

# Update on the Ratification Debates

## What Prospects for the European Constitutional Treaty?

*Results of an EPIN Survey of National Experts*

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# UPDATE ON THE RATIFICATION DEBATES

## WHAT PROSPECTS FOR THE EUROPEAN CONSTITUTIONAL TREATY?

### *RESULTS OF AN EPIN SURVEY OF NATIONAL EXPERTS*

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#### Introduction

The ratification process of the Constitutional Treaty has taken some unexpected turns, since the publication of our initial report.<sup>1</sup> The situation has changed especially dramatically in France: within only 10 days the ‘yes’ camp slid from a previously stable figure of around 60% to below 50%. Our report had concluded that “if the reasons for a particular European compromise are not made transparent to the citizens, issues can be used in a divisive way at the national level”. It therefore called for a stronger European dimension in the national debates and expressed the hope that politicians and the media would play their role in stressing the common European significance of the European Constitution.

While the developments in France prove quite strikingly the problems that a lack of a European dimension can cause, they have also raised awareness among political leaders and the media: debate about the ratification as a European issue has received a boost, because the prospect of a French ‘no’ brought home to national and European level opinion-formers that, whatever the reasons for a possible ‘no’ vote may be, its consequences would be felt across the whole of the European Union. This realisation is not yet tantamount to a genuinely European debate on the issue(s) at stake, but it is an important reminder of the difficulties of ratifying a European Treaty by means of 25 different national procedures.

Despite the media interest currently focusing very much on France, this update report once more intends to give an overview of the state of affairs in *all* member states. At the time of writing, seven countries have completed the ratification procedures (EL, ES, HU, IT, LT, SL and SK) and in three others one chamber of parliament has already ratified the Treaty (BE, AT and DE) (Table 1). The successful referendum in Spain has shown that popular support can be won, even though mobilisation and consequently the turnout were low.

*Table 1. Referenda and parliamentary ratification*

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Referendum	Czech Republic, Denmark, France, Ireland, Luxembourg, the Netherlands, Poland, Portugal, Spain,* United Kingdom
Parliamentary Ratification only	Austria,** Belgium,** Cyprus, Estonia, Finland, Germany,** Greece,* Hungary,* Italy,* Latvia,* Lithuania,* Malta, Slovenia,* Slovakia,* Sweden

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\*Already ratified; \*\*one chamber has already ratified.

Owing to the developments since the initial report, it is obvious that a re-assessment concerning the probability of ratification has to be made. In France and the Netherlands (initially rated ‘rather likely’) where the referenda will take place in the immediate future, the latest opinion polls suggest a tie between the ‘yes’ and the ‘no’ sides, so a clear prediction at this point in time seems impossible. The outcome in the Netherlands – a traditionally pro-EU country – is especially difficult to forecast, because the Dutch decision will also be affected by the French vote three days earlier, which is already too close to call. Neither country has a tradition of

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<sup>1</sup> See Kurpas et al. (2005).

deep-rooted Euroscepticism among large parts of the population. That means that many who say now that they intend to vote ‘no’ according to the polls might still change their mind in the coming weeks. Also, in both countries a relatively high percentage of the population do not yet know how they are going to vote. This should be an incentive for an intensive campaign, as it can actually make a difference (see Table 2).

*Table 2. Probability of ratification, by country*

<b>Status</b>	<b>Country</b>
Already ratified	Lithuania, Hungary, Slovenia, Italy, Slovakia, Spain
Highly likely	Austria,* Belgium,** Cyprus, Estonia, Finland, Germany,* Greece, Italy, Latvia, Luxembourg, Malta, Portugal, Sweden
Rather likely	Denmark, Ireland,
Unsure	Czech Republic, France, the Netherlands, Poland
Rather unlikely	United Kingdom

\*Lower house already ratified; \*\* senate already ratified.

Table 2 is of course only a snapshot, because the dynamics of the process are very difficult to predict and a ‘no’ in one member state would affect the probability of ratification in all the other referenda that are to follow. Indeed, different scenarios in the case of a French ‘no’ are already being discussed, but there seems to be an emerging consensus that the ratification process would continue. Only the British government has signalled that a French ‘no’ might make a referendum in the UK obsolete.

The emerging discussion among European and national elites about what would happen if France voted ‘no’ raises some interesting questions for the EU as a whole as well as for the democratic legitimacy of its current Treaty framework and for the future of the Constitution. While it is politically clear that European integration could not continue without France, both EU and national politicians were quick to point out that it would be problematic to stop the ratification process just because one country votes ‘no’. This would mean that the fate of the entire European Union would *de facto* be hostage to the vote and the will of the countries that have already ratified the Treaty would be invalidated.

In the meantime, theoretically possible – yet not very attractive – alternative solutions for a possible ratification crisis are already being debated in the media: abandoning the Treaty altogether, renegotiating it, adopting parts of it or even asking the French (or other nations in the same situation) to ‘re-consider’ the same text. A difficult problem from a tactical point of view is the impact that any premature discussion about a ‘plan B’ might have on voters in France and elsewhere. The developments over the coming weeks and months could, however, force decision-makers to find pragmatic solutions sooner rather than later.

This update of our earlier survey of the EPIN network experts in the 25 member countries, shown in the following overview in Table 3, provides a snapshot of the ratification processes in the different national contexts at a crucial point in time, just before the vote in France on 29 May. It now remains to be seen whether the much-needed dynamics originating from the concrete threat of a rejection can be maintained and used to finally bring a common European dimension to the fore – whatever the result in France.

The data for most member states has been supplemented and approved by the national experts from the EPIN member institutes that are taking part in the project (see annex). Important parts of the sections on Sweden, the Netherlands, France, the Czech Republic, Denmark, Ireland, Greece, Slovenia and Spain were drawn from written reports from these experts, which are listed in the references.

## Overview of the ratification procedures in the member states

Table 3. Ratification procedures by country

	Process & timing	Comments
AT	Parliamentary ratification  Lower house ( <i>Nationalrat</i> ) ratified on 11 May 2005	<ul style="list-style-type: none"> <li>- The <i>Nationalrat</i> ratified the Treaty with 182 'yes' votes and 1 'no' vote from the FPÖ</li> <li>- Simple majority of lower &amp; upper house needed, a 2/3 majority if the Constitution is changed (likely to be obtained)</li> <li>- Legally binding referendum (<i>Volksabstimmung</i>) to be initiated by the Congress (<i>Nationalrat</i>), if the object of referendum changes the Austrian Constitution (BZÖ-leader Joerg Haider has stated he will appeal to the Court)</li> </ul>
BE	Parliamentary ratification  Senate ratified on 28 April 2005	<ul style="list-style-type: none"> <li>- Senate approved with 54 'yes' votes and 9 'no' votes with 1 abstention</li> <li>- Lower house will ratify before end of May (ratification likely)</li> <li>- <i>Conseil d'Etat</i> has given a negative opinion (29 Nov. 2004) on a possible consultative referendum without changing the Belgian Constitution</li> <li>- There is a parliamentary majority against referendum, although Prime Minister Guy Verhofstadt is in favour</li> <li>- Seven parliamentary bodies need to consider the text</li> </ul>
CY	Parliamentary ratification, date still unknown	<ul style="list-style-type: none"> <li>- Binding popular votes not foreseen in the Cypriot Constitution</li> <li>- First debate in the EU affairs committee of the House of Representatives took place in February</li> <li>- Parliamentary ratification debate expected in May</li> </ul>
CZ	<b>Possible referendum June 2006</b>	<ul style="list-style-type: none"> <li>- There is no constitutional obligation for referendum, but there is strong political support by major parliamentary parties in favour</li> <li>- Parliamentary ratification would need a 3/5 approval in both houses (unlikely to be obtained)</li> <li>- Binding referendum requires a constitutional act, as there is not yet a general framework regulating nationwide referendum</li> <li>- Likely that no minimum turnout and no additional requirement to refer the Treaty to parliament for ratification will be set (as with the accession referendum)</li> <li>- Most likely that the referendum will be held together with general elections</li> </ul>
DE	Parliamentary ratification Lower house ( <i>Bundestag</i> ) approved on 12 May 2005	<ul style="list-style-type: none"> <li>- The <i>Bundestag</i> ratified the Treaty with a 95% majority (569 'yes' votes against 23 'no' votes and 2 abstentions)</li> <li>- Upper house (<i>Bundesrat</i>) set to ratify on 27 May (likely)</li> <li>- Parliamentary ratification by a 2/3 majority in both houses needed</li> <li>- Appeal to Constitutional Court already announced by one MP (if the Court accepts, German President Horst Köhler has already stated that he will wait to sign the ratification act after the Court has ruled)</li> <li>- German federal Constitution does not foresee a referendum</li> </ul>
DK	<b>Referendum 27 September 2005</b>	<ul style="list-style-type: none"> <li>- In the absence of a 5/6 majority in parliament, the Danish Constitution requires a binding referendum when national sovereignty is transferred</li> <li>- Referendum already announced by Prime Minister Anders Fogh Rasmussen on 1 January 2004</li> <li>- Referendum will not be combined with a referendum on the existing Danish 'opt-outs' (on the euro, defence and JHA matters)</li> </ul>
ES	<b>Referendum 20 February 2005</b>  <b>Parliament voted on 28 April 2005</b>	<ul style="list-style-type: none"> <li>- Optional/non-binding referendum called by the government, to be followed by parliamentary ratification with absolute majority</li> <li>- Referendum question: "Do you approve of the Treaty by which a Constitution for Europe is established?"</li> <li>- Result of referendum: 76.73% in favour, 17.24% against, 6.03% no answer</li> <li>- Turnout: 42.32%; no minimum turnout requirement</li> <li>- Government had to be strictly 'neutral' during referendum</li> <li>- Spanish parliament ratified on 28 April by 331 votes in favour, 19 against</li> </ul>
EE	Parliamentary ratification first half of 2005	<ul style="list-style-type: none"> <li>- Government and major parties are for parliamentary ratification</li> <li>- Simple majority needed (likely to be obtained)</li> </ul>
EL	Parliamentary ratification 19 April 2005	<ul style="list-style-type: none"> <li>- Parliament voted for ratification by 268 votes over 17 against</li> <li>- Ratification needed a 3/5 majority in parliament</li> </ul>

