

# The case for pan-European referenda



To strengthen the EU's democratic credentials while also ensuring that Europe as a whole can't be held hostage by national plebiscites, **Richard Rose** puts the arguments for EU-wide referenda on treaty changes

The rhetoric of the Lisbon treaty, where it says that the "institutions, bodies, offices of the EU should pay attention to its citizens" tacitly brought to an end the EU founding fathers' dirty little secret that European integration can be achieved by stealth. The treaty also quietly recognised that when national governments agree to measures in the Council of Ministers they may not be representing the views of a majority of their country's citizens.

For decades EU institutions have engaged in intense dialogue with each other at the apex of the EU's multi-level governance structure, while ignoring citizens at the bottom. In 2001, the Commission recognised that it must 'connect Europe with its citizens' through a 'less top-down approach', but its efforts to do so have shown that it is better at reaching out to what one might call 'astroturf' organisations than at making grass roots connections. The Lisbon treaty authorises, for example, a European Citizens' Initiative requiring the Commission to state an opinion about a specified issue, but for

this to happen, an initiative must have one million verified signatures from at least nine member states. It's an achievement that would require far more resources than grass roots organisation can muster.

Twenty-first century Europeans will no longer be ruled in the passive voice. For a decision to be justified on the grounds that 'it has been decided' is no longer good enough; people will want to know who is 'it'. The preamble of the Maastricht treaty declared that 'it' consisted of the plenipotentiary governments of His Majesty the King of the Belgians and 26 other monarchical and republican heads of state. While the authors of the Constitution for Europe claimed they were preparing it on behalf of the citizens of Europe, when French and Dutch citizens were consulted through national referendums, they showed their ingratitude by voting 'No'.

Now the spectre of more referendums looms over major EU decisions. In Ireland, its presence is made tangible by the Irish constitution's provisions, and in the UK the

Conservative-led government has introduced a bill to Parliament requiring a UK referendum on any significant future transfer of national powers to Brussels. For obvious historical reasons, Germans have been shy of endorsing the referendum principle, but now the German Federal Court in Karlsruhe is questioning the democratic status of the EU system.

In many EU member states, a referendum on national issues is regarded as part of their democratic constitution. But in an EU context it is far from democratic for a single country to hold a referendum that vetoes an EU decision taken collectively by all member states. For example, 73% of Europe's citizens were not allowed a referendum vote on the EU Constitution and 99% were excluded from voting on the Nice and Lisbon treaties.

There is now the prospect of a 'democratic race to the bottom', as national politicians exploit the threat of the referendum to stop measures they consider to be against their country's interests, or just inconvenient in terms of their own partisan interests. French and Austrian leaders, for instance, have threatened a referendum on Turkey's admission to the EU.

EU policymakers cannot stop a national referendum on EU treaty reform but they can trump it by calling a pan-European referendum in which all of Europe's citizens express their views. This would be fairer than the current practice of making Irish voters keep returning to the polls until they give the "right" answer.

A large majority of European citizens endorses the idea of holding referendums

# COMMENTARY

By Wilfried Martens

## We don't need new referenda, but we must make more of EP elections

Richard Rose puts forward some good arguments. His enthusiasm for taking European integration to the next level and at the same time enhancing democracy and the citizen participation in the EU is very laudable. But he overlooks one decisive point: There is already a pan-European referendum every five years in the form of elections to the European Parliament. And because the parliament's powers have increased steadily since the first direct elections in 1979, it is today the equal of the Council in the scope and depth of its decisionmaking capacities in almost all policy areas of the EU. But it is also true that voter turnout in European elections has dropped steadily since 1979, so there is obviously a discrepancy between the European Parliament's real importance and its public image.

Before we start developing new procedures we should first strive to make the existing ones work better. The declining voter turnout at European elections has many reasons, and one of them is surely that the complexity of European legislation makes it hard to report in the media. Another is the need for compromise in the parliament if the EU is to make any progress on the big political issues. A third is the absence of the usual constellation of government and opposition. And a fourth reason is that national parties very often treat European elections as second-order national

on EU treaty changes, according to the European Election Survey of the Robert Schuman Centre of the European University Institute. In 25 of the 27 EU's countries an absolute majority now appears to endorse this principle, and in Ireland, the UK and Greece more than four-fifths favour holding of a referendum on EU treaty changes.

