



Global Governance,  
Regionalisation and Regulation:  
The Role of the EU  
6th EU Framework Programme

## Referenda and European Integration: A Misguided Procedure?

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SCIENCES PO

**GARNET POLICY BRIEF**

*Number 1, November 2005*

*Referenda have been the first form of direct political representation by citizens to be institutionalised in relation to the European integration process. In 1972, that is seven years prior to the first direct elections for the European parliament, referenda were held in four countries, namely France, Ireland, Denmark and Norway. These four votes were held to ascertain opinion concerning the first enlargement of the EEC. More than thirty years later, the total number of referenda on European integration had risen to forty three, organized both within member states or within candidate states. These referenda concerned three types of questions: membership, including that of infranational entities such as the Feroe Islands in 1972 and the Aland Islands in 1992; treaty ratification (Maastricht, Nice, the European Constitutional Treaty); and entry into the European common currency. Several of these referenda resulted in negative votes leading either to the organization of a second vote, or a categorical refusal of membership in the Union (Norway in 1972 and 1974) or, as in the most recent case of the European Constitutional Treaty, the non-ratification of institutional reform. It should be noted that all of the countries that joined the European Union on 1<sup>st</sup> May 2004, with the exception of Cyprus, ratified their membership through a referendum.*

*Turning to the ratification of the European Constitutional Treaty, no less than eight countries announced that they would conduct referenda to ratify the new agreement, a process now “frozen” by the negative votes cast in France on 29<sup>th</sup> May 2005 and in The Netherlands on 1<sup>st</sup> June. Amongst these eight countries, it should be noted, several such as The Netherlands and Luxembourg have rarely used this form of direct democracy, Luxembourg, for example, had not held such a popular vote since 1937.*

*In this policy brief, I wish to investigate two basic questions:*

- What is the relationship between the process of European construction and the use of referenda as a particular type of vote. In other words, does the construction of a European polity encourage direct democracy?*
- What are the determining factors in voting and what causal explanations can be drawn from the European referenda experience.*

*The policy brief is divided into four sections. In the first, I provide a brief overview of contemporary research on referenda. In the second, I examine the reasons underlying the recourse to referenda within Europe. In the third section, I analyze the differing means both of interpreting referenda results and also participation rates in referenda. In the concluding section, I provide five policy recommendations regarding the use of referenda for dealing with European issues.*

## Research on Referenda

Austin Ranney, a US theoretician on the subject, defined a referendum as a “vote in which citizens express their support of, or opposition to, a measure proposed by a government or through a citizen’s initiative” (Pouvoirs, N° 77, p.7). While this definition is a useful start, it should be noted that a referendum can take on various forms. Furthermore, referenda have been used not only in democracies, but also organized by non-democratic regimes. Hitler, for example, on no less than four occasions at the beginning of the Third Reich organized this form of popular plebiscite, an experience that explains why the Fundamental Law of the German Federal Republic of 1949 expressly forbids their organisation. Even amongst democratic political systems, the focus of this paper, referenda have not all had the same pertinence and the same democratic importance. According to Francis Hamon, a typology of referenda needs to combine a broad range of criteria:

- a.** The objective of the question being asked. Two types of referenda can be distinguished: normative referenda (those concerned with texts modifying the framework of government), and orientation referenda (ie those where citizens vote on declarations of intention).
- b.** The mechanism of their organisation. A distinction can be made between compulsory referenda (i.e. organized to meet a constitutional requirement) and optional referenda (i.e. organised as a result of a political decision by governments).
- c.** The initiator of the referenda: those emanating from a decision made by governments and those that are the result of a grass roots initiative (as in Switzerland, for example).
- d.** Legal effects: a referenda can be “decisional” or decisive when the results in themselves impose a decision, or “consultative” when the importance to be attributed to the result is left in the hands of parliaments.