FI	Parliamentary ratification early 2006	<ul style="list-style-type: none"> <li>- A 2/3 majority is needed for parliamentary ratification (likely to be obtained)</li> <li>- Ratification bill anticipated September 2005</li> <li>- Parliamentary approval early spring 2006</li> <li>- Constitution only foresees the possibility of a consultative referendum</li> <li>- Stable centre-left government is in favour of parliamentary ratification; Prime Minister Matti Vahanen ruled out referendum; Conservatives and Greens in favour</li> </ul>
FR	<b>Referendum</b> <b>29 May 2005</b>	<ul style="list-style-type: none"> <li>- President has the power to call a referendum</li> <li>- <i>Conseil Constitutionnel</i> stated that ratification of the EU Constitution makes a change of the French Constitution necessary</li> <li>- Draft law on constitutional changes approved by both chambers (convened as a <i>Congrès</i>) on 1 March 2005 (a 3/5 majority was needed)</li> </ul>
HU	Parliamentary ratification Ratified 20 Dec. 2004	<ul style="list-style-type: none"> <li>- Parliament voted in favour of ratification with 322 votes for, 12 against and 8 abstentions (a 2/3 majority was needed)</li> </ul>
IE	<b>Referendum</b> <b>late 2005 or early 2006</b>	<ul style="list-style-type: none"> <li>- Obligatory, binding referendum</li> <li>- Government to publish a Constitutional Amendment Bill that must be approved by parliament and then put to the people for referendum</li> <li>- No minimum turnout is required for referendum</li> </ul>
IT	Parliamentary ratification Lower house voted on 25 January Upper house voted on 6 April	<ul style="list-style-type: none"> <li>- Lower house voted in favour with 436 'yes' votes, 28 'no' votes and 5 abstentions</li> <li>- Senate voted in favour with 217 'yes' votes and 16 'no' votes</li> <li>- A simple majority was required in both houses</li> <li>- The Italian Constitution does not foresee referenda on international treaties</li> <li>- Only Lega Nord and the Greens were for constitutional reform to hold a referendum</li> </ul>
LV	Parliamentary ratification May-June 2005	<ul style="list-style-type: none"> <li>- A simple majority is needed (likely to be obtained)</li> <li>- If 50% of parliamentarians are in favour, a referendum could be called, but there is a strong majority against referendum</li> </ul>
LT	Parliamentary ratification Ratified 11 Nov. 2004	<ul style="list-style-type: none"> <li>- For parliamentary ratification, a simple majority was needed</li> <li>- (<i>Seimas</i>) ratified with 84 'yes' votes, 4 'no' votes and 3 abstentions</li> </ul>
LU	<b>Parliament vote + consultative referendum</b> <b>10 July 2005</b>	<ul style="list-style-type: none"> <li>- First parliamentary vote in mid-June</li> <li>- Participation in a referendum is compulsory (as with elections)</li> <li>- Second parliamentary vote after the referendum</li> <li>- Parliamentary ratification needs a 2/3 majority</li> </ul>
MT	Parliamentary ratification expected mid-July 2005	<ul style="list-style-type: none"> <li>- Parliamentary ratification requires a simple majority (likely to be obtained)</li> </ul>
NL	<b>Referendum</b> <b>1 June 2005</b>	<ul style="list-style-type: none"> <li>- Non-obligatory, consultative referendum based on a parliamentary initiative</li> <li>- A special committee (with members from the social advisory and elections council for example) will determine the date, allocation of resources and formulation of question</li> <li>- Parliament will still have to ratify, but several parties have already indicated they will respect the referendum outcome</li> </ul>
PL	<b>Referendum</b> <b>probably either</b> <b>25 September 2005</b> <b>or 9 October 2005</b>	<ul style="list-style-type: none"> <li>- Referendum non-obligatory, but binding</li> <li>- Likely to be held together with presidential and parliamentary elections</li> <li>- A 50% turnout is needed in order to be valid</li> <li>- Parliamentary ratification would need a 2/3 majority (if the referendum is not valid, and it is unlikely to be obtained in the current political situation)</li> </ul>
PT	<b>Referendum</b> <b>probably</b> <b>9 October 2005</b>	<ul style="list-style-type: none"> <li>- Non-obligatory referendum</li> <li>- A referendum is supposed to be held together with local elections but this requires a constitutional amendment</li> <li>- Parliamentary ratification would require a simple majority</li> </ul>
SK	Parliamentary ratification 11 May 2005	<ul style="list-style-type: none"> <li>- Parliament voted by 116 votes in favour of ratification votes over 34 against</li> <li>- A 3/5 majority was needed</li> </ul>
SL	Parliamentary ratification Ratified 1 February 2005	<ul style="list-style-type: none"> <li>- There were 79 'yes' votes, 4 'no' votes and 7 abstentions</li> <li>- Government was against referendum, although the Slovenian Constitution would have allowed it to call for one</li> </ul>
SE	Parliamentary ratification probably December 2005	<ul style="list-style-type: none"> <li>- Parliamentary ratification needs a 75% majority (likely to be obtained)</li> <li>- Prime Minister Göran Persson and four pro-Constitution opposition leaders are against a referendum</li> <li>- Ratification bill to be presented to parliament on 27 September</li> </ul>
UK	<b>Referendum</b> <b>probably spring 2006</b>	<ul style="list-style-type: none"> <li>- Prime Minister Tony Blair called a referendum in April 2004</li> <li>- Referendum likely after the UK's EU Presidency (Jul-Dec. 2005) in spring 2006</li> <li>- Wording of the referendum bill: "Should the United Kingdom approve the Treaty establishing a Constitution for the European Union?"</li> </ul>



## PART I: Countries Holding Referenda

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### Czech Republic

There is ongoing controversy between the government and the opposition about the legal framework for a referendum. Since constitutional change is necessary to allow for a referendum on the EU Constitutional Treaty, failure to agree would result in a switch to the parliamentary mode of ratification. The recent government crisis has exacerbated this problem and also increased the uncertainty in the process.

The debate on the substance of the Constitutional Treaty has started mainly among the expert public, but media attention is now also on the rise. Most of the debate in the Czech Republic has so far been about the question of whether to hold a referendum or not. There are careful attempts in the Civic Democratic Party (ODS), the main opposition party, to take a more positive stance on the Constitution, but President Václav Klaus has come out forcefully against the Constitution (publishing an article on 10 points against the Constitution both in the Czech Republic and in the international media in February). The publication of an anti-Constitutional Treaty pamphlet by Mr Klaus's own think-tank, the Centre for Economics and Politics in April (to which he supplied an introduction), prompted an angry exchange between Mr Klaus and some members of the European Parliament who defended the Constitution. Generally the tone of the debate seems to be rising, not least because of Mr Klaus's outspoken views against it, which makes him the only head of state or government in the Union of 25 to oppose the Treaty. Recently, some of the media have started to take an ironic attitude towards Mr Klaus. It seems that his anti-Constitutional stance with nationalist overtones is not working too well for his popularity.

In any case, the overall good economic performance of the Czech Republic after EU accession (4% economic growth in 2004, further inflow of FDI and structural funds) seems to act as a positive element in the debate. Moreover, the EU is increasingly perceived as an important guarantee of security (according to an MF Dnes survey on 11 April 68% of Czechs view the EU role positively in this sense), and as a stabilising factor in the recent government crisis.

On the other hand, the weakness of the government plays against the Constitution, with most of the government politicians (who are in favour of the Treaty) perceived as unreliable. Also, some statements by French President Jacques Chirac in the context of the debate on the proposed EU directive on the liberalisation of service provision in the EU were received by some as an attack on the new member states, owing to the implied parallels between liberalism and communism. A further problem for the Constitution stems from the role of the larger member states in debates such as those about the reform of the stability pact, the Services Directive or foreign policy, where they are seen as trying to bully the smaller member states.

Nevertheless, the latest available opinion polls (a survey conducted by the CVVM agency, published on 15 March 2005) show that a majority (56%) of the electorate is in favour of the Constitution, with 21% against and 23% undecided – against a background of an expected turnout of around 60%. Yet, as in other countries, the level of knowledge (based on the same CVVM survey) is also still very low: only 4% of the respondents claimed to be very well or well informed and 57% saw themselves as not informed at all.

