



Reform in Europe after the 2005 Referendums: Battling for the Results

Summary: EU leaders must champion an interpretation of the French and Dutch referendum results that recognises them for what they are: the expression of popular sentiment on a range of domestic and European issues, of which the Draft Constitution was only one. The two referendums were not a definitive vote by a majority of the electorate on the idea of the Constitution. The results were more likely a repudiation of existing elite-driven processes of EU reform, though even that interpretation is open to question. Further serious analysis of the two results to establish actual voter sentiment in both countries on the draft Constitution is essential.

EU leaders must change course on the timetable for ratification of the draft Constitutional Treaty. This does not have to mean abandoning its contents or visions. As polling on voter sentiment at the time of the referendums has shown, the draft itself is simply not politically contentious for the majority of voters. Suspending the ratification process for a couple of years may be the minimum amount of time required for future success.

A review of the referendum process itself is also needed. It may be desirable for any future referendums on EU constitutional issues to be held simultaneously with national elections. Not only does this make economic common sense, but will allow voters to express a range of views, both on their government's performance and the referendum question. As such, in the medium term, the European Council must adopt a policy of reform based on a more sensible approach to use of referendums to ratify major changes.

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A Policy Brief from the Foreign Policy Centre provides commentary and practical recommendations on topical problems confronting Britain, Europe or the international community. The views are not necessarily those of the Foreign Policy Centre. This Policy Brief has been written by Dr Greg Austin, Director of Research at the Foreign Policy Centre, with Grace Annan, Garry Hindle and Kate Parker. The authors would like to thank Michel Kerkhove for help with Dutch language sources.

INTRODUCTION: HOW DECEPTIVE AND DANGEROUS IS A REFERENDUM¹

One democracy, Switzerland, has so many referendums that some specialists do not even include them in statistical analyses of the subject. Another democracy, the USA, has never had a nation-wide referendum based on 'one adult, one vote' and there is even a view that to do so would be a breach of the Constitution. Until 2005, the Netherlands had only one nation-wide referendum, and that was 208 years earlier. Comparative research shows that referendums on Constitutions almost always fail, and the likelihood increases when the voters are asked to approve a long or complex text. In Australia, the country with the highest number of national referendums after Switzerland, government-sponsored referendum campaigns have been defeated more often than not. Some political theorists argue that referendums are dangerous because they can undermine the political stability of a government or political system (as in 1972 in Denmark and Norway, when the party systems broke up within a year of votes on EC membership). Some also argue that referendums can give undue prominence to extremist popular views, on issues like attitudes to foreigners or minorities, or progressive reform. The Swiss referendum system denied women the vote for a much longer time than in the rest of Europe.

All of the above is not to suggest that a referendum is *prima facie* a bad thing. Rather, it means that political leaders and voters who decide to go down that path should know what they are doing and set up clear mechanisms to anticipate the predictable problems. In a referendum process, the campaign is likely to be far more influential than in a national electoral campaign of the same duration. Where one major party is split, the campaign (not the merits of the issue) is likely to be more decisive. The campaign will be more decisive where the issues to be voted on are not so controversial or important to people's daily lives (as with the draft Constitutional Treaty), thus allowing other, more controversial 'side issues' to become prominent. Where there is support from all major parties, side issues are more likely to become dominant. In a referendum campaign, the political advantage probably lies with the 'No' campaign, since it can depend on creating doubt about the proposed measure, while the 'Yes' campaign has to build a coherent case, not just for the merits of the question and its implications over time, but also simply to get voters to bother to turn out. As Laurent Fabius, a leader of the No campaign in France ironically, but all too presciently observed, 'there is nothing in this treaty which makes me want to vote for it'.

