popularity – notwithstanding the research on voter competence.

When we look specifically at the Irish case of the Nice and Lisbon referendums, we can conclude from the circumstances and surveys that not only in the outcome appear striking similarities between Nice I and Lisbon I on the one hand, and between Nice II and Lisbon II on the other. The failure of Nice I did not encourage any significant widening of neither the European conversation nor any government-sponsored campaign of civic education that may have helped break through ignorance. Irish citizens were not better informed before Lisbon I than they were before Nice I.

As we see in both Nice I and Lisbon I campaigns; political parties advocating a Yes were reluctant to spend money campaigning (due to upcoming elections) and their message remained unclear, while the No-camp was very active and clear. In addition, sometimes parties take the stance that it is 'the government's responsibility to get it through'. This puts some responsibility on the government, but question is whether it has to take that, certainly after it is restrained from using public funds to advocate partisan positions. The Nice I and Lisbon I referendums reveal that a considerable amount of No- and non-voters did so due to a lack of information or non-understanding, while this amount decreased considerably and sometimes dramatically at the Nice II and Lisbon II referendums. It is particularly noteworthy that people regarded an entirely informal source as on a par with the best of the formal sources of information. However, this does not say anything about the significance the formal pieces of information had on this small parts of voters. Therefore, these referendums could be viewed as second-order elections and lacking salience to the public. Furthermore, the number of no-votes due to protest against the government or distrust in politicians is relatively low. Moreover, the institutional sources of information by the government or Referendum Commission hardly acquire a majority of voters when it comes to knowledge of availability or desirability of the information available. Retrospectively, the Nice I and Lisbon I campaigns can be characterized as failing 'opinion formation' and too late recognition that 'opinion reversal' was necessary, while the Nice II and Lisbon II campaigns were successful 'uphill struggles', not the least because of effective framing of an uncertain future in case of a second No by the Irish government. Question is whether the government or political parties should take care of this. In case of Nice II, the government ministers and opposition politicians successfully rebutted No campaigners' claims, resulting in a large majority in favour.

Repeatedly the question has been asked whether the government should fill the apparent deficiencies in information, set discursive conditions and whether this has added and justified value. We can draw the conclusion that governments' campaigns about EU referendums are questionable because of their objectivity, inability to compensate the people's information deficit completely, and lack of knowledge and trust in the (information of the) government. If many voters do not understand or acquire the information provided by political institutions, why should they provide this information anyway? Finally, more research and in-depth case studies are needed to reconstruct the administrative behaviour behind the scenes of government and their policy-making prerogatives.