The political parties are of course key factors in how this debate is going to evolve in the coming months. The main government parties – the Czech Social Democrat Party (CSSD) and the Christian Democrats (KDU-CSL) – are in favour, but as mentioned earlier, owing to the government crisis they did not treat the issue as a priority and do very little to initiate the

campaign/public debate. The situation is somewhat confused by the position of the US-DEU (Freedom Union, a liberal coalition partner), which has not articulated its position clearly.

On the opposition side, the attitude of the ODS is changing and a growing discrepancy appears between local/regional ODS leaders and ODS representatives in the Senate on one hand (tending to take a rather positive stance on the Constitution), and the ODS deputies in the Lower Chamber and party leaders who follow President Klaus on the other. If the Treaty was to be submitted to a parliamentary vote, the ODS would probably be split. The Communist party is also against the Constitution but has not been too prominent on the issue so far.

As elsewhere, the debate in the Czech Republic focuses on domestic issues and players. Since most countries in the region have already ratified (Hungary, Slovenia and Slovakia) or will ratify the Treaty very soon by parliamentary vote only (Germany and Austria), no great influence from them is to be expected. Only the debate in Poland (which will vote in September) could have an impact, but this will come up (if at all) just before the vote. Of course the current situation in France is an issue, which may be another reason for a rather cautious approach by the Czech government and administration, and the UK is increasingly in focus (also in the media) as the country most likely to vote against the Constitutional Treaty.

## Denmark

In November 2004, government and opposition parties signed a national agreement aimed at securing the broadest possible support for the EU Constitutional Treaty. In light of previous referenda in Denmark, this is seen as crucial to ratification.

But the agreement (*Denmark in the enlarged European Union*) goes beyond ratification of the Treaty, outlining “a new, proactive Danish European Policy” and defining the priorities of Danish European policy for the coming years: “more openness and democracy in the EU, a strengthening of European competitiveness, an economically, socially and environmentally sustainable development, a greater global responsibility of the EU”, etc.

The downside of this is that each of the five contracting parties is entitled to block any future extension of qualified majority voting (QMV) in the Council on specific issues. Since the passage to QMV in any given area has to be agreed upon by unanimity, the Danish agreement could in principle have far-reaching consequences for the entire Union: a contracting party – no matter how small and be it or not a member of the government coalition – gains with this political agreement a right of veto on EU developments, even if these were to be supported by all 25 governments in the EU.

Concerning the issues that play a role in the debate, the most successful arguments put forward by the ‘no’ side are likely to be linked to the issue of national sovereignty. According to opponents of the Treaty, sovereignty would be weakened by the kind of European superstate that the Constitutional Treaty would allegedly create. The ‘no’ arguments are also likely to make a link to the question of the Danish welfare system, depicted as under threat by the ultra-liberal Constitution. Finally, the accession of Turkey is also likely to feature in the campaign.

The Eurobarometer (2005) survey gives a mixed picture concerning Denmark, with a level of support for the Constitutional Treaty that, at 44%, is well below the EU average. Yet, the number of people who declared themselves in favour of the Constitutional Treaty is almost double those who declared they are opposed to it (26%). This result, in a traditionally Eurosceptic country such as Denmark, can be regarded as encouraging.

The survey also shows that the rate of participation in the referendum will be high by European standards, with 68% of respondents stating that they are sure of going to the ballot box, as opposed to only 6% of them who are certain they will not vote. This rate is, however, rather low

if compared with the turnouts at previous referenda on EU issues, which were often above 80% and at the lowest 75% (for the vote on the Single European Act, back in 1986).

## France

France will hold a binding referendum on 29 May 2005 and is currently the focus of interest. Between the beginning and the middle of March there was a dramatic drop from a stable 60% in favour of the Constitution down to only 48%. After 23 consecutive polls confirming a majority for the 'no' side of the debate, there seems to be a slight recovery (52% would vote 'yes') suggested by the latest polls since the beginning of May. The official line of both major parties, the centre-right UMP and the centre-left Socialist Party (PS), is in favour of the Constitution (like the centre French Democratic Union [UDF] and the Greens). Yet there are a number of very prominent dissenters within both the UMP and the PS. In an internal referendum of the PS in December 2004, the 'yes' side won clearly with 59%, but those opposed to the Constitution (especially Jean-Luc Mélançon and Henri Emmanuelli) have not remained silent since then and continue to campaign against it. The same is true for dissenters within the UMP (e.g. the *Mouvement Debout la République* of Nicolas Dupont-Aignan). The French Communist Party (the PCF, with 3.8% of seats) and several other small far-left parties as well as the extreme-right National Front (with no seats in parliament, but 11.3% of the vote in the last national elections) are also against the Constitution.

The debate involves large parts of the population and texts of the Constitutional Treaty have even become best-sellers in France. Nevertheless, many of the subjects that are publicly debated actually have little or nothing to do with the content of the Constitution. Often arguments reflect the general discontent of the people with national social reforms and the performance of the UMP government.

There is also a widespread conviction in France (especially on the political left) that the Constitution is too 'neo-liberal' and that it does not provide enough provision for further integration in the field of social policy. On 3 February the 116 members of the *Comité confédéral national* of the main trade union CGT voted (contrary to the recommendation of its own leader Bernard Thibault) against the Constitution. The debate then became further confused with the issue of the directive on the liberalisation of services (the so-called 'Bolkestein-directive'). In France there is a cross-party consensus that the Services Directive in its present form is harmful for the French economy and that it would lead to 'social dumping'. At the spring Council meeting of the EU heads of state and government on 22 March 2005, President Chirac (with the support of several other leaders) demanded a redraft of the Directive. This was perceived as a victory in large parts of the French media, but apparently did not cool the debate about the social dimension of the Constitution. Another critical issue in the economic context is the debate about the relocation of jobs to the new member states and the fact that the rules of the stability pact (seen as strangling political initiatives for more growth and better social provisions) are embedded in the text of the Constitution.

Centre-right parties and the extreme-right National Front have also linked the Constitution to the EU membership prospects of Turkey (which is very unpopular in France). The argument is made that the new double-majority voting system will grant more voting weight to Turkey than to France. Pro-Constitution politicians from the UDF and the UMP raised Turkey's prospective EU membership often at the beginning of the campaign, which ultimately proved to be detrimental. This particular issue seems, however, to have lost some of its importance in the debate lately.

A more general point for critique is the difficult mechanism for the revision of the Constitution, which means that even the provisions of part III on EU policies are subject to the full requirements of a Treaty change followed by national ratification.

There are, of course, also subjects that have a rather positive influence on public opinion, like the increased democracy and efficiency of the EU or the Charter of Fundamental Rights. But other potentially positive issues such as the EU foreign minister, the EU's strengthened role on an international stage or defence policy do not feature very prominently in the public discourse and if so, some *souverainistes* like Pierre Chevènement or Philippe de Villiers tend to denounce that NATO is explicitly mentioned in the constitutional text.

Concerning cross-national references, a great many actors from other member states are helping in particular with the campaign for a 'yes'. For example, the Spanish Prime Minister José Luis Rodríguez Zapatero and the president of Portugal addressed the *Assemblée Nationale* on 1 March and on 26 April and the entire German government came to Paris for a joint cabinet meeting with their French counterparts in support of the Constitution. The European Socialists also adopted a declaration calling on all socialists to lead a campaign in France in order to help the French PS. A great number of articles have already been published in the French media by other European actors.

The vast majority of the 'no' campaigners on the other hand do not pursue such a transnational strategy. Lately there have been some limited efforts from the pro-European 'no' side to invite critics of the Constitution from other countries in an attempt to show that there would be a potential for renegotiation of the Treaty. Many 'no' campaigners, however, have repeatedly denounced any interference from 'outsiders' in the French debate. For example, when Prime Minister Zapatero gave his speech in front of the *Assemblée Nationale*, the dissenters from the PS left the room complaining that their party colleague had given support to their political opponent President Chirac. Mr Chirac himself is said to have intervened in order to avoid a television interview with EU Commission President José Manuel Barroso on French television. And despite the numerous efforts by outside actors, the French debate so far remains firmly dominated by national politics. The problem of the foreign interventions is that they are not really coordinated. Many hope, however, that ratification in neighbouring Germany (with an overwhelmingly positive vote in the *Bundestag* on May 12) will send a strong signal to the French population.

## Ireland

So far there has been only limited debate on the Constitution but interest has increased in recent weeks. The legislation to provide for a referendum will be passed before the summer break but no decision has yet been taken on a date. The government has published an explanatory guide to the Constitution and is preparing a White Paper. The National Forum on Europe has published a summary and a DVD presentation of the Constitution.

The *Oireachtas* European Affairs Committee has held a series of discussions, the latest on 2 March, involving experts on EU affairs and public opinion. These debates have largely focused on preparations for the referendum itself (including the establishment of the Referendum Commission), the state of public information and opinion and issues such as foreign and defence policy and immigration.

The National Forum on Europe has started a series of debates – in Dublin and in cities and towns around the country – on aspects of the Constitution. The Institute of European Affairs has also published a detailed analysis of the Constitution and is preparing specific briefing booklets.

Debate in civil society has been limited but the influential Irish Business and Employers Confederation has clearly spoken in favour of ratification. The European Movement will spearhead a non-party political ‘yes’ campaign.

Subjects with a positive impact on the debate include the fact that the Constitution was agreed under the Irish presidency of the Council, the clear statements of values and objectives, the incorporation of the Charter of Fundamental Rights, the simplification of decision-making and legal instruments and the enhanced role of national parliaments.