Endorsement of an EU referendum is not necessarily a reflection of anti-EU sentiment. The same survey found that 63% of Europeans think that membership

is a good thing for their country, as against 19% having no opinion and 18% viewing it negatively. There are large majorities endorsing the idea of a pan-European referendum among those believing that the EU is a good thing as well as among those who think that membership has been bad for their country. The readiness to endorse a referendum is found, too, in countries like Germany where support for the EU has been high, as well as in the UK where it is anti-EU sentiment that has been relatively high.



## EUROPE'S WORLD BACKGROUND BRIEFING

### Why Cameron's EU referendum promise may backfire

The British government's European Union Bill, which would impose a referendum before Britain accepted any major change in EU treaties, has whipped up a furious debate in the UK with the potential to spill across the Channel to Brussels.

The intended aim of Prime Minister David Cameron's initiative is to halt any further transfer of UK sovereignty to the EU without popular approval. But this is now under attack not only by pro-Europeans but also by the very people the bill seems designed to appease, the eurosceptic Right-wing of the Conservative Party. Many of these Tory MPs are furious that fast footwork by last year's outgoing Labour Prime Minister Gordon Brown denied the incoming government a chance to hold a referendum on the Lisbon treaty.

Some constitutional experts criticise the bill as unworkably vague and contravening the binding commitments Britain has already made as an EU member state. Simultaneously, the most pro-European group in Britain, the Liberal Democrats, are uneasy about the concession their coalition partner is making to its hardcore europhobic right. Traditional

parliamentarians criticise the bill on the grounds that referendums detract from the British doctrine of the sovereignty of the Parliament.

EU policymakers in Brussels will be doing their best to avoid another round of referendums. But some of the proposed responses to the eurozone crisis could lead to one in Ireland or Denmark, and matters deemed minor in Brussels could be charged in Britain. To avoid recurrent referendums on EU procedures, the British government could seek parliamentary endorsement of any declaration that a proposed change is minor. But if denied a referendum, Europhobes could turn to the newly empowered British Supreme Court to ask it to enforce its view that a referendum should be held.

The European Council can still take steps in the interests of course allowing Britain to opt out. Doing so would encourage the development of *à la carte* European policies. Further integration without Britain would be a second best solution for British Europhobes, whose first priority is not to prevent other member states from integrating but to leave the European Union itself. □

Whereas the timing and wording of a national referendum on an EU issue is determined by a national government, the subject-matter and wording of a pan-European referendum can be controlled at EU level through the Council of Ministers. This would ensure that it is not used casually but only for issues that merit being described as constitutional, and it would also ensure that the timing of the referendum and its wording is acceptable everywhere.

A pan-European referendum campaign would mean national campaign organisations for and against the question, complemented by co-ordination across national boundaries by organisations taking the same side on an issue. It would thus be up to national campaigners to decide how much or how little use to make of personalities who are well-known at European level, whether from politics, business, sport or the entertainment world. National campaigners would also choose whether to treat the ballot as a second-order election that reflects approval or disapproval of the national government.

Turnout for a pan-European referendum is likely to be substantially higher than at elections of the European Parliament. In the European Constitution referendum, the turnout in France was 69%, as against 41% in the subsequent European Parliament election, and in the Netherlands it was 63%, compared to 37% at the EP ballot. If similar boosts were to occur in other member states, then the turnout at a pan-European referendum would be of the order of 70%, a figure close to the turnout in many national elections and more than half again larger than that at the last European Parliament election.

elections, in effect eclipsing their European character. All these factors have led to a relatively low degree of public interest, and therefore low turnouts.

All these factors would also affect pan-European referenda. There is no guarantee that turnouts would be any higher than in EP elections because national parties would feel just as tempted to make them second-order referenda as so many key European issues cannot be boiled down to black-and-white, yes-or-no alternatives. There would also be just as much of a risk that the losing side in any pan-European vote would then be tempted to turn against integration. On top of that, it would be extremely hard to make EU-wide referenda acceptable in those member states that for political or historical reasons don't have plebiscites at all.