An examination of the political science literature indicates that no singular typology has been able to impose itself amongst researchers. With the exception of the work of David Butler and Austin Ranney, comparative literature on referenda is both rare and disparate, and, moreover attempts at theorisation are rare. As far as the literature on referenda in democracies is concerned, most analysts have preferred to concentrate on the normative aspect. In doing so such analysts find themselves in the mainstream of debates in political philosophy since at least the beginning of the 17<sup>th</sup> century which divides them into two schools:

- a.** The defenders of direct representation, who feel that the truly democratic way of political decision-making is through a form of direct involvement by all citizens devoid of intermediaries. The referendum is thus seen as a legitimate form of political expression by the citizenry. Within this school of thought can be found the intellectual heritage of classical theorists such as Rousseau and the British Levellers as well as contemporary political philosophers such as Benjamin Barber, Lee Ann Osbun and Carole Pateman.
- b.** The advocates of the “representative democracy” school or that of “responsible elites” who feel that in a polity such as a democracy, citizens cannot – and should not – spend their time in political decision-making and that these decisions need to be delegated to representatives whose full-time responsibility is to make such decisions for the whole of the community. This school harks back to the tradition of John Stuart Mill and can be found amongst contemporary writers such as Joseph Schumpeter, E. Schattschneider and Giovanni Sartori.

Attempts at a degree of synthesis between these two schools exist, for example in the writings of Ian Budge, who sees modern representative government having to increasingly accommodate demands for direct democracy. In this regard, political discussions surrounding the choice of political instruments for the adoption of the European Constitutional Treaty have seen a resurgence of the normative debates concerning representative and direct democracy. This cleavage underlies the choices of those who have pleaded in favour either of the referendum, or the use of the parliamentary process, as the only legitimate form of ratification.

Next to these normative approaches, which converge with more general concerns on contemporary democracy, the plethora of referenda on European issues has given birth to a number of monographs and, much more rarely, to comparative studies. In the 1990s, Franklin, March and MacLaren jointly published a comparative study of the ratification of the Maastricht Treaty. More recently, the work of Szczerbiak and Taggart on the referenda on EU membership held in Central and Eastern Europe provides a reference point for this present paper. The four referenda on the Constitutional Treaty have not, as yet, generated studies in comparative political sociology.

Within these studies, whose essential concern is with the sociology of the referenda themselves rather than with their normative bases within a democratic system, two major approaches can be identified:

**1.** The first approach suggests that these referenda are of a second order kind, to use the formula employed by Reif and Schmitt to describe the first election to the European Parliament in 1979. For the electors this simply means re-echoing the choices of national politics and to support or, on the contrary, to express disapproval of their national government. Expressed succinctly this means, for example, that the French, Luxemburg or Dutch elector voting on the Constitutional Treaty is merely expressing the trust he places, or does not place, in his own government. From this perspective any referendum on European integration can only be examined as a plebiscite on existing governments, given that, for those who hold this view, electors do not consider Europe as a reference point. In other words this approach rejects any notion of purely European issues being at stake.

**2.** On the contrary, the second approach is based on the assumption that referenda on Europe are not disconnected from the attitude of electors concerning European integration processes and, therefore, it is mistaken to assume that a referendum on Europe does not allow voters to position themselves in relation to the real question posed. Within this approach there are two diverging views concerning the way the elector positions himself. On the one hand, according to some analysts such as Matthew Gabel, the crucial factor is the elector's personal utilitarian calculation in relation to a particular European issue. On the other hand, others would argue that the decisive question is either the commitment, or the rejection, by the elector of the values implicit in European integration.

In my view neither of these two schools of thought – the former emphasizing national factors and the latter stressing European issues – is completely right or completely wrong. I would suggest that a more fruitful approach is one that attempts to come to a synthesis building on the insights gleaned in combining the two approaches. Franklin, March and Wlezien have attempted such a synthesis in their study of the referenda on the Maastricht Treaty, as have Szczerbiak and Taggart in their work on the membership referenda in the countries of Central and Eastern Europe. This involves trying to elucidate referenda results by correlating the degree of national partisan variables with the parameters of European preferences. From these studies based on comparative empirical evidence, we can deduct that while the popularity of a government does not determine the outcome, it does influence the opinion of electors who position themselves in relation to the European integration process.