There is little evidence that EU leaders took into account the nature of the political risks involved in member states' running weak campaigns for referendums to ratify the Constitutional Treaty. The main risk – that a No vote might entrench the need for more and more referendums on issues of significant reform in the Union – does not appear to have been appreciated. The additional risk, that the campaigns would entrench anti-Muslim or anti-migration sentiment or opposition to Turkish membership of the EU, also does not appear to have been anticipated. It is certainly the case that EU leaders did not have much room to manoeuvre in terms of responding to national decisions to

¹ For comparative studies on referendums, see Mollie Dunsmuir, 'Referendums: the Canadian Experience in an International Context', Library of Parliament, Canada, January 1992; and Lawrence LeDuc, 'What Can Comparative Research Tell Us About Future European Referendums', University of Toronto, 2004. LeDuc is the leading international specialist in this area and is author of *The Politics of Direct Democracy: Referendums in Global Perspective*, Broadview Press, Toronto, 2003.

hold referendums, but the decision point for their taking these risks into account was in fact before the national decisions were made, not after.

UNDERSTANDING THE RESULTS IN FRANCE AND THE NETHERLANDS

In democratic theory, the idea of a full consultation with voters through the mechanism of a nation-wide referendum to decide, or to help a government decide, on a vital issue is instantly appealing. There are however, few political scientists or democratic activists who try to defend the position that, once set in train such a consultation process remains unpolluted by party politics, political opportunism, scare campaigns, bigotry or media ownership. The comparative research referred to above provides ample evidence that a referendum result, more often than not, probably does not exclusively represent a vote for or against the specific issue put in the referendum question.

Voting in France: Who Voted No and Why

On 29 May, in response to a question: 'Do you approve of the bill which authorises ratification of the Treaty establishing a Constitution for Europe?', 45 per cent of those voting said Yes and 55 per cent said No. Around 69 per cent of voters turned out. Chirac had announced the exact date of the referendum on 4 March.²

The No vote was not a vote against the EU. One does not need to credit the campaign slogan '*J'aime l'Europe et je vote non*'. An Ipsos-*Le Figaro* poll shows that No-voters of 29 May were not mainly anti-EU. In the poll, conducted that day, with 3355 respondents, representative of the voting population, 72 per cent said they were comfortable with 'pursuit of European integration (*'la construction européenne*)'.³ Another poll the same day had only 19 per cent of No voters saying that Europe threatened French identity.⁴ This poll provided the following reasons for voting No:

Treaty will worsen unemployment in France	46%
Fed up with the current situation	40%
Will allow Treaty to be renegotiated	35%
Treaty is too liberal (economically)	34%
Treaty is particularly difficult to understand	34%
Europe threatens French identity	19%
Because of Turkey	18%
Politicians I feel close to called for a No vote	12%

The No campaign was built on the following sort of arguments:

- ❑ Rise in unemployment and 'delocalisations'
- ❑ Ultra-liberalism is engraved in Constitutional Treaty

² http://www.unizar.es/euroconstitucion/Treaties/Treaty_Const_Rat_France.htm

³ <http://www.ipsos.fr/Canallpsos/articles/1545.asp?rubId=17>.

⁴ TNS Sofres/Unilog poll of 1,500 eligible voters cited in the *International Herald Tribune*, 31 May 2005, p4. Respondents could choose more than one answer.

- No to Constitution because no to a 'Turkish Europe': given the size of its population, Turkey's membership would mean that it had the largest number of MEPs;
- No to antidemocratic and technocratic EU.⁵

One of the 'nonistes', Philippe de Villiers MEP, proposed an alternative Constitution which would provide:

- veto rights for national parliaments
- more EU decision-making by unanimous vote
- increase of power of Council over Commission
- no to Turkey as an EU members state but yes to Turkey as special partner.⁶

The following table provides a break down of the vote by several categories:⁷

	Yes	No
By monthly salary		
Less than €1,000	40	60
From €1,000 to €2,000	35	65
From €2,000 to €3,000	42	58
More than €3,000	63	37
By age		
18-24	44	56
25-34	45	55
35-44	39	61
45-59	38	62
60-69	56	44
70+	58	42
By profession		
Farmers	30	70
Skilled trades, merchants, managers	49	51
Office workers	33	67
Labourers	21	79
Professionals, executives	65	35
Middle management, teachers, health/social workers	47	53

