

# IEP Ratification Survey

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## The State of Ratification Processes for the EU-Constitution in all Member States and in the Accession Countries Bulgaria and Romania

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Following the failed referenda in France and the Netherlands, Europe finds itself in deep crisis. At the European Council of June 2005, many states declared the indefinite suspension of their ratification processes, while others, such as Luxembourg, Belgium, Finland or the Netherlands continued ratification. In order to formulate solutions to this dilemma, it is necessary to understand the state of the developments on the Constitutional Treaty up to now.

This Ratification Survey follows the ratification process in all 25 EU states, as well as Bulgaria and Romania, and provides the interested public with an overview of the developments within each individual state. Thus, of primary importance to this review are the domestic political debates and referenda on the Constitutional Treaty, as well as the details of the Constitutional Treaty itself. Where possible, information on the level of popular approval of the Constitutional Treaty and national constitutional requirements in the member states is presented.

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## Austria

### Date of Ratification:

After the Austrian *Nationalrat* unanimously introduced a Constitutional Law on the treaty on 2 March 2005, the path was free to ratifying the Constitutional Treaty in both chambers of parliament. The *Nationalrat* then ratified the Constitutional Treaty on **11 May 2005** with an overwhelming majority of 182 of a possible 183 votes.<sup>1</sup> The *Bundesrat* provided its approval on **25 May**. Only 3 MPs from the FPÖ and BZÖ voted against the treaty in the *Bundesrat*.<sup>2</sup> At an informal meeting of EU Foreign Ministers at the end of May 2006 in Kosterneuberg, Foreign Minister Ursula Plassnik emphasised the achievements of the Austrian Council Presidency: “That long shock of the year 2005 has now led us to a civilised discussion. And this was from the beginning not to be taken for granted.”<sup>3</sup> She stated that Austria was successful in bringing all 25 member states to the table in order to re-start the debate on the future of the EU.<sup>4</sup>

At the concluding summit of his Council presidency in June 2006, Chancellor Wolfgang Schüssel expressed his perception of a European consensus on the Constitutional Treaty: “There is indeed agreement that the substance of the Constitutional Treaty is sound and should be kept alive.” Regarding the reflection period, he stated that, most importantly, “Communication with the European citizens must be continued.”<sup>5</sup> Thus, the reflection period was extended for one year, during which an intensive European discussion and some 30 communication projects were to be carried out.<sup>6</sup>

### Method of Ratification:

Parliamentary

<sup>1</sup> Cf. Mahony, Honor: Austrian lower house ratifies EU Constitution, 11.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>2</sup> Cf. Österreich ratifiziert EU-Verfassung, in: FAZ.net of 25 May 2005.

<sup>3</sup> Österreich 2006: Präsidentschaft der Europäische Union, Plassnik: Erste Bausteine für neuen Konsens zur Zukunftsdebatte, 28.5.2006, [www.eu2006.at](http://www.eu2006.at)

<sup>4</sup> Cf. *Ibid.*

<sup>5</sup> Österreich 2006: Präsidentschaft der Europäische Union, Bundeskanzler Schüssel: Wollen neue Phase der konkreten Resultate und Projekte beginnen, 16.6.2006.

<sup>6</sup> Cf. EU-Gipfel einigt sich auf Zeitplan für Verfassungsdiskussion Fünfte Zusammenfassung (weitgehend neu), 15.6.2006, [www.finanzen.de](http://www.finanzen.de)

### Constitutional Basis for Holding a National Referendum<sup>7</sup>:

Obligatory referendum for complete changes to the constitution; facultative referendum for partial changes to the constitution; facultative or consultative referenda for issues of fundamental importance; in each case, initiated by parliament.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

The Greens and the SPÖ had expressed their support for a referendum, though they would have preferred a European-wide vote, as would have the government of Chancellor Wolfgang Schüssel.<sup>8</sup> Only the FPÖ under Jörg Haider supported an exclusively national referendum.<sup>9</sup>

#### Against:

Since a European-wide referendum never came about, the government decided against holding a national referendum.

### Positions Toward the Constitutional Treaty:

#### For:

All parties represented in parliament supported the Constitutional Treaty.

### Public Opinion:

According to the Eurobarometer of September 2005, 47% of Austrians would have voted for the treaty and 34% would have voted against it. The remaining 20% was undecided.<sup>10</sup> The most recent Eurobarometer from July 2006 indicated that 44% of Austrians support the

<sup>7</sup> The majority of the data in this column is from Maurer, Andreas/ Stengel Andrea: Ein Referendum für Europas Verfassung?, [http://www.swp-berlin.org/common/get\\_document.php?id=879&PHPSESSID=cd406af7da43ad0491a6c50d9e494853](http://www.swp-berlin.org/common/get_document.php?id=879&PHPSESSID=cd406af7da43ad0491a6c50d9e494853) Last updated: 04.12.2004.

<sup>8</sup> Cf. Österreich: Weg frei für die EU-Verfassung, in: Die Presse.com of 3.3.2005.

<sup>9</sup> Cf. Kontroverse um die EU-Verfassung in Wien, Haider fordert Volksabstimmung – und krebst zurück, in: Neue Zürcher Zeitung of 11.5.2005, p. 3.