Subjects with a negative impact on the debate include concerns about sovereignty, doubts about the changes in voting arrangements in the Council, perceived threats to public services and the usual arguments related to Irish neutrality.

The ‘yes’ campaign can be expected to have considerable political prominence with both the government parties (*Fianna Fail* and the Progressive Democrats) and the two main opposition parties (*Fine Gael* and Labour) campaigning for the Constitution. On the other hand, *Sinn Fein* and the small socialist party have clearly stated their opposition to the Treaty. The Green Party is conducting an internal referendum on the issue.

Despite the large party political support, public enthusiasm for the Constitution in Ireland is low. Only 28% of the Irish people surveyed in the last Eurobarometer (2005) poll supported the Constitution while 5% indicated their opposition. This makes Ireland the fourth lowest country regarding approval rates in the EU and it also reflects its position with regard to knowledge of the Constitution. According to the same Eurobarometer survey, only 10% had heard about the Constitution and knew its contents and 46% had heard about it but felt they had little knowledge. This total of 56% is below the EU average of 67%. Thus the referendum campaign faces a major task of information and explanation but so far there is little serious media coverage and this is unlikely to change until the date of the referendum is known.

## Luxembourg

There was some debate about the timing of the referendum, which Prime Minister Jean-Claude Juncker had originally wanted to have later (at a greater distance to the Luxembourg EU presidency), but which was eventually scheduled for 10 July in order to avoid a collision with local elections in October. The leaders of the main political parties (Mr Juncker of the Christian Social People’s Party and Jean Asselborn of the Luxembourg Socialist Workers’ Party) have staked their political futures on a positive outcome of the referendum. This move was seen by some as attempted blackmail of the voters and might have had a negative effect on the voting intentions. Recently, apart from opposition on the left fringe of the party system (*Dei Lenk*), the right-wing populist Action Committee for Democracy and Pension Rights (ADR) has come out against the Constitution, somewhat surprising even its own leadership, which had so far supported ratification. Neither of these groups, however, is expected to be able to prevent a solid majority in favour of the Constitution.

The national parliament started an extensive series of public debates at the end of April around the country, which are broadcast on the parliamentary television channel. A first parliamentary vote has to take place before the referendum. The result of the latter then has to be confirmed by parliament in a second vote.

This complicated procedure, together with the compulsory participation in the referendum, should further increase the share of the population who feel that they are reasonably well informed about the Constitutional Treaty, which in January (Eurobarometer, 2005) was already the highest in Luxembourg among all 25 member states (22% claiming that they know the overall contents of the Constitution).

## Netherlands

Until recently, there had been little debate on the EU Constitutional Treaty in the Netherlands. As in the case of Italy, the public attention was focused on the near-government crisis stirred by the resignation of Deputy Prime Minister Thom de Graaf.

The limited discussion is also owing to the fact that media are finding it difficult to determine their approach to the document and how to frame the debate. As in the Scandinavian countries, some of the actors have focused their attention on the question of the appropriateness of the referendum instrument in the Dutch democracy. In this context it is important to note that the initiative of having the first referendum in Dutch history was not taken by the government but by the parliament and was actually opposed by the government's senior party, the Christian Democrats (CDA).

After this late start, the public debate gradually seems to be converging on the key question of whether the ratification of the Constitutional Treaty will entail a loss of sovereignty for the Netherlands or whether there are sufficient checks and balances in place to ensure that Dutch interests are appropriately protected. Opponents of the EU Constitutional Treaty claim that the latter is likely to give to the EU the status of a superstate and bring as evidence the very fact that it is equipping itself with a Constitution, the codification of the principle of the primacy of EU law, as well as the limited power of national parliaments to prevent breaches of the principle of subsidiarity. These arguments also appeal to general anxieties about the Netherlands steadily losing power in an ever-expanding Union. Although the issue of Turkey is also often brought up by some politicians as an argument against the Treaty, the two issues have generally been kept apart in the public debate so far. Interestingly enough, the proposal for a Services Directive, which was presented by Dutchman Frits Bolkestein, is not playing any particular role in the debate.

Most surveys now (mid-May) suggest a very close race between the 'ja' and the 'nee' sides, with the 'nee' side having been most successful in attracting people to their view in the first weeks of the campaign. Importantly, however, 20-30% of the electorate is still undecided. In general, an indication that emerges clearly from all of the surveys is that many Dutch citizens feel poorly informed about the EU Constitution, which in turn means that at least one-third of them are still undecided on how to vote. This large group acquires a particular importance in light of the fact that most of the observers expect a turnout even below the 39.9% of the population that was recorded in the European Parliament elections held in June 2004.

The mainstream political parties (CDA, PvdA, VVD, D66, GroenLinks) are officially supporting the Constitutional Treaty, while the ones on the extreme left (Socialist Party) and the extreme right (the more traditional Christian Democratic parties and Post-Fortuyn parties: LPF, Lijst Wilders) of the political spectrum are opposed to it. The government has so far left the campaigning mostly to its Secretary of State for European Affairs, Atzo Nicolai. A similar approach has been adopted by other parties, with political leaders leaving the floor to their EU specialist backbenchers rather than seize the opportunity themselves.

Overall, it must be assumed that the campaign will only be decided in the final two weeks, if not the final days. Here the dynamics of the final campaigning days as well as the outcome of the referendum in France (three days earlier) are likely to have a major impact.

## Poland

The debate in Poland has so far been mainly about the date for a possible referendum. While the pro-EU government parties were in favour of holding the referendum together with the next presidential and parliamentary elections in the autumn in order to obtain the 50% turnout, the

opposition parties wanted to have the referendum later. In this context, claims were made that the Polish text of the Constitution included major errors that had to be eliminated before any vote on the text could take place. Now, however, the timing issue seems more settled and 25 September or 9 October are currently the most likely dates.

Because of the uncertain political situation of the minority government, it is difficult to gauge political support for the Constitution. Poland therefore (together with the Czech Republic) marks an exception within the Union in the sense that a referendum that reaches the necessary 50% turnout would actually increase the probability of getting the Constitution ratified: in a April poll by CBOS, 56% of respondents said they would vote in favour of the Constitution and 15% were determined to vote 'no', with 29% being undecided. The problem, however, remains that in the same poll, only 34% of respondents said they would definitely participate in the referendum and 24% said they might – but it has to be born in mind that this data was collected before it was clear that presidential and parliamentary elections (expected to boost turnout) would be held on the same day.

If the referendum does not reach the turnout threshold, and ratification will depend on a two-thirds majority in parliament, the situation will be quite complex. A March 2005 CBOS survey shows that those parties strongly opposed to the Constitution (the League of Polish Families [LPR], the Law and Justice Party [PiS] and the Self-Defence Party [*Samoobrona*]) have significantly gained in support compared with their 2001 election results, and jointly represented 41% of expressed voter preferences in March 2005 as opposed to 27.6% in 2001. On the pro-Constitution side, the changes are equally dramatic: the centre-left coalition of SLD, *Unia Pracy* and SDPL (which achieved 41% of the vote in the 2001 elections) now stands at around 12%. Therefore, much depends on the stance taken by the centre-right parties, in particular the Citizens' Platform (tipped to be the strongest party after the general election, with support of 22% according to CBOS in March 2005) and the Polish People's Party (currently at 8%). In any case, it is difficult to envisage how a two-thirds majority could be gathered in favour of the Constitution under these circumstances.

Yet the debate about the Constitutional Treaty has only just started. With growing interest in the possibility of a French rejection of the Constitution in recent weeks, the debate has become more active. The main argument in favour of the Constitution is of course the overall benefit of EU membership, which is also credited for having swung public opinion in recent months towards more support for the EU as a whole. Similarly, future relations between the EU and Ukraine after the democratic revolution there are a factor in the Polish debate and could support ratification of the Constitution with its changes for a more decisive EU foreign policy. Interestingly, some elements of the French debate seem to produce mirror images in Poland: French resistance to a liberal regulation of the services sector (the Bolkestein directive) is seen as a chance for Polish citizens to avail themselves to their freedom of movement, rather than as a threat to some kind of European social model

On the other hand, the anti-Constitutional argument based on the protection of national sovereignty and fear of domination by the largest member states has been fuelled by some elements of the French debate. The issue of voting weights under the qualified majority system, and the threat of 'enhanced cooperation' between a self-proclaimed *avant-garde* also continue to be used against the Constitution.

## Portugal

Generally, both of the main parties and most opinion-formers speak out in favour of the European Constitutional Treaty, while only two small parties on the extreme left are campaigning against it. President Jorge Sampaio has also joined the debate supporting it.

Of the two main trade union confederations, one is in favour and the other (with a communist leaning) is against, following closely the arguments of the left 'no' campaign in France.

Recently, the timing of the referendum has become hostage to a struggle between the government and the opposition about a different issue: the new socialist government proposed to hold a separate referendum on the controversial question of abortion as early as June. The conservative opposition wants to delay this plebiscite and threatened that it would block the constitutional change that is necessary to hold the referendum on the EU Constitution on the same day as local elections in October, if the abortion referendum goes ahead before the summer.