## The Use of Referenda on European Integration

As previously argued, while a number of European countries have conducted referenda on European integration, these referenda have not been of the same kind. Because of existing national constitutional arrangements (as in Ireland, for example) the conducting of referenda is compulsory while in others it is optional. Moreover, in certain cases the results are binding, while in other cases they are merely consultative. This being said, even in the latter case they are not without an impact on governments. Thus the two Norwegian referenda on EU membership (1972 and 1994), the Swedish referendum on the common currency (2003) and the Dutch referenda on the Constitutional Treaty were consultative. Nevertheless the Norwegian, Swedish and Dutch governments felt they had no choice but to abandon their proposals respectively of EU membership, joining the euro area or ratifying the Constitutional Treaty.

Overall, except in those countries, such as Denmark and Ireland, where treaty ratification implies changing internal constitutional arrangements, governments made a political choice to initiate referenda on European integration in order to meet two major needs:

1. To seek approval through universal suffrage on a question on which there were strong cleavages either within the dominant political party and/or within the governing coalition and/or within the general population. The British referendum of 1975 on staying within the European community, or the 1992 French referendum on the Maastricht Treaty are two examples. In these cases the referendum served to test divergences on Europe, divergences that are often difficult for governments to measure, given that disagreements over Europe rarely duplicate the cleavages that structure national political activity, in particular that between the right and left. Indeed, often these cleavages can be found within political parties themselves, a situation that has led some of them to organize internal referenda to determine a party position. The best example of this is that of the French Socialist Party which organized a vote of party members in December 2004 on the European Constitutional Treaty. Nevertheless, the majority “oui” vote was not respected by partisans of the “non” during the campaign for the national referendum held five months later. Referenda have at times engendered the emergence of political forces (often in favour of a positive outcome) who use the issue of European construction as a way of entering onto the domestic political stage. The June movement in Denmark and Sweden is an example of this trend. In this light it could be argued that, at least since the Treaty of Maastricht, there is no longer an “unstated pro-European consensus” between the major political parties at the national level.

2. The organization of referenda can result from what Caroline Belot describes as a “moral imperative” within a democratic system. The term “normative obligation” could also be usefully applied. Given that the European Union as a supranational entity does not – and probably cannot – meet the democratic requirements that govern national politics, this objective is of particular salience. Within the context of continual criticism of the ostensibly non-democratic nature of the European Union, an appeal to universal suffrage is one means, amongst others, for governments impinged upon by such criticism to attempt to turn around the argument. In my view, the referenda on the Constitutional Treaty sought to fulfil this objective. For precisely this reason also the representatives of the European institutions, and in particular the European Commission, strongly encouraged the new accession states to organize national referenda on membership of the EU. In a way the use of referenda is a means to rebut the criticism often addressed at the EU as not having met well-known and legitimate standards required in domestic political life. While no research has yet been carried out on the question, it would appear that French President Jacques Chirac chose to organize a referenda on the Constitutional treaty for this reason. In procedural terms he was not obliged to do so and, moreover, he was assured of having a parliamentary majority in favour of ratification in the French National Assembly.

## Interpreting the Results of European Referenda

The four referenda on the Constitutional Treaty in Spain, France, the Netherlands and Luxemburg, have not yet given birth to in-depth comparative analysis of their results. Nevertheless based on the research undertaken on the membership referenda in Central and Eastern Europe, in particular that of Szczerbiak and Taggart on participation and results, the following typologies can be suggested:

### Results

On the basis of the empirical research undertaken in 2003 on ten referenda Szczerbiak and Taggart argue that three variables need to be taken into account in any analytical interpretation:

- a.** The general attitude of the population in relation to Europe is important in understanding the results. In this case it is useful to correlate the referendum results with other empirical data such as opinion poll findings on attitudes to Europe, for example the Eurobarometer or national opinion polls. Such correlations reveal that, the stronger the support for European integration as expressed in opinion polls, the stronger the approval of European integration as expressed in voting in referenda. Moreover the higher the degree of understanding of Europe as expressed in opinion polls, the more this factor weighs on referenda outcomes.
- b.** The balance, weight and clarity of the message transmitted by elites has an influence on the yes and no votes. By the term 'elites' I am suggesting not merely the members of political parties, but also trade unionists, academics, journalists and other members of civil society whose structure and credibility varies from one country to another. On the one hand, the stronger the message of political and other elites in favour of, or opposed to, European integration, the stronger the probability of having a resounding yes or no vote. On the other hand, a strong level of credibility of political elites in the eyes of the public, leads to a degree of predictability on affirmative votes in referenda outcomes, while a weak level of credibility leads to the contrary result.
- c.** The level of elite financial resources and their access to the media – for or against ratification – has an influence on the referendum results. This variable has seldom been mentioned in the academic literature and thus its formulation by Szczerbiak and Taggart is of heuristic importance.

This template for interpreting referenda results is deliberately simple, indeed parsimonious. In my view a host of other factors need to be taken into account, for example:

- Demographics.
- Size of the nation state.
- The experience of State sovereignty, in particular whether it is recent or not.
- Level of economic development.
- The interdependence between the European stakes in a referendum and other issues. For example, in Slovenia the referendum on membership of the European Union was held at the same time as a referendum on joining NATO and it can be assumed that there was interference between the two questions.
- The way in which the referendum question is asked.
- The degree of interdependence in the timetable of referenda between different countries. This question is of particular relevance in relation to the result of the referendum on the European Constitution. It could be asked, to what extent did the French "no" of 29<sup>th</sup> May 2005 impact upon the results of the Dutch referendum held on 1<sup>st</sup> June? During the referenda on membership of the European Union, the Visegrad countries coordinated their timetables: the Czech people were to be consulted after the referendum in Slovakia, a referendum that was felt could be won more easily.
- How close the referendum is held to national elections. In his study of referenda held in the Scandinavian countries, Mads Kvotrup has shown that, the closer a referendum on a European subject is to a national election, the lower the level of the "yes" vote in the results.

All of the above factors determine the results of referenda. Nevertheless the essential usefulness of the model developed by Szczerbiak and Taggart is that it provides a hierarchy of the three main parameters: general and diffuse support of European integration; the nature and clarity of the messages on European integration vectored by elites (whether they be political or non-political) and the resources mobilized (both financial and in terms of access to the media).

### **Participation**

One of the most often heard arguments in favour of a referendum on a European issue is that it engenders an in-depth debate on the future of Europe. In France, for example, the two referenda on the Treaty of Maastricht (1992) and on the European Constitution Treaty (2005) were the two most significant periods of debate on Europe in the last thirteen years. For all national governments organizing a domestic debate on European construction is highly problematical, for this subject appears somewhat removed from the down to earth issues of daily political life. In this regard, the anthropologist Marc Abélès has demonstrated the difficulty of organizing a communication strategy around an object which, by its nature, remains both projected in the future and always a virtual reality (Abélès 1996).

The fall in participation rates for elections is a common characteristic of most democracies since the 1990s. However, while comparative studies of referenda in general in democratic systems do show that participation rates are lower than for legislative elections, a study of referenda concerned with European integration from 1980 to 2000 in the countries of Western Europe indicates that at least three-quarters of eligible voters cast their ballot. The exceptions are in Ireland and, above all Switzerland, where participation in referenda is in general quite low irrespective of the issue: a certain "voter fatigue" seems to set in when there are numerous examples of direct consultation. Since 2000 the referenda on EU membership have also changed the situation because, in general, they mobilize a smaller number of voters (45% in Hungary and 63% in Estonia), Malta with a 91% participation rate being the exception. This low participation level has generally been explained in most cases by a certain degree of alienation of the citizens of the new member states in regard to voting in general, rather than a real lack of interest in European issues.