<sup>10</sup> Cf. Eurobarometer 63, September 2005, p. 134. The results of Eurobarometer 63 are based on surveys that were carried out in May-June 2005 (mostly before the failed referenda in France and the Netherlands).

concept of an EU Constitutional Treaty, 34% reject it and 21% are still undecided.<sup>11</sup>

## Belgium

### Date of Ratification:

After the Belgian Senate gave its approval to the document, the Belgian Parliament then ratified the Constitutional Treaty on 19 May 2005 with a large majority of 118 votes for to 18 votes against and one abstention. With the 8 February 2006 approval from the Flemish parliament, the treaty cleared the last of the five regional parliaments, and the ratification process in Belgium thus came to a close.

### Method of Ratification:

Parliamentary

### Constitutional Basis for Holding a National Referendum:

No legal basis; an amendment to the constitution would have been necessary to hold a referendum.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

In the summer of 2004, Prime Minister Guy Verhofstadt expressed his support for a non-binding referendum. However, his social-liberal coalition partners were successful in executing a turn-around in 2005. Thereafter, Verhofstadt no longer possessed a majority in the Belgian parliament for holding a referendum,<sup>12</sup> even if the Greens and the radical right-wing Vlaams Belang continued to provide their support.

#### Against:

The Walloon Socialist Party was opposed to holding a referendum. According to them, a public debate was necessary no matter what, but in the end the Constitutional Treaty was an issue for parliament to decide.<sup>13</sup>

After originally offering its support, the Flemish Spirit Party came out against a referendum with the justification that a referendum would be overshadowed by discussion of the possibility of Turkish EU accession.

<sup>11</sup> Cf. Eurobarometer 65, July 2006, p. 62.

<sup>12</sup> Cf. Kirk, Lisbeth: No referendum on Constitution in Belgium, 24.1.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>13</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, p. 14, [http://www.iep-berlin.de/publik/EU25-Watch/EU-25\\_Watch.pdf](http://www.iep-berlin.de/publik/EU25-Watch/EU-25_Watch.pdf).

### Positions Toward the Constitutional Treaty: For:

The majority of the parties support the Constitutional Treaty. Prime Minister Verhofstadt, however, considers the document failed, but sees the continuation of the ratification process as important to keeping the question of European institutional developments on the agenda.<sup>14</sup>

#### Against:

The exception to the wide support for the treaty is formed by the extreme right-wing party, Vlaams Belang, which accuses the government of a lack of readiness for holding a public debate.

### Public Opinion:

A majority (73%) of Belgians (as of June 2006) support the acceptance of the Constitutional Treaty, and only 21% are opposed to it.<sup>15</sup> In addition, 36% of Belgians (as of May 2006) consider a common European constitution as the best possible solution for the future of Europe. This percentage is the highest of any EU member state.<sup>16</sup>

## Bulgaria

### Date of Ratification:

The Accession Treaty between the Member States of the European Union and the Republic of Bulgaria and Romania, which was signed by Sofia on 25 April 2005 and ratified by parliament on **11 May 2005** (231 votes in favour, 1 against, 2 abstentions)<sup>17</sup>, envisions Bulgaria acceding to an EU in which the Constitutional Treaty will have already come into effect.<sup>18</sup> In this respect, any additional ratification of the Constitutional Treaty on the part of Bulgaria is not required. Should the treaty not have come into effect by the time Bulgaria accedes, previous treaty

<sup>14</sup> Vgl. Beunderman, Mark: Verhofstadt sees small chances for EU constitution revival, 28.3.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>15</sup> Eurobarometer 64, June 2006, p. 378.

<sup>16</sup> Special Eurobarometer 251, May 2006, p. 39.

<sup>17</sup> Cf. European Information Service, European Report: Bulgarian parliament ratifies EU accession treaty, 14.5.2005.

<sup>18</sup> Cf. Treaty between the Member States of the European Union and the Republic of Bulgaria and Romania, 21.6.2005, L 157/11: Article 1, Paragraph 2.

frameworks, i.e. Nice, would then apply.<sup>19</sup> As soon as the Constitutional Treaty takes effect in the EU, it thus also takes effect in Bulgaria without the need for any additional ratification procedures.<sup>20</sup> Given these treaty stipulations, the Bulgarian accession treaty and the Constitutional Treaty can be considered to be coupled, meaning that all deliberations related to the accession treaty bear directly on the ratification of the Constitutional Treaty.

### **Method of Ratification:**

Parliamentary; the Bulgarian constitution sets forth that the transfer of constitutional powers to the EU must be authorised by the parliament with a two-thirds majority.<sup>21</sup> This requirement was fulfilled on 11 May 2005, when parliament ratified the Bulgarian accession treaty.

### **Constitutional Basis for Holding a National Referendum:**

A national referendum can only be called by an act of parliament. Because it was already approved by parliament, a referendum on the accession, read constitutional, treaty could only take place with the passage of a new law.<sup>22</sup> In the run-up to the ratification of the accession treaty, parliament passed a law in which it was specified that a consultative referendum must be held if at least 300 000 citizens petitioned for one. If that number reached 600 000, the result of the referendum would have become binding.<sup>23</sup> Due to the political make-up and majority relationships in the parliament, however, ratification was completed solely in that chamber.