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Bibliography

- Baden, Christian and Claes H. de Vreese. 2008. "Making sense: A reconstruction of people's understandings of the European constitutional referendum in the Netherlands" *Communication* 33: 117-145.
- Beaufort, Fleur de. 2010. "Referendum stops the European train? Citizens and the Democratic Accountability of European Decision-making" *Democracy in Europe: Of the People, By the People, For the People*: 69-82. The Hague: European Liberal Forum.
- Bützer, Michael and Lionel Marquis. 2002. "Public opinion in Swiss referendums" *Do Political Campaigns Matter? Campaign effects in elections and referendums*, edited by David M. Farrell and Rüdiger Schmitt-Beck, 163-182. London: Routledge/ECPR Studies.
- De Vreese, Claes H. 2006. "Political Parties in Dire Straits? Consequences of National Referendums for Political Parties" *Party Politics* Vol 12. No. 5: 518-598.
- Eurobarometer. 2008. Flash 245, "Post-referendum survey in Ireland." The Gallup Organization, requested by the European Commission.
- Eurobarometer. 2009. Flash 265, "Lisbon Treaty Referendum Survey Ireland 2009." The Gallup Organization, requested by the European Commission.
- Eurobarometer. 2009. Flash 284, "Lisbon Treaty Post-Referendum Survey Ireland 2009." The Gallup Organization, requested by the European Commission.
- Franklin, Mark N. et al. 1994. "Referendum Outcomes and Trust in Government: Public Support for Europe in the Wake of Maastricht." *West European Politics*, Vol. 18: 1-23.
- Geary, Michael J. 2009. *An Inconvenient Wait: Ireland's Quest for Membership of the EEC, 1957-73*. Dublin, Institute of Public Administration.
- Hobolt, Sara Binzer. 2007. "Taking Cues on Europe? Voter competence and party endorsements in referendums on European integration" *European Journal of Political Research* 46: 151-182.
- Hobolt, Sara Binzer. 2009. *Europe in Question. Referendums on European Integration*. Oxford: University Press.
- Hug, Simon and Pascal Sciarini. 2000. "Referendums on European Integration. Do Institutions Matter in the Voter's Decision?" *Comparative Political Studies*, Vol. 33 No.1: 3-36.
- LeDuc, Lawrence. 2002. "Referendums and elections: how do campaigns differ?" *Do Political Campaigns Matter? Campaign effects in elections and referendums*, edited by David M. Farrell and Rüdiger Schmitt-Beck, 145-163. London: Routledge/ECPR Studies.
- Majone, Giandomenico. 2009. "The "Referendum Threat", the Rationally Ignorant Voter, and the Political Culture of the EU" *UCD Working Papers in Law, Criminology & Socio-Legal Studies*. Research Paper No. 04/2009.
- McMahon, Cormac. 2008. "The Lisbon Treaty: Beyond the Irish Vote". Lecture presented at Monash University, September 10.
- Meyer, C. 1999. "Policy Legitimacy and the Invisibility of Politics: Exploring the European Union's Communication Deficit" *Journal of Common Market Studies* Vol. 37, No. 4: 617-39.
- O'Brennan, John. 2009. "Ireland says No (again): the 12 June 2008 Referendum on the Lisbon Treaty" *Parliamentary Affairs* Vol. 62 No. 2: 258-277.
- O'Mahony, Jane. 2009. "Ireland's EU Referendum Experience" *Irish Political Studies* Vol. 24, No. 4: 429-446.
- Qvortrup, Matt. 2009. "Rebels without a Cause? The Irish Referendum on the Lisbon Treaty" *The Political Quarterly*, Volume 80, Issue 1: 59-66.
- Ray, Leonard. 2003. "Reconsidering the Link between Incumbent Support and Pro-EU Opinion" *European Union Politics* Volume 4(3): 259-279.
- RTÉ News. 2008. "Ireland rejects Lisbon Treaty" June 13. Accessed October 22, 2011. <http://www.rte.ie/news/2008/0613/eulisbn.html>
- RTÉ News. 2009. "Ireland votes Yes to Lisbon Treaty" October 3. Accessed October 22, 2011. <http://www.rte.ie/news/2009/1003/eulisbn1.html>
- Schie, Patrick van. 2010. "Citizens and the Casting Vote. The Referendum's Place within Liberal Ideology" *Democracy in Europe: Of the People, By the People, For the People*: 49-67. The Hague: European Liberal Forum.

Schmidt, Vivien. 2010. "Democracy and Legitimacy in the European Union Revisited: Output, Input and Throughput" *KFG Working Paper No. 21* | November 2010: 3-31.

Sinnott, Richard. 2001. "Attitudes and Behaviour of the Irish Electorate in the Referendum on the Treaty of Nice". Accessed October 22, 2011 <http://www.ucd.ie/dempart/workinpapers/nice1.pdf>

Sinnott, Richard. 2002. "Cleavages, Parties and Referendums: Relationships between representative and direct democracy in the Republic of Ireland" *European Journal of Political Research* 41: 811-826.

Sinnott, Richard. 2003. "Attitudes and Behaviour of the Irish Electorate in the Second Referendum on the Treaty of Nice". Accessed October 22, 2011 <http://www.ucd.ie/dempart/workinpapers/nice2.pdf>

Thomassen, Jacques. 2009. *The Legitimacy of the European Union after Enlargement*. Oxford: University Press.

¹ Cf. Majone 2009, 3-5; Schmidt 2010, 22

² Cf. Franklin et al. 1994, 4; Thomassen quoting Majone 2009, 6-7

³ Cf. De Beaufort 2010, 72

⁴ Cf. LeDuc 2002, 147

⁵ The same applied for the French referendum campaign, initiated by President Mitterrand, about the Maastricht Treaty – although he used the referendum attempting to strengthen his own position.