This spat has somewhat accelerated an otherwise low-key debate, as has of course the prospect of a French 'no' vote. Nevertheless, a clear majority in favour of the Constitutional Treaty is expected, even though doubts remain over the likely voter turnout. Significantly, Commission President Barroso is expected to keep a low profile because of the electoral defeat of his party in the 2004 elections and his personal standing as head of the EU executive.

## **Spain**

Debate was dominated by the fact that the two main parties (the governing socialists and opposition popular party) were in favour of the Treaty (representing 94.8% of the parliamentary vote), while several smaller left-wing and regional/nationalist parties were against it. Interestingly, most of the parties who were campaigning against the Constitution support the government in parliament, so the governing socialist party had to ensure that the issue of the Constitution did not break up the governing coalition.

As for the substantive debate, it focused on the alleged anti-social bias of the Constitution (and the consequent split in the left in Spain, both in the political spectrum and in civil society), and on the 'territorial' issue concerning in particular the Basque, Catalan and Galician regional parties. Here the argument was mainly about whether the Constitution improves or diminishes the influence of regions in the European Union.

A key concern during and even after the referendum is the low level of information among Spanish voters, which is seen to have contributed to the lowest turnout in any election in Spain since the restoration of democracy. According to an Opina poll of 2 February (18 days before the referendum), 64% of respondents had very low or low levels of knowledge of the EU Constitution and 23% had no knowledge at all. A post-referendum poll by CIS (February-March 2005, Study No. 2595) showed that even then 67.1% had low or very low levels of knowledge, and the number of those with no knowledge had decreased only slightly to 18.9%.

In this case, the referendum as such does not seem to have improved the level of information that dramatically, despite the efforts of distributing 5 million copies of the Treaty and bringing in celebrities to advertise it. Significantly, when asked for the reason they had a low level or no knowledge about the Constitution, the largest group of 40.8% respondents said they were not interested in the issue, while 31.2% said the government had not explained the Constitution sufficiently and 18.2% laid the same claim against the political parties. It is also interesting that according to many analysts, the referendum campaign did not produce a genuine debate about the merits of the Constitution, but rather led to a somewhat misleading and superficial discussion about Europe in general.

## **United Kingdom**

In April 2004 Prime Minister Tony Blair called a referendum, giving in to massive pressure from the media and political opponents. The referendum is bound to take place in spring 2006,



after the UK's EU presidency. Up to now public debate in the UK has been very much dominated by the national elections that took place on 5 May 2005. The campaign focused on national politics and the EU and European integration did not play any significant role. Allegedly, one of the strategic reasons why Mr Blair finally called a referendum was the possibility of keeping EU membership and the Constitution out of the election campaign, as these issues deeply divide the country. With the elections passed, the British debate can be expected to become one of the most controversial ones, owing to the profound split among the political parties and the public.

The Liberal Democrats and the governing Labour Party are both in favour of the Constitution, although there will be some Labour dissenters. The Conservatives are strongly against it, but they have some pro-Constitution dissenters as well. Several parties that are not represented in the national parliament are also against it (the Green Party, the UK Independence Party and the British National Party).

According to a Populus poll for *The Times* of 9 February, the 'yes' side took the lead for the first time (with 36% pro and 29% against the Constitution). Nevertheless, the Eurobarometer (2005) survey still found that the British are the most sceptical citizens with only 20% in favour of the European Constitution (EU-25: 49%) and 30% against (EU-25: 16%). At 50%, an exceptionally high number of persons had not yet made up their minds (EU-25: 35%).

The (perceived) knowledge about the Constitution was also well below average: only 50% said that they have heard about the Constitution (EU-25: 67%), of which only 6% claim to know about its contents (EU-25: 11%).

The tabloid newspapers and certain other media have already announced their (fierce) opposition to the Constitution, while the BBC has been criticised as being too pro-European. There are campaign groups for the 'yes' (e.g. Britain in Europe) as well as for the opposition ('Vote NO'). Especially important is the fact that the business sector seems to be rather lukewarm on the Constitution (contrary to the Maastricht Treaty, which it very much endorsed), for fear of too much regulation and 'red tape' coming from the EU putting the competitiveness of British enterprises at risk. This gives a significant advantage to the 'no' camp in terms of financing. There is widespread concern that the social rights in the Charter of Fundamental Rights would strengthen the position of the unions (the right to work and to strike) and ultimately force the UK to adopt stricter standards in the field of social policy. The debate is likely to become one about British membership in the EU in general, and the government tries to focus on this question arguing that if the UK voted 'no' it would have to leave the Union.

Subjects that have a positive potential impact on public opinion concerning the Constitution seem to be rather limited in number. On the one hand there is an argument concerning the economic benefits of EU membership, claiming that if the UK were to vote 'no', one million jobs would be lost. Other arguments in favour concentrate on the broad themes of more democracy (e.g. through a better association of national parliaments in the EU decision-making process) and the enhanced efficiency of the EU (e.g. through the double-majority voting system, which is also more transparent than the complicated Nice rules). Likely arguments will be that the Constitution will introduce an 'exit clause', which makes it clear that membership is voluntary and that the Constitution confirms the principle of conferral in which it only gives the EU those competences that the member states unanimously confer upon it.

Yet many issues are likely to have a negative effect on the debate, such as the question of national sovereignty. The EU superstate argument will definitely be put forward, referring to articles on the supremacy of EU law (although it is based on long-standing and uncontested jurisdiction of the European Court of Justice), on the legal personality of the EU and to provisions calling for good cooperation (denounced as a 'loyalty clause'). Surely the 'no'

campaigners will also allude to a lack of democracy or accountability of the supposedly 'corrupt gravy-train'. It will be claimed that the 'Brussels bureaucracy' lacks efficiency and it will be portrayed as a waste of tax payers' money. Possibly justice and home affairs issues – especially immigration – will be used as an argument, ignoring the fact that the UK will keep all of its current opt-outs on this policy. It could also well be that the negotiations on the budgetary perspective will affect the campaign with a discussion on the UK rebate and agricultural spending (although the latter has already been settled).

So far, there have been few cross-national references, but as the UK will be among the last countries to hold the referendum, the results in other countries will have some impact on the debate. The UK closely follows the evolution of the French debate in particular. The UK's awkward situation would be significantly changed by a French 'no' and in that case Foreign Secretary Jack Straw has already put the British referendum into question. 'Foreigners' from other member states or even from the EU level will probably not be very present in the British campaign, as they would be immediately accused of tampering with a national debate. Out of concern about the emergence of these arguments coming from the 'no' camp, Mr Straw has already taken the precautionary step of refusing any assistance (funding or personnel) from the European Commission.

## PART II: Countries to Ratify by Parliamentary Vote Only

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### Austria

Parliamentary ratification of the Constitution in the lower house (*Nationalrat*) took place on 10 May 2005. It was agreed by a large majority of 182 MPs, meaning that all but one MP from both the government parties (the conservative People's Party [ÖVP] and the far-right Freedom Party [FPÖ/BZÖ]) and from the opposition (the Social Democratic Party [SPÖ] and the Greens) supported it. Only Barbara Rosenkranz from the FPÖ voted against the Constitution. The Austrian Communist Party (not represented in parliament) is also against the text.

The level of interest in the Constitutional Treaty has been low in Austria, because public debate has been heavily dominated by the break-up of the government party FPÖ. Large parts of the party establishment moved to the newly-funded BZÖ, provoking a risk of new elections.

The main subject linked to the Constitution has been the question of whether a referendum should be held or not. The ruling conservative ÖVP, the SPÖ and the Greens would only be in favour of a referendum if it took place in all member states (preferably at the same time). The FPÖ has been the only party unconditionally supporting a referendum and on 9 May the former leader of the party and governor of Carinthia Jörg Haider (now BZÖ) announced that he would legally challenge the parliamentary vote and call for a referendum, because the European Constitution would fundamentally change the Austrian Constitution.

As there has hardly been any public debate on the content of the European Constitution, important subjects are very hard to identify. The strengthened role of the EU in the world, the Charter of Fundamental Rights and the exit clause are elements with a potentially positive influence on the Austrian debate. Nevertheless, with the broader public opinion being significantly more Eurosceptic than the political representatives, there are more issues with a potentially negative impact, such as the possible EU membership of Turkey, the economic contributions of Austria to the EU or questions related to justice and home affairs (asylum and border control) as well as a common defence policy.

The Austrian public closely observed the German debate on holding a referendum. If Germany had decided to hold a referendum, this would have created strong pressure for Austrian politicians to follow suit.

The Eurobarometer (2005) survey states that Austrian support for the European Constitution is below the average of the EU-25 with 44% in favour, 27% opposed and 31% who do not know. The claimed level of knowledge is, however, higher in Austria, with 72% stating that they have heard of the Constitution (EU-25 average: 67%).

### Belgium

On 28 April 2005 the Belgian Senate voted on the European Constitution with 52 'yes' votes, 9 'no' votes and 1 abstention. The lower house of the parliament will probably still vote on the text before the end of May and then the parliaments of the three regions and the three language communities will consider the text.