### **Positions Toward a National Referendum on the Constitutional Treaty:**

#### **For:**

Although the accession treaty was ratified exclusively by parliament in the end, some political actors indeed supported holding a referendum on EU accession. President Georgi Purvanov initially proposed a referendum in January 2004, but the idea was rejected by all po-

litical parties with the exception of the Bulgarian Socialists.<sup>24</sup> However, as the discussion proceeded, several politicians changed their views on the subject. In July 2004 the leader of the rightist parliamentary group UtDF (United Democratic Forces), Ekaterina Mihailova, called for a referendum before the end of the year, which would be preceded by an intensive information campaign.<sup>25</sup> Even after parliamentary ratification succeeded, President Purvanov continued to advocate a referendum on accession: "If there is any question at all that should be put up for a national referendum, then it is the question of EU accession."<sup>26</sup>

#### **Against:**

The Simeon II National Movement, in government at the time of the accession decision, the Union of Democratic Forces (SDS)<sup>27</sup> and the Bulgarian Agrarian People's Union<sup>28</sup> expressed opposition to the idea of a referendum on EU accession. According to them, a referendum would have been unnecessary, since an overwhelming majority of the population supports EU accession and a negative result would be inconceivable.

### **Positions Toward the Constitutional Treaty:**

#### **For:**

By their almost unanimous approval of the accession treaty, all parties in parliament implicitly supported the Constitutional Treaty as well.

#### **Public Opinion:**

According to a study by the Bulgarian research institute, MBMD, 71% of the population supports EU accession.<sup>29</sup> Eurobarometer indicates that 54% of Bulgarians agree with the adoption of the European Constitutional Treaty, while 6% disagree. 40%, however, stated they were undecided.<sup>30</sup>

<sup>19</sup> Cf. *Ibid.*: Article 2, Paragraph 1.

<sup>20</sup> Cf. *Ibid.*: Article 2, Paragraph 3.

<sup>21</sup> Cf. Bulgarian Constitution: Article 85, Paragraph 1, <http://www.parliament.bg/?page=const&lng=en>

<sup>22</sup> Cf. President Purvanov wants referendum on EU membership, 16.5.2005, [www.sofiaecho.com](http://www.sofiaecho.com)

<sup>23</sup> Cf. Movement on EU referendum, 8.7.2004, [www.sofiaecho.com](http://www.sofiaecho.com)

<sup>24</sup> Cf. Nacheva, Velina: EU referendum question, 29.1.2004, [www.sofiaecho.com](http://www.sofiaecho.com)

<sup>25</sup> Cf. Movement on EU referendum, *Op. Cit.*

<sup>26</sup> Agence France Presse, Bulgarian president calls for a referendum on EU accession, 12.5.2005.

<sup>27</sup> Cf. BBC Monitoring International Reports, BGNES: Bulgarian ruling party rejects referendum on EU entry, 28.2.2005.

<sup>28</sup> Cf. Dimitrova, Christina: EU accession referendum issue, 1.7.2004, [www.sofiaecho.com](http://www.sofiaecho.com)

<sup>29</sup> Cf. Institute for Marketing and Social Surveys: Public opinion on Bulgaria's accession to the EU and European Integration, November 2004, [www.mbdresearch.com](http://www.mbdresearch.com)

<sup>30</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

## Cyprus

### Date of Ratification:

The Cypriot parliament ratified the Constitutional Treaty on **30 June 2005**.<sup>31</sup> Despite the cancellation of the ratification process in other member states, 30 deputies voted for the Constitutional Treaty in a special two-day session; 19 voted against and one deputy abstained from the voting.<sup>32</sup>

### Method of Ratification:

Parliamentary

### Constitutional Basis for Holding a National Referendum:

No legal basis

### Positions Toward a National Referendum on the Constitutional Treaty:

#### Against:

All political parties were opposed to a referendum.

### Positions Toward the Constitutional Treaty:

#### For:

The majority of parties supported the Constitutional Treaty. The parliamentary ratification was considered purely a formality.<sup>33</sup>

#### Against:

Only the socialist – but also the largest party in the Cypriot parliament (20 seats) – was opposed to the Constitutional Treaty. However, it did not have the necessary majority of 29 seats to cause the ratification in parliament to fail.<sup>34</sup>

### Public Opinion:

The Constitutional Treaty never really seemed to be an object of public discussion in Cyprus. According to the Eurobarometer study of September 2005, 44% of Cypriots supported the

Constitutional Treaty, 10% rejected it and 45% had no opinion on the subject.<sup>35</sup>

## Czech Republic

### Date of Ratification:

While Prime Minister Stanislav Gross called for a referendum on the same day as Czech parliamentary elections in June 2006, the opposition ODS (the conservatives) introduced a draft law in parliament that demanded a referendum be set for 2005.<sup>36</sup> Due to the government crisis and the change of prime ministers, defining the possible time period for ratification was not possible. Following the rejections in France and the Netherlands, the Czech Republic at the EU summit in June 2005 announced that it would **postpone its ratification process indefinitely**.<sup>37</sup>

### Method of Ratification:

Still not permanently decided

### Constitutional Basis for Holding a National Referendum:

The holding of a binding referendum can be effected by law. This law, proposed by the government, must then be discussed and passed by the parliament.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

Meanwhile, all parties, as well as the eurosceptical President Václav Klaus, have come out in support of a referendum.<sup>38</sup> However, there still exists no official motion for initiating one.

