

Next time must be different

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By finally signing the Lisbon Treaty, Czech President Václav Klaus brought to an anti-climatic close years of protracted and often acrimonious negotiations to overhaul the European Union's institutional infrastructure. The EU's reform treaty is now fully ratified and is expected to enter into force on 1 December 2009. However frustrating and bruising the ratification experience may have been, it is hoped that the whole saga will have the unintended (but finally, positive) consequence of strengthening the determination of those wishing to ensure that the next round of treaty change can enter into force even if one or more member countries is not willing or able to agree to it.

The situation in the Czech Republic was entirely different from that of Ireland, where the political class, which had embraced the Lisbon Treaty, clearly failed in the first referendum to convince its own public constituency of the text's merits. But the large majority (over two-thirds) voting in favour of the treaty the second time around showed that, once properly explained, the document could command broad popular support.

In the Czech Republic the treaty was approved by Parliament with a large majority – a majority that would have been sufficient to change the country's Constitution. Moreover, there were no indications that the general public was against the treaty. President Klaus was elected by Parliament, and he is not responsible for the European policy of his country. The reasons he gave for his reluctance to sign the Treaty (notably the fear of massive property claims from Germans relating to the so-called 'Benes decree') all concerned issues that had been debated and laid to rest several times before, for example when the Czech Republic joined the EU and when the Czech Parliament overwhelmingly approved the Lisbon Treaty.

Worryingly, however, Václav Klaus is not just one individual case. He is part of a larger phenomenon, namely the mis-functioning of democracy in the new member countries. Other manifestations include the recent fall of the government in Romania, the stridently anti-European rhetoric of the Kaczyński brothers in Poland and the rise of ultra-right parties in the Baltics. The scope and seriousness of these examples suggest that these problems might persist for quite some time and might repeat themselves in the next round of new member states from Southeastern Europe.

By the time the Lisbon Treaty needs to be revised, it is likely that the EU will be even larger, probably 30 or more member countries, and even more diverse. The next treaty revision must thus be prepared in such a way that it goes forward even if there are difficulties in one or two member countries. The text should thus contain a clause to the effect that it will enter into force among those members that have ratified within a certain date if these countries constitute a super-majority, say 90%, both in terms of population and the total number of member states. The treaty itself would still be negotiated with the aim of obtaining the consent of all governments, but such a clause would protect the others from being held hostage to the fall-out from political infighting or posturing by some leaders in weaker member states.

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