There has been hardly any debate on the content of the Constitution. As in Austria and Germany, discussion has mostly concentrated on the question of whether to hold a referendum. After an initiative for a consultative referendum by Prime Minister Guy Verhofstadt and his Flemish Liberal Party (VLD), first the *Conseil d'Etat* gave a negative opinion on 29 November 2004 on doing so without changing the Belgian Constitution. Then in January 2005 the parliamentary majority also moved its stance to being against a referendum when the Flemish

centre-left Spirit party changed its mind for fear that a referendum might be exploited by an anti-Turkey campaign by the far-right *Vlaams Belang* (Flemish Interest Party). On 17 February 2005 the constitutional committee of the federal parliament finally voted against the referendum initiative of the Flemish (VLD) and the francophone Liberals (MR) with all the other parties besides the Greens and the *Vlaams Belang* being against it.

Another issue that is discussed in Belgium (albeit to a much lesser extent than in France) is the question of the social dimension of the Constitutional Treaty. Some trade unions have spoken out against ratification.

Concerning cross-national references, neither the French debate nor any other one has had a particular influence on Belgium. On the political left there was some interest in the concerns of their French counterparts about the lack of social dimension of the European Constitution. To send a positive signal to neighbouring France, Belgium might ratify the Constitution in the federal parliament just before the French referendum.

The fact that there is little debate seems to reflect a 'silent approval' towards the European Constitution by both the political parties and general public opinion, as both seem to be very much in favour. Except for the two extreme-right parties *Vlaams Belang* (supported by 11.6% in the last national elections) and the smaller National Front, all parties support the text. And according to the Eurobarometer (2005) survey, the Belgians are among the strongest supporters of the Constitution (topped only by the Italians), since 70% were in favour (EU average: 48%) while only 13% were opposed (EU average: 17%). The percentage of those who claimed to have heard about the Constitution (70%) was also slightly higher than the EU-25 average (67%), but the actual knowledge of its content proved to be only average.

## Cyprus

There has been no significant or in-depth domestic public debate on the European Constitution but recent concern over the possibility of a French rejection of the Constitutional Treaty and the risk this would entail to the Union's future has pre-occupied the media and opinion-formers from mid-March onwards.

Consequently, there has been a proliferation of public presentations and discussions of the Constitutional Treaty organised mainly by the government's Press and Information Office, which launched a campaign of 28 presentations between 9 March and 9 May. Political parties and think-tanks have also organised public debates. Most have utilised key EU figures and experts (the EU ombudsman, Cypriot MEPs and constitutionalists). The debate in Greece is having an important impact mainly through media coverage, with key pro-EU speakers from Greece being invited to participate in events in Cyprus. All government-related websites have links to the Constitutional Treaty, while copies of the text and brochures have been widely circulated. Articles highlighting different aspects of the Treaty have also been appearing in the media.

Among the subjects that seem to have a positive impact on the debate are mainly the Charter of Fundamental Rights, the solidarity clause in the event of an attack on a member state (Art. I-43) and the Constitution's impact on the EU's role in the world through its strengthening of the common foreign and security policy and the prospect of an EU foreign minister. As for negative elements in the discussion, concerns about inadequate protection of the European social model (i.e. the Constitution not being 'social' enough) echo those voiced in the French debate.

On this basis, there seems to be wide overall support for the Constitution, even though knowledge about it is still patchy. According to the survey by Eurobarometer (2005), Cypriots were the least informed of all EU citizens with 65% answering that they had never heard about

the Constitution. Even though this situation has certainly improved with the recent increase in activities around the Constitutional Treaty, the level of debate is still low. Yet, since all the political parties support the adoption of the Constitutional Treaty as a positive step towards further political integration and efficiency (only the left-wing AKEL party has no clear position: its two MEPs voted against the Treaty in the European Parliament), ratification is safe.

## **Estonia**

The debate in Estonia is rather low key, which is because none of the parliamentary parties has expressed any significant concerns about the Treaty. The accelerating debate in France (and in particular the possibility of a negative vote in the referendum) prompted the Estonian Foreign Minister Urmas Paet to state on 22 April 2005 that the Constitution will be debated and voted on by Estonia's parliament regardless of how the French vote .

This comes against the backdrop of a majority of Estonians supporting the Treaty but with a high percentage of people still undecided: the Eurobarometer (2005) survey showed that 32% of respondents in Estonia were in favour of the Constitutional Treaty, 11% were against it and more than 50% were at that time undecided. This also reflects the low level of information about the Constitution in Estonia. A poll by the Emor agency (14 March 2005), showed that while 36% of Estonians had not even heard of the Constitutional Treaty, only 4% considered themselves 'informed' of the contents of the Constitution, 21% had knowledge of it 'to some degree', and 37% had heard of it but did not know its content.

## **Finland**

The debate on the EU Constitutional Treaty in Finland has been an opportunity to discuss Finland's place within the EU's political architecture, rather than focused on the actual content of the Treaty. This low-intensity debate also stems from the fact that by and large Finnish politicians are in favour of the EU Constitution. As in other northern member states, much of the attention has been on the ratification process, namely on whether to hold a referendum or not. Prime Minister Matti Vanhanen opted in the autumn of 2004 not to have a referendum, a decision that has been challenged by the so-called 'referendum initiative' on the 18<sup>th</sup> of February 2005. The 50 members of parliament who presented this legislative motion called for a referendum on the EU Constitutional Treaty to be held in Finland in May 2006. As a consequence, the parliamentary ratification has had to be postponed until the referendum initiative has been dealt with in accordance with the normal legislative procedure. At present, however, it seems highly unlikely that the referendum initiative will succeed.

With regard to the main elements that are affecting the debate, there is on the one hand the wish for Finland to remain a 'good member state'. Overall, people are quite satisfied with EU membership. In addition, the current government enjoys quite broad support among the public.

On the negative side, there are concerns about the way the Constitutional Treaty might influence the Finnish welfare state. Similar doubts are expressed concerning the impact of the Treaty on Finnish foreign, security and defence policy. In particular, this is brought up against the backdrop of a broader debate on the terms and conditions for the participation of Finnish troops in international peacekeeping missions.

But there are also more technical issues that feature in the discussions, as for example the extent to which the Treaty will increase the openness and clarify the decision-making process of the EU, the question of whether it (and the Charter that it enshrines) will strengthen the rights of Finnish citizens, as well as the power of the European Parliament and the role of the chairman of the EU Council.

In recent weeks, the media have also shown increased attention towards the French referendum. On 9 May Prime Minister Vanhanen delivered a Europe Day speech in which he stressed the need to approve the Services Directive and conclude the negotiations on the financial perspectives. He also stated his hopes to see the Constitutional Treaty ratified, as this would bring the period of institutional development to a close.

Concerning the referendum debate, the majority opposing a referendum includes the centre, the Social Democrats and the Swedish People's Party (the three parties in government), and the opposing Conservative National Coalition. The parliamentary parties favouring a referendum are the Green League, the Left Alliance and the True Finns.

An interesting finding of the Eurobarometer (2005) survey is that Finns have a fairly good knowledge of the Constitutional Treaty. Of the respondents, 29% had not heard of the Constitutional Treaty, 67% said that they had a little knowledge of it and 4% said that they had a good knowledge of it; these figures are above the EU average. Furthermore, there is evidence that the Finns tend to underestimate their actual knowledge of the Constitutional Treaty.

## Germany

Parliamentary ratification took place in the German *Bundestag* on 12 May and is scheduled for 27 May in the *Bundesrat* (just in time to send a strong signal for the French referendum on 29 May). An overwhelming majority of 569 members of the *Bundestag* voted in favour of the Treaty, 23 against it and 2 abstained. Most of those who voted against it come from the conservative Christian Social Union (CSU) party, arguing that the EU Constitution would create a state in its own right and that the German parliament has no mandate to disempower itself in such a way. The CSU leader Edmund Stoiber announced his intention to vote 'yes' in the *Bundesrat*, but expressed understanding about why some of his party colleagues rejected the text. While the official position of all political groups was in favour of the Constitution (except for the far-left Party of Democratic Socialism [PDS] with its two MPs), only the members of the Green party and the Liberal Democrats (FDP) unanimously voted 'yes'.

One MP from the CSU, Peter Gauweiler, had appealed to the German Constitutional Court to prevent the German parliament from ratifying the Treaty. The Court rejected his case, but in its explanations the Court underlined that Mr Gauweiler could appeal against the parliament's act of approval of the European Constitution, once ratification has occurred. Mr Gauweiler has stated that he plans to do so immediately after the *Bundesrat* ratifies it on 27 May. German President Horst Köhler said that in this case he would not sign the ratification law, but wait for the Court's ruling. With Eurosceptic judges like Udo Di Fabio and several others having already made public their concerns about the European Constitution, it is not unlikely that the Court will rule parliament's act of approval unconstitutional.

The German debate has so far been very focused on the criticism concerning the fact that no referendum will be held. The German federal Constitution (*Grundgesetz*) does not foresee a referendum; to change this, a two-thirds majority in both chambers would have been needed. The government proposed such a constitutional change, but the conservative opposition, which controls the majority in the second chamber of parliament (CDU/CSU) rejected it. The CSU was in favour of a referendum on the EU Constitution, but against a general constitutional change; most representatives of the CDU are generally against referenda. Nevertheless, a large majority of German citizens as well as media commentators would have been in favour of a referendum on the EU Constitution.

After it became clear that no referendum would be held, public interest in the Constitution waned considerably, but lately the ratification in the *Bundestag* as well as the worrying situation in France has increased it.

Subjects that have a rather positive influence on public opinion concerning the Constitution are the strengthening of the EU on the international stage, a better division of competences and the enforcement of the subsidiarity principle, but also the general improvement of the EU's efficiency and effectiveness (*Handlungsfähigkeit*) and democratic legitimacy.