<sup>31</sup> Cf. Vuceva, Elitsa: Belgian parliament endorses EU constitution, 20.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>32</sup> Cf. Vuceva, Elitsa: Cyprus ratifies EU constitution, 1.7.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>33</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 17.

<sup>34</sup> Cf. Vuceva: Belgian parliament endorses EU constitution, *Op. Cit.*

<sup>35</sup> Cf. Eurobarometer, September 2005, *Op. Cit.*, p. 146.

<sup>36</sup> Cf. Austrian chancellor warns Czech against rejecting EU constitution, 20.1.2005, [www.eubusiness.com](http://www.eubusiness.com)

<sup>37</sup> Cf. Bulletin Quotidien Europe No. 8971, 18.6.2005, p. 6.

<sup>38</sup> Cf. Kurpas/Incerti/Schönlau: What prospects for the European Constitutional Treaty?, *Op. Cit.*, p 5.



### **Positions Toward the Constitutional Treaty: For:**

The governing coalition of Social Democrats, Christian Democrats and the Freedom Union, which was voted down in June 2006, supported the adoption of the Constitutional Treaty. It had, however, only a very small majority in the Czech Parliament.

A parliamentary ratification through the minimum approval of 60% in both houses seems to be difficult to achieve.<sup>39</sup> A referendum would be the “safe” path to adopting the Constitutional Treaty in the Czech Republic.

### **Against:**

The strongest party in parliament, the ODS (Civic Democrats) and the Communists plead against the Constitutional Treaty. Czech President Václav Klaus (founder of the ODS) has also been an opponent of the constitution, since it curtails national sovereignty. He additionally called upon the constitutional court in order to clarify which articles of the Czech constitution need to be amended in order to be able to ratify the Constitutional Treaty.<sup>40</sup> Klaus actively supports the campaign of the constitutional opponents.<sup>41</sup> After the rejections in France and the Netherlands, the president even stated that the Constitutional Treaty is no longer a current issue and is not on the political agenda in the Czech Republic.<sup>42</sup>

### **Public Opinion:**

Although a rejection by the population is still feared in the Czech Republic, surveys indicate that the majority of Czechs up to now support the Constitutional Treaty. According to Eurobarometer (January 2005), 39% were for the Constitutional Treaty and 20% against it. 42% however are still undecided.<sup>43</sup> A Czech survey from May 2005 supported the tendency of a stable majority, indicating that 51% of Czechs in a referendum would have voted for the Con-

stitutional Treaty and 25% against it. The number of undecided had also sunk strongly, standing at 23%.<sup>44</sup>

Following the referenda in France and the Netherlands, the approval ratings for the constitution started to fall in the Czech Republic. According to a poll by the independent STEM agency from August 2005, 40% were opposed to continuing the ratification process and only 25% expressed their support for it,<sup>45</sup> which allows one to infer a heightened level of opposition to the Constitutional Treaty itself in the population. The Eurobarometer of June 2006, however, indicates that 39% of Czechs support the Constitutional Treaty, 36% oppose it and 25% are still undecided.<sup>46</sup>

## **Denmark**

### **Date of Ratification:**

Prime Minister Anders Fogh Rasmussen, re-elected at the end of January 2005, declared that a referendum would be held on **27 September 2005**.<sup>47</sup> However, following the failed French and Dutch votes, the Danish government announced that its referendum on the Constitutional Treaty would be **postponed indefinitely**.<sup>48</sup>

### **Method of Ratification:**

Parliamentary resolution + referendum

### **Constitutional Basis for Holding a National Referendum:**

For the transfer of sovereign rights to supranational institutions, a five-sixths majority in parliament is necessary. If this threshold is not reached, but the standard majority for the adoption of general laws is reached, a referendum, whose result is binding on parliament, is prompted.

<sup>39</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 15.

<sup>40</sup> Cf. Kubosova, Lucia: Czech president calls on experts to check EU Constitution, 3.2.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>41</sup> Cf. Plichta, Martin: Le président tchèque, l'ultralibéral Vaclav Klaus, fait campagne pour le non, in: *Le Monde* vom 9.4.2005, p. 7.

<sup>42</sup> Cf. EU constitution 'not on the agenda' for Czech Republic, president says, 23.5.2006, [www.afx.com](http://www.afx.com)

<sup>43</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>44</sup> Cf. Kubosova, Lucia: Majority of Czechs and Danes back EU Constitution, 23.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>45</sup> Cf. Kubosova, Lucia: Czechs against continued ratification of EU constitution, 19.8.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>46</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

<sup>47</sup> Cf. Mac Carthy, Clare: Denmark to hold referendum on EU constitution in September, in: *The Financial Times* of 1.3.2005, p. 2.