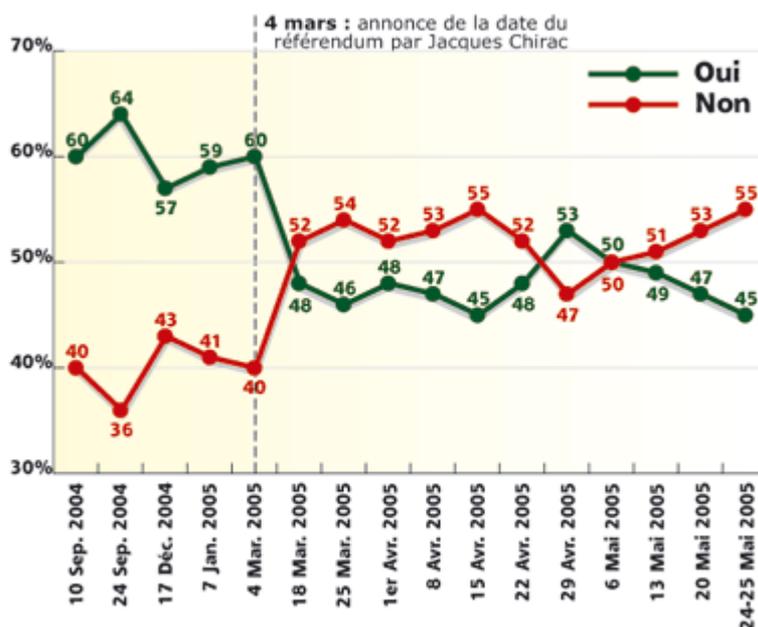
The Yes campaign was 'winnable', with around 60 per cent or more of polled respondents in favour of the Constitution in late 2004 and early 2005. But the Yes campaign suffered from a large number of political errors and negative background factors.

As the figure below shows, the trend in voter sentiment worsened immediately after the announcement of the referendum.⁸

⁵ See : <http://www.lespartisansdunon.com/constitution.htm>.

⁶ <http://www.lespartisansdunon.com/constitution.htm>.

⁷ An Ipsos-*Le Figaro* poll, 29 May 2005, conducted that day, with 3355 respondents, representative of the voting population, cited in *International Herald Tribune*, 31 May 2005.



The political errors started at the outset of the campaign. On 28 February 2005, a joint session of the French National Assembly and the Senate voted by a large majority to allow a referendum on the European constitutional treaty to take place.⁹ In a measure aimed at voter disquiet about Turkish membership of the EU (70 per cent opposed), they also passed a law requiring that all future EU enlargements would be subject to referendum. This move introduced confusion and allowed for the referendum on the Treaty to become in part a referendum on Turkish membership. (See below.)

The political environment was not favourable. First, the French government had little effective experience of referendums. The Maastricht Treaty had only scraped through in a referendum some 13 years earlier, with 51 per cent approval. Under Chirac, there had only been one other national referendum: on reduction of the presidential term to five years. It received support of 73 per cent of those who voted, but turn-out was only 30 per cent. Since a 1969 referendum on the reform of the Senate and the creation of regions, which contributed to de Gaulle's departure, French governments have not been that keen on referendums.

Another background element threatening a Yes campaign was the division within the Socialist Party (PS). On 1 December 2004, the PS held an 'internal referendum' on the Treaty, resulting in 58 per cent in favour, and 42 per cent against. 'Yes' campaigner Francois Hollande argued that if the Constitutional Treaty was rejected, it would split the PS and give an almost certain win to the centre-right parties in the next presidential elections of 2007. Yet members of the PS were worried that the involvement of Chirac in a successful Yes campaign would have a negative impact on PS credibility in the next

⁸ <http://www.ipsos.fr/Canallpsos/articles/1545.asp?rubId=17>.

⁹ *Will the EU Constitution Survive a Referendum in France?*, The Brookings Institute, <http://www.brookings.edu/printme.wbs?page=/fp/cuse/analysis/boisgrollier20050301.htm>

elections. The trauma of having to vote for Jacques Chirac in the 2002 elections to defeat Le Pen had not been forgotten on the left.