For all that, there are ways to make European Parliament elections more interesting, and so try to stop the decline in turnouts. One of these is to strengthen the European character of the campaigns, as opposed to the present largely national orientation, by strengthening the role of the "Europarties". This could be done through nominating a certain percentage of MEP candidates of each Europarty on pan-European lists. An even more efficient lever for politicising and at the same time personalising EP elections would be the nomination of candidates for the office of European Commission President before the election, at least by the two main Europarties: the Party of European Socialists (PES) and the European People's Party (EPP). This would quite literally give pan-European campaigns a human face. Candidates would have to visit all member states, campaign in public and come

In most democracies, constitutional amendments require more than a simple majority for approval. In Germany, for example, an amendment requires approval by a two-thirds vote of both houses of parliament. In unicameral Sweden, an amendment approved by a vote of the Riksdag is only adopted if it is again approved after a new Riksdag is elected. In the U.S. federal system, an amendment must be approved by a two-thirds vote of both houses of Congress and by three-quarters of state legislatures.

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The citizens of Europe's four most populous countries together account for a majority of the EU's citizens. Yet they could not determine a referendum outcome by themselves because every national election, including referendums, shows that national electorates divide in their opinions. In the four ballots on the European Constitution, 45% of French voters favoured it, as did 39% of Dutch voters.

Consistent with the principle of Qualified Majority Voting, approval could require

a double majority of states as well as of European voters. The logic of a double majority is easy to explain and to defend. The requirement for at least 14 EU states to register a majority in favour of change would protect small countries from being outvoted by the Union's four most populous countries, while the requirement of endorsement by a majority of voters would prevent voters in the EU's many small countries from combining against the majority of Europe's citizens.

A majority of voters and countries endorsing a measure already approved by the European Council, the Parliament and the Commission has far more legitimacy than can be claimed by the Lisbon treaty or an "astroturf" convention operating, as the Preamble of the failed Constitution put it, 'on behalf of the citizens' of Europe.

If a majority of voters and states rejected an EU referendum proposal, then it would be self-destructive for the EU to tell Europeans as a whole what the Irish electorate was told: Vote again, and vote correctly the second time. It should lead to a re-examination of why EU policymakers were so out of touch with the public they are meant to represent.

If a referendum is advisory, and many national referendums are advisory rather than binding, the count of votes is not the final determinant. This gives policymakers an opportunity to interpret the views of voters by taking into account whether turnout was high or low and whether the margin for or against a measure was big or small. In a pan-European referendum in which both turnout and majorities for or against can vary between countries, the interpretation of a result should not be pre-determined by law.

When votes are cast in 27 different national contexts, it is entirely possible that in one or more countries the national result will be at odds with the pan-European result. Provision could be made for a country to opt out of the measure if its national parliament gave notice of doing so within 12 months. This would leave it up to national politicians to decide whether their national rejection was sufficiently strong to justify standing aside from a major EU initiative. Countries where the referendum showed public opinion and the national government positively committed to a course of action could form a 'coalition of the willing' to co-operate to this end.

To object to a referendum on the grounds that it would reveal divisions in Europe is to shut one's eyes to reality. Divisions exist on matters such as collective defence and security, between eurozone and non-eurozone members and within the eurozone itself. The institutionalisation of joint action by some but not all EU member states is consistent with the rhetoric of diversity and unity. Only time will tell whether it encourages the development of a two-speed Europe in which leaders are allowed to lead and laggards to lag in following them, or a Europe in which governments agree to move in different directions on specific issues of policy. In a world that does not stand still, either form of movement is preferable to EU institutions that are incapable of action because they are haunted by a single nation's referendum imposing a liberum veto on change. □

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to embody the EU in a quite unprecedented manner. The EPP nominated its candidate in 2009: Jose Manuel Barroso, who got a second term thanks largely to the EPP's victory. The Socialists refrained from nominating their own candidate, and in future I would wish for a 2014 election with at least two prominent candidates. That is not only desirable but also feasible, and would certainly be better than pan-European referenda.

And one last word: The Founding Fathers had no "dirty little secret", as Richard Rose claims. They knew what they were doing, and without them we wouldn't be looking back at more than five decades of peace and prosperity in Europe. □

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