<sup>48</sup> Cf. Bulletin Quotidien Europe No. 8971, 18.6.2005, p. 5.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

The conservatives and liberals in government reached a common agreement with three opposition parties on organising a referendum for the ratification of the Constitutional Treaty.<sup>49</sup> Whether a referendum would ever be held, however, became uncertain after the vote was postponed indefinitely in June 2005. On 29 May 2006 Danish Foreign Minister Per Stig Moeller said that referendum is not absolutely necessary and that a “lighter” version of the Constitutional Treaty could succeed in implementing the essential institutional reforms without ratification by the people.<sup>50</sup> This statement, however, provoked harsh criticism from the opposition People’s Party, which labelled Moeller’s approach “deceit”. The Social Democratic Party and the People’s Socialists likewise criticised the position of the foreign minister. Moeller later offered an explanation of his statement, emphasising that the ratification of the Constitutional Treaty in Denmark will only occur with a positive result in a nation-wide referendum.<sup>51</sup>

### Positions Toward the Constitutional Treaty:

#### For:

The government supports the Constitutional Treaty. In addition, the traditionally eurosceptic SLP (Socialist Left Party) negotiated a compromise with the government and the largest opposition party, the SDP (Social Democratic Party): the SLP will support the constitution, but only as long as the Danish opt-outs (defence, EU citizenship and the Euro) are preserved.<sup>52</sup>

#### Against:

The eurosceptic June Movement, the red-green alliance and the Danish People’s Party all reject the Constitutional Treaty and criticise the agreement concluded between the SLP, SDP and government.<sup>53</sup>

<sup>49</sup> Cf. Agence France Presse: Denmark to hold referendum on EU constitution on September 27, 28.2.2005.

<sup>50</sup> Cf. Agence France Presse: Denmark opposed to new referendum on EU constitution, 29.5.2006.

<sup>51</sup> Cf. *Ibid.*

<sup>52</sup> Cf. [www.euobserver.com/?sid=9&aid=17677](http://www.euobserver.com/?sid=9&aid=17677) Last accessed: 03.11.2004.

<sup>53</sup> Cf. Mac Carthy, Clare: Denmark to hold referendum on EU constitution in September, *Op. Cit.*, p. 2.

### Public Opinion:

A positive vote for the Constitutional Treaty in Denmark is very uncertain given the country’s fundamentally eurosceptic population. In addition, Danish voters frequently reach decisions entirely independent of the recommendations of their political parties.<sup>54</sup> Different polls have also released varying results. According to a survey conducted at the end of 2004 by Danish Radio, 54% of Danes would vote for the constitution, while 17.4% would vote against it and 28.6% would be undecided.<sup>55</sup> The Eurobarometer study (January 2005) reported that 44% of Danes supported the Constitutional Treaty and 26% rejected it, with the figure of roughly 30% undecided holding constant.<sup>56</sup> A Gallup poll from mid-May 2005 confirmed the trend that the Danish people would probably approve the Constitutional Treaty in a referendum. There, 45% expressed their approval and 25% their disapproval for the Constitutional Treaty.<sup>57</sup> However, the level of support for the Constitutional Treaty in Denmark dropped rapidly following the rejections in France and the Netherlands. At the beginning of June 2005, only 30.8% still supported the document, 39.5% rejected it and 29.7% remained undecided.<sup>58</sup> According to the Eurobarometer survey of June 2006, 48% of the Danish people support the Constitutional Treaty, while 37% are against it and 15% are undecided.<sup>59</sup> Furthermore, 52% are in favour of completely renegotiating the treaty, and 31% (highest in the EU-25) believe that the European constitutional project should be abandoned.<sup>60</sup>

<sup>54</sup> Cf. *Ibid.*, p. 2.

<sup>55</sup> Cf. Kurpas, Sebastian/Incerti, Marco/Schönlaue, Justus: What prospects for the European Constitutional Treaty?, Working paper 12/January 2005, p. 5.

<sup>56</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>57</sup> Cf. Kubosova, Lucia: Majority of Czechs and Danes back EU Constitution, 23.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>58</sup> Cf. Kirk, Lisbeth: Danes turn their backs on EU Constitution, 3.6.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>59</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

<sup>60</sup> Cf. *Ibid.*, p. 132.

## Estonia

### Date of Ratification:

On 5 May 2005, after long discussion, the Estonian government introduced the Constitutional Treaty in parliament.<sup>61</sup> Though deliberations were postponed multiple times, the Estonian parliament passed the ratification law on 9 May 2006 with just one vote against.

### Method of Ratification:

Parliamentary

### Constitutional Basis for Holding a National Referendum:

Obligatory, binding referendum when certain constitutional norms are affected, otherwise a facultative referendum upon parliamentary initiative.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

The small Rahvaliid (People's Union) party, which is part of the governing coalition, came out in support of two separate referenda: one on accession to EMU and another on the European constitution.<sup>62</sup>

#### Against:

Foreign Minister Kristina Ojuland made clear in September 2004 that she believed a parliamentary ratification to be entirely sufficient. The government and the majority of MPs were opposed to a referendum.<sup>63</sup> According to them, a referendum would be unnecessary because the results of the constitutional convention would already be known by the time of the referendum on EU accession, and citizens could take them into consideration when they voted.<sup>64</sup>

### Positions Toward the Constitutional Treaty:

#### For:

The majority of parties represented in parliament back the Constitutional Treaty.