The scale of division within the PS on the Treaty was a principal cause of the volatility in the referendum campaign. PS voters were denied a strong cue to vote for the Treaty. In the end, half of the No vote comprised centre left supporters. Only a quarter of the No voters were from extreme right or extreme left parties.¹⁰

The start of the campaign also coincided with a robust political campaign against the EU services directive, seen by many well-informed commentators as one of the most obscure and disturbing pieces of EU legislation for a long time. By 23 March, Chirac was forced to 'kill' this EU directive in order to save the referendum.

But the biggest factor in the referendum campaign turned out to be the deep unpopularity of the French government at a time of high unemployment levels (around 11 per cent). Chirac's disapproval rating had been very high for the preceding year (56-66 per cent), but that of his Prime Minister, Jean Pierre Raffarin, had been even higher (67-75 per cent). As one commentator noted, lack of dialogue between Jacques Chirac and the electorate on a regular basis has led to great public disenchantment only waiting to be unleashed by a referendum.¹¹

Voting in the Netherlands: Who Voted No and Why

On 1 June, the Netherlands electorate voted on the question: 'Are you for or against approval by the Netherlands of the Treaty establishing a Constitution for Europe'. The vote against was 62 per cent, with 38 per cent in favour. Some 63 per cent of the electorate turned out.

The main arguments advanced by those opposed to the referendum were:

- a No vote would put pressure on the EU institutions to perform better
- the Constitution was not conducive to continued social welfare (too 'liberal')
- Less power within the country (loss of sovereignty)
- Unreadable constitution
- More power abuse (Politicians are allowed to abuse power against civilians)
- Less democracy
- Loss of veto right
- More bureaucracy
- More money spent into bottomless pits
- Less social welfare
- Creation of a European army
- All power will go to France and Germany.¹²

¹⁰ <http://www.ipsos.fr/Canallipsos/articles/1545.asp?rubId=17>.

¹¹ Alain Duhamel, '*L'exception française*', *Le Figaro*, 11 May 2005.

¹² <http://www.eunee.nl/index.htm>.

An analysis of poll data on voting intentions at the time of the referendum suggests that the No vote in the Netherlands was not primarily a vote against the Treaty itself. According to a poll conducted on 31 May, only 48 per cent of those intending to vote No objected to the Constitution.¹³ In the Dutch referendum vote in 2005, some 43 per cent of those intending to vote No cited the enlargement of the EU to 25 (last year) as the cause. Some 38 per cent of the No voters cited their distrust of Dutch politicians as a cause. This poll, conducted on 31 May for the second time in ten days, of those intending to vote Yes and those intending to vote No, found that in each group the reasons were given as follows:¹⁴

Those intending to vote Yes	%	Those intending to vote No	%
Approval of the new Constitution will bring an improvement in the general situation	69	Approval of the new Constitution will not bring an improvement in the general situation	48
The EU gives the Netherlands more advantage than disadvantages	64	The EU gives the Netherlands more disadvantages than advantages	44
I agree with the new Constitution	38	I disagree with the new Constitution	48
I feel European	26	I do not feel European	26
If we reject the Constitution, the EU will disintegrate	23	If we reject the Constitution, the EU will disintegrate	4
The party I vote for supports the Constitution	18	The party I vote for is against the Constitution	11
I am in favour of the Euro	11	I am not in favour of the Euro	30
Because I am in favour of enlargement of the EU to 25 or more	9	Because I am opposed to the enlargement of the EU to 25	40
Because if the way the opponents presented their campaign	24	Because of the way those in favour of the Constitution presented their campaign	43
Because I support the government	13	Because I do not support the government	30
Because otherwise the Netherlands would not look good	18	Because I don't trust Dutch politicians	38
Because I support Turkey's entry into the EU	8	Because I oppose Turkey's entry into the EU	40
Others	8	Others	16
No response	1	No response	1