The referenda on the European Constitutional Treaty provide a new area of analysis given that they occurred both in the established member states and concerned a clearly European project. Participation rates were high in three of the four countries that chose this form of ratification: France (69.34%), the Netherlands (63.30%) and Luxemburg (90.44%). On the contrary, the referendum of 20th February in Spain had an historically high level of abstention with only 42% of the population voting, a figure that needs to be analysed in the light of the preceding legislative elections where the participation rate was only 46%. Poland, where participation rates in legislative elections are generally quite low will provide an interesting case if it chooses, as it did in 2003 over the question of EU membership, to seek ratification on the European Constitutional Treaty by a referendum. In Poland the national constitution requires that a minimum of 50% of electors should vote for the results of a referendum to be valid.

To return, however, to possible analytical grids for examining participation rates, once again based on the work of Szczerbiak and Taggart, several independent variables can be identified as explanatory causes for participation levels in referenda:

- 1.** The general participation rate in purely national elections. To simplify, it can be said that the greater the general level of voter participation in national elections, the greater the level of participation in referenda on European integration. This hypothesis, however, is but a starting point for the two authors. In fact an analysis of individual member countries indicates that many other variables such as historical experience, political culture and institutional structures also influence participation rates.
- 2.** The level of political debate within society in general, and amongst political elites in particular, in regard to European integration. This variable calls to our attention the question of the messages vectored by political and social elites and their credibility as actors of public debate. It can be noted, in this regard, that the elites who oppose are always the most visible in the referendum debates. For the media, who seek a confrontational style, they are always more interesting as the example of the campaign in France on the European Constitutional Treaty clearly demonstrated. Moreover such elites have the possibility of delivering rather simple, and ostensibly clearer, messages on Europe and, therefore, have a strong capability of mobilizing voters.

**3.** The degree of preference for European construction within the population would appear to be reflected in high or low levels of participation in referenda. This variable is extremely difficult to evaluate and apply because it is almost tautological. Concretely, the empirical evidence examined on European preferences is that of the personal benefit believed to have been accrued as a result of European integration process as revealed by opinion polls (i.e. does the respondent feel he or she benefits personally from European construction). While this variable is rather rough and ready, it is useful because it can be counterpoised with levels of debate amongst elites. Within the countries that have chosen to organize a referendum, let us, for arguments sake, take the interesting example of an elector who generally votes for a political party opposed to the European Constitution. Our hypothesis would be that his vote would not only depend upon the oppositional discourse of the party he supports, but also his or her own individual preferences in regard to Europe.

**4.** The higher or lower, the level of civic commitment on European questions, the higher will be the level of participation, or the contrary. By "civic commitment" is meant the involvement of NGOs, non-political elites or grassroots organisations. Here the differing levels of commitment from one member country to another depending on the varying structures of civil society and the democratic system can be underlined. As Karin Gilland has shown in her study of the second Irish referendum on the Treaty of Nice, the activism of organised civil society groups played an important role in the change from a "no" vote to a "yes" vote. In certain cases governments who seek to have a positive outcome delegate a part of the political campaign to such groups. The higher the level of opposition and the closer the margin between the "yes" and "no" supporters in the opinion polls, the greater will be the temptation for political elites on both sides to invest resources in civil society groups or non-political associations in order to convince undecided voters. In France, the most flagrant example is the role played by the anti-globalisation association ATTAC. Political leaders on the left opposed to the European Constitutional Treaty actively sought the support of this association to denounce provisions in the third part of the document that they discursively dismissed as "too liberal".