<sup>61</sup> Vgl. Estonia sends EU constitution for ratification, 5.5.2005, [www.eubusiness.com](http://www.eubusiness.com)

<sup>62</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 23.

<sup>63</sup> Vgl. *Ibid*, p. 23.

<sup>64</sup> Institut für Europäische Politik: EU-25 Watch, No. 2, January 2006, p. 46 [www.iep-berlin.de/publik/EU25-Watch/EU-25\\_Watch-No2.pdf](http://www.iep-berlin.de/publik/EU25-Watch/EU-25_Watch-No2.pdf)

### Public Opinion:

According to Eurobarometer, Estonia has the most eurosceptical population of any of the ten new member states: only 51% support the Constitutional Treaty, 36% are still undecided.<sup>65</sup> This is also a reason why government and parliament avoided the idea of a referendum on the Constitutional Treaty.<sup>66</sup>

## Finland

### Date of Ratification:

Initially, the Constitutional Treaty was supposed to be ratified by the Finnish parliament in December 2005 or January 2006.<sup>67</sup> However, as a reaction to the referenda in France and the Netherlands, Finland declared at the EU summit in June 2005 its intention to postpone the ratification process indefinitely.<sup>68</sup> On 12 May 2006 the parliament finally approved (104 for, 24 against, 12 abstentions, 60 absent) taking up the ratification process for the Constitutional Treaty. The document must now be approved by the government and eventually ratified expressly by parliament.<sup>69</sup> Prime Minister Matti Vanhanen had hoped that Finland could ratify the Constitutional Treaty before it took over the Council Presidency on 1 July 2006. He now sees "a good chance that the treaty will be ratified before year's end."<sup>70</sup> Despite the rejections in France and the Netherlands, Vanhanen would like to continue the ratification process during the Finnish Council Presidency, but he acknowledges that further progress before the parliamentary elections in the Netherlands (from October 2006) and the presidential and parliamentary elections in France (expected for April and June 2007 respectively) is rather improbable. Thus, Vanhanen's priorities for the Finnish Presidency from July to December 2006 lie above all in

<sup>65</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

<sup>66</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 23.

<sup>67</sup> Cf. Bennhold, Kartin: EU treaty's long march faces big test in France, in: International Herald Tribune of 22.2.2005, p. 4.

<sup>68</sup> Cf. Bulletin Quotidien Europe No. 8971, 18.6.2005, p. 5.

<sup>69</sup> Cf. Finn MPs approve EU constitution, 12.5.2006, [www.cnn.com](http://www.cnn.com)

<sup>70</sup> Associated Press Worldstream: Finnish Parliament backs government plans to ratify EU constitution, 12.5.2006.



the areas of legitimacy, transparency and efficiency in the European Union.<sup>71</sup>

#### **Method of Ratification:**

Parliamentary

#### **Constitutional Basis for Holding a National Referendum:**

Facultative, consultative referendum possible through legislative enactment.

#### **Positions Toward a National Referendum on the Constitutional Treaty:**

##### **For:**

The Greens and the Left Alliance of Finland backed a referendum, viewing the current constitutional crisis as a greater crisis of European democracy.<sup>72</sup> In addition, 50 000 citizens signed a petition for a referendum on the ratification of the Constitutional Treaty, which they submitted to parliament on 9 May 2006. This initiative did not find support among Finnish MPs and was rejected.<sup>73</sup>

##### **Against:**

The three governing parties (Centre Party, Social Democratic Party and Swedish People's Party) and the largest opposition party, the National Coalition Party, are all against a referendum but support a public debate.<sup>74</sup>

For Prime Minister Matti Vanhanen, the constitution is a treaty just like any previous one and requires no referendum.<sup>75</sup>

#### **Positions Toward the Constitutional Treaty:**

##### **For:**

It is highly probable that the majority of the Finnish parliament will follow the position of the government and ratify the Constitutional Treaty.<sup>76</sup>

<sup>71</sup> Cf. Agence France Presse: Finnish PM sees no EU constitution breakthrough until Dutch, French votes, 30.6.2006.

<sup>72</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 48.

<sup>73</sup> Associated Press Worldstream: Finnish Parliament backs government plans to ratify EU constitution, 12.5.2006.

<sup>74</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 26.