Issues that have a rather negative influence on the debate are the possible EU membership of Turkey, frustration about labour competition from the new member states as well as German companies shifting jobs to the neighbouring eastern states. There is also the feeling that Germany would pay too much into the EU's coffers.

While the German political elite are very much in favour of the Constitutional Treaty, general public opinion is less enthusiastic. According to two recent polls, however, many more Germans are in favour of the text than against: in the Forsa survey (April 2005) 47% stated that they were in favour and 20% were against it; the public television channel ARD (May 2005) found that 59% were in favour and only 15% were against it. Yet considerable percentages claimed that they did not know or that they lacked information (in Forsa 33% and ARD 26%). In the Forsa poll, 81% claimed to feel poorly or not at all informed about the content and the aims of the Constitutional Treaty. The ARD poll in May showed that 62% of those surveyed had heard about the text.

Concerning cross-national references, the German public debate on holding a referendum strongly refers to the fact that 10 other countries, and especially France and the UK, would allow their citizens a vote. As in France, there was also a debate in Germany about the Services Directive with Chancellor Gerhard Schröder supporting President Chirac's position. Nevertheless, in Germany this issue has not become as directly linked to the Constitution as in France. Currently, there are many German politicians helping with the French 'yes' campaign, which has also fuelled the interest of the German media, as they have known faces to relate to.

## Greece

Despite the recent efforts of the socialists, the Coalition of Radical Left (SYRIZA) and the Communist Party (the main opposition parties, which were in favour of referenda rather than ratification through parliament) to stimulate the political debate, there has been little public attention given to the Constitution. This is also owing to the fact that both the governing New Democracy and the Socialist Opposition party (PASOK) are pro-European and support the European Constitution.

The issues that dominated the discussion of the European Constitution ahead of the parliamentary vote were therefore mainly procedural and political debate focused on the unrelated but controversial 'main shareholder' bill put forward by the government, which has raised the issue of the supremacy of EU law over the national Constitution. In an attempt to promote greater visibility in public contracts, the government proposed a bill that bans big shareholders in media companies from owning shares in other companies that bid for public contracts. This seems to be incompatible with European law. Because of the sensitivity of the issue, the government has avoided stating very clearly the supremacy of EU law in cases of conflict. This debate was one important reason for the government's insistence on parliamentary ratification.

On the substance of the European Constitution, the Treaty was presented by the New Democracy party as an important step towards a more democratic EU, which promotes Greek interests through the mutual assistance clause and the inclusion of tourism in the EU policies of supporting action. The socialists, for their part, stress the importance of creating the position of an EU foreign minister and view the European Constitution as a tool through which the multi-cultural and social dimensions of Europe can be furthered. Both of the smaller leftist parties are

against the Constitution, albeit for different reasons. The Coalition of Radical Left is supportive of European integration and in favour of the establishment of a Constitution. Yet it believes that the proposed Constitution would solidify a Union that in their view is economically too liberal, too protectionist against asylum-seekers and immigrants and too submissive *vis-à-vis* the US and NATO in foreign and defence policy. The Greek Communist Party (KKE) on the other hand is both against European integration and against the European Constitution, which it argues reflects the will of the right-wing European governments during the deliberations in the Convention and the IGC of 2003.

In the end, the Constitution was ratified after only three parliamentary sessions, which took place within a week, and its importance was downplayed by both the government and the media. The increase of attention on the ‘no’ vote in France ahead of the French referendum has received more media attention than ratification of the text in Greece.

Consequently, information levels about the Constitution are particularly low in Greece, with as many as 49% of Greeks claiming not to know anything about the Constitution. Also the level of support for the document was below the EU average according to the January Eurobarometer (2005) survey, which found that 39% of respondents in Greece supported the new Treaty whereas as many as 20% were opposed to it.

## Hungary

There has been very little debate about the Constitution before or after the ratification. There has been some recognition of the fact that Hungary was the second country to ratify the Constitution in December 2004, thus confirming its European credentials. According to the Eurobarometer (2005) survey, knowledge about the Constitutional Treaty – with 34% who did not know about it, 54% who knew something and 13% who knew its overall contents – was very close to the EU average (in which 33% had never heard about it, 56% knew something and 11% felt well informed), yet support for the Constitutional Treaty (after ratification!) was significantly higher than the EU average: in Hungary, 60% of the respondents in January were in favour and 9% opposed (in the EU-25 the figures were 49% versus 16% respectively).

Recently, the prospect of ratification difficulties in France has created some media interest, but no wider debate.

## Italy

There was no public debate. The ratification of the Constitutional Treaty (which took place on 6 April) was completely overshadowed by the results of the regional elections (held on 3 April), which brought the ruling coalition on the verge of a crisis and led to the resignation of Prime Minister Silvio Berlusconi, who then went on to form another government.

After this major upset, some more attention has been devoted by the media to the ratification process, prompted by analyses of the referendum debate in France. The latter has arguably received more coverage than ratification in Italy itself.

The verbatim reports of the parliamentary meetings do show overall support for the text, considered as a historic step forward for the Union, tempered by some isolated, dissenting voices. None of this has had any coverage whatsoever in the media. Interestingly enough, a senator from the Northern League, the most (openly) Eurosceptic party, had been appointed as rapporteur for the bill. In his final statement, he stressed the particular importance that the vote had acquired, since the referendum that his party had called for was not going to be held. He also reminded the assembly of some of the observations formulated by the different committees that ought to be kept in mind at the moment of the vote. These were related in particular to:



- the concerns regarding a possible regression of the judicial protection afforded to citizens (with particular regard to social rights), which could be linked to the entry into force of the Charter of Fundamental Rights;
- the possible impact of the European public prosecutor on the general principles of the Italian legal system and especially on the structure of the judiciary;
- the lack of a provision of a right to peace (similar to the one enshrined in the Italian Constitution);
- the need to update the priorities of the European Central Bank, and to balance the objective of monetary stability with those of growth and employment; and
- the need for closer involvement of the national parliaments in the decision-making process.

According to the survey by Eurobarometer (2005), after the uncertainties of the last two years, Italy is back at the top of the table of the most pro-EU countries. Some 72% of the respondents declared that they are in favour of the Constitutional Treaty and only 10% of them declared that they are opposed to it. There have been no more recent polls tracking support, reflecting the absolute lack of interest in the topic.

## Latvia

Debate in Latvia has so far been very low key. Most political parties are in favour and a large parliamentary majority can be expected. Recently, Latvian Foreign Minister Artis Pabriks voiced concerns in the context of a possible French ‘no’ vote against the Constitution, that fear of competition from the more dynamic new member states could lead old member states to reject the Treaty. Despite the broad party-political support for the Constitution, public support is below the EU average, with 16% opposing the Treaty and 41% supporting it (Eurobarometer, 2005). Knowledge about the Constitution in Latvia on the other hand is in line with the EU average. Approximately 58% know about the Treaty, whereas 41% claim not to have heard of it. Only 3% feel they are informed about its key contents.

## Lithuania

The Lithuanian parliament (*Seimas*) ratified the Treaty on 11 November 2004 with 84 ‘yes’ votes, only 4 ‘no’ votes and 3 abstentions. It thus made Lithuania the first member state to ratify the Constitutional Treaty. There was some public criticism about the rush having left very little time to debate the text publicly, but many members of parliament wanted to ratify the historic document before the newly elected parliament met for the first time on 15 November. Afterwards there was no significant public debate about the Constitution.

The Eurobarometer (2005) poll states that 51% of Lithuanians are in favour and 11% opposed to the Constitutional Treaty, which is slightly above the EU average (49% pro and 16% against).

## Malta

Since the present conservative, pro-EU government is in favour of the Constitution, and the main opposition Labour party has recently decided to support ratification in parliament, the procedure itself seems to be a formality.

The main aspect that makes the Maltese debate interesting is the fact that the traditionally Eurosceptic Maltese Labour Party has taken some time to decide its position. Alfred Sant, Leader of the Malta Labour Party announced on 11 May that the Party’s parliamentary group

would vote in favour of ratification of the Treaty. The ratification of the Constitution will nevertheless be discussed further within the party and a general party conference has to vote on the matter in June. The internal debate on ratification of the EU Constitutional Treaty within the Labour party had been triggered in March by the distribution of three reports to the press that covered the Treaty's legal implications, political implications and the ratification process in other countries. Both the legal and the political reports agreed that the Treaty does not go against the Constitution of Malta, but the legal report made the reservation that this statement was only valid as long as the Maltese government did not decide to join the permanent structures of cooperation dealing with military capabilities and joint military efforts.

Public debate has picked up recently following the internal debates in the Labour party, with two high-profile conferences on the EU Constitution, the first organised by the Catholic Church's Commission for Europe together with the Maltese offices of the European Commission and Parliament. The conference focused on the lack of public debate and the role of religion in the Constitutional Treaty. The other seminar was organised by the University of Malta's European Documentation and Research Centre, and it also discussed the possibilities of non-ratification of the Treaty.

In this context, public support according to a survey by the Young European Federalists of Malta is much higher than the EU average, but is decreasing. In a poll published April 2005, the support was cited to have dropped from a high of 70% to 56%, which was interpreted as a sign of apathy rather than opposition. Knowledge about the Constitution in Malta was above the EU average in January, when 72% of respondents claimed to have heard of the Constitution, of which 12% said they knew its basic contents, while 28% did not know about the new Treaty (Eurobarometer, 2005). These figures are likely to have increased recently during the more active phase of debate.