In a news commentary on related polls, Mark Beunderman concluded that the rejection of the EU constitution was primarily based on general uneasiness with the EU.¹⁵ He cited a TNS/NIPO survey for RTL television, which found that the 'Dutch are predominantly afraid that the Netherlands will lose its identity in Europe and that the Netherlands will not maintain its influence in the European Union'. The polling company also found that the Dutch think that European unification is moving too quickly. According to TNS/NIPO, it was remarkable that sideline issues like Turkish EU accession, the Euro, and discontent with the Dutch government did not constitute the main arguments for voters turning their backs on the Constitution. The observer also cited Maurice de Hond who assessed that 78 percent of the Dutch think that 'Brussels should have less of a say on issues close to citizens'; and that 73 percent of respondents felt

¹³ In referendum history elsewhere, as in the Republic referendum in Australia, a referendum to establish a Republic and abolish the monarchy was voted down in spite of majority support for the idea. The pro-Republic voters who voted No objected to the question they were asked to affirm.

¹⁴ Peil.nl, 'Europees Referendum', 31 May 2005, <https://n1.noties.nl/peil.nl/>.

¹⁵ Mark Beunderman, 'Dutch say strong No to EU Constitution', 01.06.2005, <http://euobserver.com/?aid=19220&rk=1>.

that the EU should be 'much more democratic'. Strikingly, according to Mr de Hond's poll, less than half backed the idea of a common EU foreign policy. Forty-five percent of respondents agreed that 'there should be one approach to foreign policy in the EU, not separate approaches of every single country'.

But these interpretations are something of a political gloss on the available poll data. To the extent that Dutch voters in the referendum expressed a negative view on the EU, it was largely about the way in which the EU leaders had not bothered to consult or inform on the enlargement to 25 last year or the possible inclusion of Turkey in the EU at a later date. According to a poll conducted on 1 June, some 45 per cent of those voting No were influenced by the campaign in the last two weeks.¹⁶

Young, male, highly educated and high income voters were the least likely to vote Yes. According to peil.nl, the breakdown of voting by gender, age, education levels and income levels was as follows:¹⁷

	Yes	No
Gender		
Male	42	58
Female	34	66
Age		
18-24	45	55
25-34	39	61
35-44	33	67
45-54	31	69
55-64	40	60
65+	52	48
Education		
High	49	51
Mid+	47	53
Mid-	28	72
Low	18	82
Income		
High	49	51
Med+	39	61
Med	29	71
<Med	32	68

The following table indicates the way in which supporters of various political parties directed their votes, suggesting that it was the left parties that had the biggest share of the No vote:

¹⁶ Peil.nl, 'Achtergronden stemgedrag referendum', 1 June 2005, <https://n1.noties.nl/peil.nl/>.

¹⁷ Peil.nl, 'Referendumuitslagen naar diverse persoonlijke kenmerken', 1 June 2005, <https://n1.noties.nl/peil.nl/>.

Party	Yes	No
Christian Democratic Appeal (CDA)	76	24
Democrats 66 (D66)	76	24
People's Party for Freedom and Democracy (VVD)	57	43
Green Left	55	45
Labour Party (PvdA)	42	58
Christian Unity (CU)	17	83
List Pim Fortuyn (LPF)	6	94
Socialist Party (SP)	4	96
Wilders	5	95

Before the start of the campaign, opinion polls were showing very strong support for the Constitution and its ratification. In December 2003, Eurobarometer put that support at 76 per cent of the electorate.

The government mis-calculated in its campaign but was also constrained by some unique features of the Dutch system of separation between the parliament and the executive. At the start, it allocated only a small amount of money, on the presumption or hope that the parties opposed to the referendum would do the same. When this was clearly not the case, and just ten days out from the vote, the government was forced on to the back foot and allocated an additional 3.5 million Euros. The government also upset a large number of voters by the way it campaigned. Some 43 per cent of those who voted No cited this as one of the reasons for their vote. It is difficult to know which aspects of the government campaign were so disliked, but the alarmist rhetoric invoking the threat of disintegration of the EU, war crimes in Bosnia, the holocaust, or World War II was probably a factor.