<sup>75</sup> Cf. Ruuda, Marit: Finnish Social Democrats against referendum on the Constitution, 27.8.2004 [www.euobserver.com](http://www.euobserver.com)

##### **Against:**

That the Finnish parliament would turn negatively toward the Constitutional Treaty would only be viewed as a possibility if a consultative referendum were held and the Finnish population voted against the document.<sup>77</sup> The Left Alliance of Finland has criticised the Constitutional Treaty for lacking effective social and economic policy, while the Greens see the current constitutional crisis as a sign of larger political problems at the European level.<sup>78</sup>

##### **Public Opinion:**

According to the June 2006 Eurobarometer, 49% of Finns support the Constitutional Treaty, while 36% are opposed to it. An additional 15% are undecided.<sup>79</sup> A recent TNS Gallup Oy survey however indicates that only 22% of Finns agree with an exclusively parliamentary ratification of the Constitutional Treaty; 48% disagree.<sup>80</sup>

## **France**

#### **Date of Ratification:**

In his new year's address, President Jacques Chirac announced that a referendum should be held before summer 2005.<sup>81</sup> The necessary amendments to the French constitution that would allow the Constitutional Treaty to enter into force were passed by the National Assembly and the Senate on 28 February 2005 with 730 votes to 66 and 96 abstentions.<sup>82</sup> On 4 March, Chirac set the date of the referendum

<sup>76</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 26.

<sup>77</sup> Cf. *Ibid.* p. 26.

<sup>78</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 48.

<sup>79</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

<sup>80</sup> Cf. Kirk, Lisbeth: Low public support for EU constitution in Finland, 2.6.2006,

[www.euobserver.com](http://www.euobserver.com)

<sup>81</sup> Cf. Gurrey, Béatrice: Europe: Jacques Chirac veut enrôler tous les partisans du «oui», in: *Le Monde* vom 4. 1 2005.

<sup>82</sup> Thorhill, John: France clears way for plebiscite on EU treaty, in: *Financial Times* of 1.3.2005, p. 2.

for 29 May 2005.<sup>83</sup> **54.87% of French voters rejected the Constitutional Treaty.**<sup>84</sup>

During the reflection period, President Chirac has placed an especially high level of value on increasing citizens' trust in Europe, something which could be achieved through practical measures (e.g. support for the Erasmus program, EU border protection, etc.) without the immediate ratification of the Constitutional Treaty.<sup>85</sup> Regarding the revival or ratification of the Constitutional Treaty, Chirac stated that he was determined to bring his fellow citizens into agreement with the European project.<sup>86</sup> The French government will work actively to strengthen the capacity of the EU to act, because "there is no other solution than to improve the institutions."<sup>87</sup> The final decisions should be made during the French Council presidency in the second half of 2008. Until then, the discussion will have to be concluded and it must be decided how the future document will resemble the Constitutional Treaty produced by the Convention.<sup>88</sup>

How a constitutional treaty can be ratified in France is still unclear. According to some reports<sup>89</sup>, President Chirac and Chancellor Merkel are discussing a plan, under which the essential parts of the Constitutional Treaty (institutional reforms and fundamental rights) are presented to the people in a second referendum, while the ratification of the third part (policy areas of the EU) could be achieved by parliamentary ratification. Convention Chairman Valéry Giscard d'Estaing strongly supports a "second chance" for the Constitutional Treaty in France.<sup>90</sup> He considers a second ref-

erendum on the same text to be both possible and legal: "People have the right to change their minds. They need to consider that they could have made a mistake."<sup>91</sup>

According to all expectations, the Constitutional Treaty will play a major role in the coming presidential election campaign. There is the hope that the constitutional crisis can be solved by this and by the following French Council presidency.<sup>92</sup>

### **Method of Ratification:**

Referendum

### **Constitutional Basis for Holding a National Referendum:**

Facultative, binding referendum for constitutional amendments and treaty ratification, and a "Presidential Plebiscite" for draft laws are all possible. On 19 November, the Constitutional Court decided that the French constitution must be changed before the European constitution can be ratified.

### **Positions Toward a National Referendum on the Constitutional Treaty:**

#### **For:**

The governing UMP (conservatives) and the Socialists support the decision of President Chirac to hold a referendum on the Constitutional Treaty.

### **Positions Toward the Constitutional Treaty:**

#### **For:**

The UDF and UMP both came out in support of the adoption of the constitution and praised the progress that the treaty would bring with it. 58% of French Socialists (PS) voted for the EU constitution in an internal poll on 2 December 2004. After this vote, the PS was supposed to then actively support the adoption of the Constitutional Treaty by the referendum.<sup>93</sup> However, part of the PS under François Hollande refused to accept this vote and actively supported the opponents of the constitution.

<sup>83</sup> Cf. Europe: référendum en France le 29 mai, in: *Le Monde* of 5.3.2005.

<sup>84</sup> Cf. Pognon, Olivier: Les Françaises dissent massivement non à la Constitution européenne, in: *Le Figaro* of 30.5.2005.

<sup>85</sup> Cf. Beunderman, Mark : Chirac draws up wishlist of concrete EU projects, 27.2.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>86</sup> Associated Press Worldstream : Chirac determined to reconcile French to European project, despite constitution defeat, 20.5.2006.

<sup>87</sup> Mahony, Honor: Merkel and Chirac set timetable for EU constitution, 7.6.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>88</sup> Cf. Parker, Geroge : France has 'last nod' on Europe constitution, 14.6.2006, [www.financialtimes.com](http://www.financialtimes.com)

<sup>89</sup> Cf. Beunderman, Mark : Berlin and Paris in talks on EU constitutional revival, 6.3.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>90</sup> Cf. Agence France Presse : Giscard wants to give EU constitution 'second chance' in France, 23.5.2006.