## **Slovakia**

On 11 May the Slovakian parliament approved the Constitutional Treaty with a great majority of 116 'yes' votes against 27 'no' votes and 4 abstentions. The government coalition partner KDH (Christian Democratic Movement) and the communists were especially among those who voted against it. Prime Minister Mikulas Dzurinda successfully won the support of the two most significant opposition leaders, Robert Fico and Vladimir Meciar, for ratifying the Constitution through parliament, rather than by referendum. The main political forces did not wish 'complications' brought about by a possible referendum. Only the Eurosceptic-leaning Christian Democrats and a small opposition party *Ludova unia* (People's Union) support the idea of a national referendum in order to gather public support against the Constitution.

The bulk of the debate took place in the Slovakian parliament and its various committees before the vote on 11 May. Although there was little public debate, the parliamentary situation seems to adequately reflect the mood of the general population. Support for the Constitution in Slovakia is above the EU average of 48%: 61% of the respondents supported the Treaty according to the January Eurobarometer (2005) survey, whereas 11% were opposed to it. At 67% of respondents, knowledge about the existence of the EU Constitution is also slightly above the EU average of 56%, but only 10% of Slovakian respondents felt that they knew the contents of the Constitution (EU average: 11%).

## **Slovenia**

The Treaty establishing a Constitution for Europe was ratified by the National Assembly of Slovenia on 1 February 2005, pursuant to Art. 3a of the Constitution and Art. 75 of the Law on

Foreign Affairs. Such an early ratification led to some complaints that the government had ratified the Treaty without giving the public a chance to get to know it.

The Slovenian Constitution had been amended in 2003, pending accession, in order to enable the country to “transfer the exercise of part of its sovereign rights to international organizations, which are based on respect of human rights and fundamental freedoms, democracy and the principles of the rule of law and may enter into a defensive alliance with states, which are based on respect for these values”. In such instances, the amended Constitution also foresees the possibility of holding a referendum, without making the latter compulsory. The new government that was formed after the general election held in October 2005 had a much clearer preference for parliamentary ratification than its predecessor. This was partly owing to a fear of referendum fatigue, since Slovenia had held as many as five referenda in the last two years, and partly to the belief that the strong majority in favour of EU accession in the 2003 referendum represented a sufficient mandate for parliamentary ratification of the Constitutional Treaty.

Accordingly, the Constitutional Treaty was approved by an overwhelming majority of 79 ‘yes’ votes versus 4 ‘no’ votes (and 7 abstentions). Six of the seven parliamentary parties voted in favour of the ratification, with the four ‘no’ votes coming from the ranks of the opposition National Party (SNS).

The main concerns were not regarding the EU Constitutional Treaty per se, but rather the absolute lack of public debate in the run-up to its ratification. To appease these concerns, the government (in cooperation with some non-governmental organisations) launched an information campaign based on subject-specific publications, question and answer sessions both online and by telephone, public debates and other presentations.

Almost all the parliamentary parties expressed their support for the ratification (except the small Slovenian National Party). This unity concerning the European matters is inherited from the previous period, when the national goal of joining the EU was the main concern of all political parties.

Despite the strong public support, Slovenians have admitted they know little about the EU Constitution. According to Eurobarometer (2005), a total of 61% of the Slovenians polled said they had heard about the Constitution but knew little about it. This can be seen as the result of the very successful public awareness campaign led during the Convention process. People have heard about the Constitution but only 8% felt they broadly know the content and 31% admitted that they had never heard of the document.

The news coming from France has had a negative impact on Slovenians. Many have begun to question the usefulness of investing public money in information campaigns when the whole ratification process could be brought to an abrupt end by a ‘no’ in France.

## **Sweden**

The government proposal for the law ratifying the Constitutional Treaty should be submitted to parliament before the summer. The next formal step for the Swedish parliament is to write its report on the government bill and subsequently to vote on it by December 2005, probably using a qualified majority rule with a 75% threshold. The decision-making rule is dependent on the parliament’s verdict on whether the Constitution entails a further transfer of decision-making powers to the European Union. The odds are that this rather smooth process will run its course and that Sweden will ratify the Treaty ahead of the stipulated deadline in 2006, with a rather broad parliamentary support.

There are currently some attempts within the ruling Social Democrats to force the party into holding an internal referendum (according to the party statutes 5% of the party’s members are

enough to call for such an exercise). Despite this, there has so far not been a heated political debate in Sweden, but more of a monologue from the actors who oppose the Constitution. As for the supporters of the Constitutional Treaty, their silence could be attributed to a number of factors, beginning with the fact that EU issues in general are not perceived as vote-winners. Consequently, these political actors prefer to play down the importance of the new Constitution, claiming that it amounts only to a codification and a streamlining of the existing legal framework.

Currently, the ‘no’ camp is levelling most of its criticism at the chosen method of ratification (rather than the actual content of the Constitution): this is based on the assumption that, were there to be a referendum, the Constitutional Treaty would be rejected, while it has every chance of being ratified through the parliamentary vote (which is currently envisaged).

The common denominator for those who oppose the Constitution can be said to be the loss of sovereignty and a reluctance to accept the notion of pooled sovereignty. Among the centre-left parties, the debate is primarily focused on the further centralisation of competencies at the European level that the Treaty would allegedly bring about. The question of the social dimension of Europe has recently entered the debate, but, contrary to the French case, there are virtually no actors advocating a further strengthening of the social provisions in the Constitutional Treaty.

The developments in the domains of a common foreign and security policy (CFSP) and defence, as well as the codification of the principle of supremacy of EU law, are posing particular doubts for the left and the Greens. One argument that is being used by ‘yes’ campaigners is the increased efficiency of the EU in the fight against cross-border crime that would result from a ratification of the Constitutional Treaty

The Eurobarometer (2005) survey confirms that Sweden is among the most Eurosceptic countries in the Union: 27% of the respondents declared that they are in favour of the Constitutional Treaty, and almost as many (27%) of them declared that they are opposed to it.

## **Conclusion**

Compared with the previous report, the present analysis by the EPIN network shows that the issue of the European Constitution is growing in relevance and visibility in many member states. The heated French debate and the importance of its outcome for the entire European Union have raised some media interest in almost all the other countries. Beyond this, however, there is a considerable difference between those member states holding a referendum and those choosing parliamentary ratification only. While national debate has remained very limited in all the countries that ratify by parliamentary vote, in the referendum countries national governments are forced to communicate the text to which they have put their name. Consequently, campaigns are getting underway now, especially where a referendum is still foreseen for this year.

As far as substantive issues of the Constitution are concerned, there continue to be important differences in how individual aspects of the text are perceived in the various national debates. For example, the economic provisions in part III of the Constitution trigger particular concerns over a lack of social protection in France, whereas they have exactly the opposite effect in certain other countries, where they are portrayed mainly as ‘red tape’ for the economy, notably in the UK. This observation should also put into perspective the unrealistic hope that a rejection in France could lead to any substantive re-negotiation of the complex compromise package, as some on the French left for example suggest.

At the same time, the constitutional text continues to be benchmarked against maximalist national demands while the EU dimension is often ignored. The current French debate in particular often obscures the fact that the Constitution's text reflects a synthesis of many national and political preferences.

In all countries the influence of actors from the EU level continues to be quite limited, which further contributes to the perception of the Constitution as a national question. With the exception of the recent debates between members of the European Parliament and Czech Republic President Vaclav Klaus, the EU institutions are virtually invisible in the debates. For information and political leadership, national parties and their politicians certainly remain crucial, but a greater number of campaigners from other countries can help give the European importance of the text a 'face'. In France we currently observe involvement of other EU nationals, but a number of 'no' campaigners are branding speakers from other member states or from the EU level as foreigners who are illegitimately meddling in their national debate. The same can be expected to happen in other referenda countries, for example in the UK, the Czech Republic and Poland.

Yet, it is not only 'no' campaigners who hinder an EU debate. President Chirac, for example, did not help the EU cause when he tried to enhance his profile as the guardian of French national interest against the Services Directive (an initiative that he himself had once pushed for). After this classic case of scapegoating the EU, Mr Chirac then went on and intervened to prevent Commission President Barroso from appearing on a French television programme.

Representatives of the 'yes' vote would therefore still be well advised to demonstrate the common European significance of the Constitution, because a national 'us-versus-them' strategy will harm not only the Constitution but also European integration as a whole. In the light of the French debate, this update report therefore concludes with a point we stressed in our initial overview in January: it will be very difficult to defend the Constitution against maximalist national benchmarks if citizens do not understand that this text is the product of a necessary compromise among 25 different EU member states (in the IGC), with civil society, the EU institutions, national parliaments and all the candidate countries involved in this process (in the Convention). Thus, 100% of national preferences are just not on offer.

European integration also increasingly needs a common European debate, because the rest of the European Union is directly concerned if one country says 'no'. If the Constitution cannot be ratified, we will be stuck with the Treaty of Nice. Maybe some elements from the Constitution could be saved, but coherence would be lost and an even more Byzantine structure would be the result. This is a scenario that would justify Euroscepticism much more than the Constitution ever did.

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