The political climate in the Netherlands when the referendum was announced in February was highly charged. As in France, the government was deeply unpopular for domestic reasons. The two big issues were immigration and cuts in social services and wages. The assassination of politician Pim Fortuyn in 2002 and of film director Theo van Gogh in 2004 had sent shock waves through the country. These have not abated at all, and if anything have intensified. Still, some 40 per cent of those intending to vote No linked their decision to possible Turkish membership of the EU.

Leading No campaigners consistently played to the fear of immigrants, Muslims or Turkish membership of the EU without respite, in an environment where the government had an already established record of cracking down on refugees. Some 6-7 per cent of the Netherlands population is Muslim.

INTERPRETING THE NO VOTES

The votes were the expression of popular sentiment on a range of domestic and European issues, of which the Draft Constitution was only one. The two referendums were not a definitive vote by a majority of the electorate on the idea of the Constitution. Available evidence, collected both before and after the referendums in France and the Netherlands, shows that large numbers of 'No' voters were supportive of the Constitutional Treaty but were prepared to vote No for other reasons. There was

so little to lose by voting No, since approval or rejection of the treaty would not affect their daily lives. The results were more likely a repudiation of existing elite-driven processes of EU reform, though even that interpretation is open to question. The clearest, most important message of both referendums was that a decisive number of voters were prepared to say 'No' in a largely symbolic EU plebiscite in order to register dissatisfaction on a range of EU-related issues, such as enlargement and associated migration issues, or domestic policy issues, such as social welfare, migration policy or unemployment.

Further serious analysis of the two results and voter sentiment on the EU and the draft Constitution in both countries is essential. Any future attempt to have a 'Constitution', whether it be in one, two or ten years time, will almost certainly have to be put to referendum in both France and the Netherlands. There will be need to be new votes in both places – it is only a question of when.

NEXT STEPS FOR THE EU

As comparative studies suggest, referendums may now become a more regular event across the EU as a whole in ratifying future efforts for 'constitutional change'. In the short term, EU leaders must champion an interpretation of the French and Dutch referendum results that recognises them for what they are. The leaders will need to change course on ratification of the draft Constitutional Treaty. This does not have to mean abandoning its contents or visions. As the referendum campaigns showed, the draft itself is simply not that politically contentious. A significant slowing or a suspension in the ratification process for a couple of years is the minimum needed.

It may be desirable for any future referendums on EU constitutional issues to be held simultaneously with national elections. Not only does this make economic common sense, but allows voters to express a view simultaneously and separately on their government's performance and the referendum question. As such, in the medium term, the European Council must adopt a policy of reform based on a more sensible approach to use of referendums to ratify major changes.

NEXT STEPS FOR BRITAIN

To pre-empt a strong 'campaign' effect on future referendum outcomes, the UK government should take steps to ensure that voters' views on Europe are more solidly based in fact and more concretely linked to their everyday lives in terms of prosperity, health, education and security. The government should abandon its relative invisibility on European affairs. Sustaining the current 'low profile' stance will only lead to defeat in any referendum on EU issues. The lesson of this short study is that to win a referendum on Europe, a government must set several things in place:

- ❑ It should mobilise the parties as completely as possible behind the government position, something which may take several years
- ❑ It should quite visibly work with Opposition politicians who are prepared to advocate a realistic view of the EU and its institutions
- ❑ It should monitor and react to bad news stories on Europe as vigorously as it does on education, health and crime.

The government should begin to prepare public opinion now for Turkish accession to the EU. If Turkey eventually is accepted for membership by the governments, it is inevitable that the membership will be subject to referendum across Europe. The cost of excluding Turkey at a later date may be very high in security terms, but a referendum on Turkish membership will never be won on a short campaign. It will take years of developing UK-Turkey relations. Preparing the ground-work for such a referendum should not and could not be linked directly to Turkish membership of the EU, but would need to involve a much higher level of FCO commitment to Turkey. There need to be more bilateral visits and special arrangements should be to intensify student exchanges and liberalise migration opportunities.