⁶ Hug and Sciarini even found out that loyalty to opposition parties supporting a Yes-vote on the whole is greater than loyalty to government parties, although that loyalty among opposition parties recommending a No-vote is also very high (Hug and Sciarini 2000, 23-5).

⁷ First, opinion formation refers to the campaign where voters cannot be expected to have fully formed opinions on an issue that has not previously been a subject of political debate in e.g. elections. Elites take strong positions at the beginning of the campaign, while during the campaign, opinions begin to form. Second, opinion reversal takes place when the campaign on a reasonably well known issue takes on a new direction during the campaign. Often this occurs when opposition groups are successful in 'changing the subject' or raising doubts about the issue. Third, uphill struggle means that opinion is much firmer and less subject to rapid change because voters have strong cues based on partisanship or ideology and are receptive to arguments from familiar and trusted political leaders. Much attention is paid to undecided voters

⁸ Cf. Hobolt 2007, 159

⁹ "Amongst the most frequently mentioned sources of such information are campaign pamphlets, newspaper and television editorials, and direct mailings from campaign organizations. Research shows that a large majority of the voters make up their mind long before the referendum day, but that about 20% does this during the campaign, and another 20% during the final week. What they vote depends on the credibility of the proposal or the degree of cleavage between 'the people' versus 'the establishment'.

¹⁰ Cf. Baden and De Vreese 2008, 118-34.

¹¹ Cf. Hobolt 2009, 114-5.

¹² Also the British 1975 referendum over the renegotiated terms of the EC treaty it achieved a majority, because "it managed to pull so many of those who had previously been anti-EEC into the 'yes' camp" (Franklin et al. 1994, 11).

¹³ We have to keep in mind that Article 46 of the 1937 Constitution (*Bunreacht na hEireann*) requires that every proposal to amend the Constitution "shall...be submitted by Referendum to the decision of the people..."

¹⁴ Moreover, following this McKenna judgment of 1995, under Irish Law both sides in a referendum are allowed equal air time on TV and Radio.

¹⁵ its assigned role being an even-handed purveyor of information and arguments that are meant to state both sides of the issue with equal force

¹⁶ Probably, the poor service of the Referendum Commission caused this low valuation, as the Commission was to put arguments together in leaflets in an erroneous way, while arguments being presented as facts and resulting in confusing material. Instead of support, this led to a perceived lack of information (O'Mahony, 2009, 437). The Referendum Act 2001 removed the Commission's statutory function of presenting the arguments for and against referendum proposals and promoting debate on them, but limited to explaining the subject matter and encouraging to vote.

¹⁷ Danish Prime Minister Anders Fogh Rasmussen, or "the substance is preserved (German chancellor Merkel). The French foreign minister Kouchner stated that "The Irish will be the first victim of a 'No' vote." (McMahon 2008); Giscard d'Estaing, president of the European Convention on the failed Constitutional Treaty: "The public will be led to adopt, without knowing it the proposals that we dare not present to them directly [...] All the earlier proposals will be in the new text, but will be hidden in some way"

¹⁸ This number differs considerably with the number of 22% of the no-voters that did so because they did not know enough about the Treaty and would not want to vote for something they were not familiar with – as surveyed in Eurobarometer 245, shortly after the first Lisbon referendum.

¹⁹ Cf. at the Constitutional Treaty referendums, only 2% of the Dutch electorate reported attending a public meeting organized by political parties about the campaign and 14% reported reading regularly about the referendum on the internet. As we will see later, the same considerations played a role at the Irish EU referendums. On the other hand, Spanish voters with a self-confessed 'very limited' knowledge of the EU Constitution voted 'yes' in the referendum in 2005 (Qvortrup 2009, 63).

²⁰ The crux of Libertas' masterful and highly effective campaign was that it was *de facto* a European constitution. Ganley spent more than the three largest parties together (Fianna Fáil, Fine Gael and the Labour Party).