It is of the nature of models and templates to be parsimonious, nevertheless Szczerbiak and Taggart recognize themselves, in a nuanced way, that other variables which would seem important in explaining participation rates in referenda on European integration. Amongst these can be suggested:

- The cognitive variable, i.e. the level of European understanding expressed by the voter.
- The state of socio-economic development, even though it is difficult to correlate with other variables. For example, the Czech Republic, Malta and Slovenia all have comparable per capita GNPs that are approximately at the average level within the EU, and yet their participation rates for the membership referenda of 2003 differed widely: 55% in the Czech Republic, 60% in Slovenia and 91% in Malta.
- The institutional variable, which embraces such questions as to whether the referendum is decisive or merely consultative and the timing (one or two days). As the work of the Polish sociologist Lena Kolarska Bobinska has shown, this latter issue of timing has played a crucial role in the membership referendum of 2003.
- A tradition of using referenda as a normal type of consultation. It could be hypothesised that the greater the frequency of referenda the greater the probability of a high participation rate. However, this is not at all certain for in Switzerland, the country where referenda are frequently used to make political decisions, is also the country where voter abstention is also the highest (a participation rate on average 16% lower than for legislative elections). On the contrary, Malta which had never held a referendum since its independence, had the highest participation rate of all the new entrants into the EU in 2003. This is also the case for The Netherlands and for Luxemburg for their referenda on the European constitution.

As these contrasting results suggest, to complement generalized study, there is an overwhelming need to continue undertaking qualitative research taking into account the historical experience, the political trajectories and the institutional arrangements in individual countries. The study of referenda requires analysts to continue research on individual national situations even if the necessity to understand the individual national situations in 25 member countries is increasingly difficult. Yet, it is only on this basis that we can then undertake sophisticated analysis of the emergence of a European polity (Bulmer and Lequesne, 2005).

## Conclusions

Empirical studies on the referenda over the ratification of the European Constitution in at least four (and perhaps more) member countries would allow us to continue this research in three complementary ways:

- To compare both participation rates and results by taking into account the above variables.
- To examine to what extent the referenda are an opportunity and source of debate that contribute to the development of an expanding national political space around the issue of European construction.
- To observe the emergence of forms of “transnationalisation” of national political life in individual member countries related to referendum procedures and processes.

Related above all to the third point, a number of areas seem worthy of particular study. Among these is, firstly, the rejected proposal of the European Convention to organize the ratification of the European Constitutional Treaty the same day in order for the political debate to clearly revolve around European issues in the individual member countries that chose to hold referenda. Secondly, the idea of drafting a European wide procedure for referenda, a proposal that would require a degree of harmonisation of national constitutions, could be fleshed out. Thirdly the debate concerning the use of a referendum procedure could be examined in those countries like the Federal Republic of Germany, where this is prohibited by the national constitution. Finally the “domino effect” of differing national referenda timetables: the interesting question being the use of the results of a previous referendum in one member country as an element in the campaign of another. These various elements, while limited in number, are worthy of analysis because they have profound conceptual implications. Above all this research would provide a significant contribution to thinking on an autonomous European political space, one that functions increasingly in interaction with national political spaces, and thereby changes the attributes of citizenship for all Europeans.

## Five Policy Recommendations

1. Carefully re-examine the “variable geometry” use of referenda in some Member states only. This is not a satisfactory procedure, because it does not generate debate on the European issues at stake but on essentially national issues.
2. Member states which have the obligation, according to their national Constitution, to organise a referendum at the national level to ratify European constitutional reforms, could consider deleting this constitutional provision.
3. Referenda should be organised to ratify European constitutional reforms only if all the Member states organise such a consultation on the same question and on the same day.
4. All the member states of the EU should introduce in the European Treaty as well as in their respective national constitutions a provision on the “European referendum” procedure. This procedure could be used to ratify European constitutional reforms instead of national parliamentary procedures. The decision to use this procedure should be decided by the European Council by a qualified majority. The question submitted to citizens should be the same and the vote should take place on the same day.
5. Member states should agree that a reform of the European Treaties becomes valid when a majority of the population composing all of the Member states says “yes” in a European referendum.

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GARNET is a Network of Excellence on "Global Governance, Regionalisation and Regulation: the Role of the EU" funded under the 6th Framework Programme for Research, Technological Development and Demonstration of the European Commission and comprising 43 leading research centres. It is co-ordinated from the Centre for the Study of Globalisation and Regionalisation at the University of Warwick.

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