<sup>91</sup> Beunderman, Mark : Giscard demands second chance for EU constitution in France, 23.5.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>92</sup> Cf. EU issues in the early French presidential campaign, 29.6.2006, [www.euractiv.com](http://www.euractiv.com)

<sup>93</sup> Cf. France après le référendum du PS, in: *Le Monde* of 4.12.2004, p. 10.

The two likely candidates for the upcoming presidential elections hold different perspectives on how to proceed with the Constitutional Treaty. Segolene Royal of the PS, which is still split on the constitution question, calls for a new treaty with a strengthened social dimension. She does support all aspects of the current Constitutional Treaty that contribute to a stronger international roll for the EU.<sup>94</sup> Interior Minister Nicolas Sarkozy of the governing UMP proposes parliamentary ratification of the most important parts of the Constitutional Treaty<sup>95</sup> and has come out against a new referendum: "I will not be the one who tells the French that they have misunderstood the question."<sup>96</sup> Moreover, Senator Francois Fillion, a close ally of Sarkozy, has stated that the implementation of the entire Constitutional Treaty is out of the question, since that would be disrespectful toward the French population.<sup>97</sup>

#### **Against:**

The Front National (FN) views the Constitutional Treaty as a danger to French sovereignty.

For the French communists (PC) and a part of the French socialists under François Hollande, the Constitution is too liberal and emphasises too much the military components of the Union.

#### **Public Opinion:**

The peak values of almost 70% approval, reached in the summer of 2004, began to sink drastically in the second half of 2004 due to the Turkey question and political scandals, such as the one surrounding ex-Finance Minister Gaymard.<sup>98</sup> In January 2005, 59% of French supported the Constitutional Treaty and 41% opposed it.<sup>99</sup>

Surveys by the opinion research institute CSA from 1 March seemed initially to indicate a

reverse of the downward trend. According to these surveys, 63% of French were for the Constitutional Treaty, an increase of 4%.<sup>100</sup> However, in mid-March the polls tipped surprisingly. Critics of the Constitution gained further ground through mid-April. The percentage favouring rejection meanwhile reached 56%. The Bolkenstein directive, which foresees the liberalisation of the service sector, was seen as the main cause for the now overwhelmingly sceptical attitude of the French toward Europe.<sup>101</sup> The government campaign for the Constitutional Treaty, which began in mid-April (though the official start was not until 17 May 2005), was only able to temporarily reverse the downward trend.<sup>102</sup> In addition to punishing the right-conservative policies of Chirac and Raffarin, the overwhelming majority of French also voted against a constitutional treaty that, in their eyes, was too liberal, thus following the arguments of Hollande. In France, there was a lively debate in the French population on the question of the Constitutional Treaty between March and May 2005. At the end of April alone, over a half million books that explained and/or analysed the Constitutional Treaty were sold.<sup>103</sup>

Over a year after the failed referendum, part of the French population still stands negatively toward the Constitutional Treaty. In May 2006, the newspaper *Liberation* published poll results in which 98% of those who voted 'no' in the referendum stated they did not regret their choice.<sup>104</sup> According to a TNS-Sofres survey, 82% of French support a deepening of European integration, and 64% believe that the negative referendum result has weakened France.<sup>105</sup> According to Eurobarometer, 65% (highest in the EU-25) of French people support a renegotiation of the Constitutional Treaty, while 14% support the continuation of

<sup>94</sup> Cf. EU issues in the early French presidential campaign, 29.6.2006, [www.euractiv.com](http://www.euractiv.com)

<sup>95</sup> Cf. *Ibid.*

<sup>96</sup> Beunderman, Mark: Giscard demands second chance for EU constitution in France, 23.5.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>97</sup> Cf. Beunderman, Mark : Chirac draws up wishlist of concrete EU projects, 27.2.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>98</sup> Cf. Bennhold, Kartin: EU treaty's long march faces big test in France, *Op. Cit.*, p. 3.

<sup>99</sup> Cf. Sondage: 59% des Français disent oui, in: *Nouvel Observateur* of 13.1.2005.

<sup>100</sup> Cf. Ridet, Philippe: Le gouvernement s'attend à une difficile campagne sur l'Europe, in: *Le Monde* vom 2.3.2005, p. 8.

<sup>101</sup> Cf. Constitution européenne: un nouveau sondage confirme l'avancée du «non», in: *Le Monde* of 21.3.2005

<sup>102</sup> Cf. Mahony, Honor: Official Constitution drive starts in France, 17.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>103</sup> Cf. Aïssaoui, Mohammed: La constitution sur le podium des best-sellers, in: *Le Figaro* of 28.4.2005

<sup>104</sup> Cf. Beunderman, Mark: French would still vote 'no' to EU constitution, 17.5.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>105</sup> Associated Press Worldstream: French support closer European unity despite rejection of EU constitution, 29.5.2006.

the ratification process and 15% would like to abandon the current treaty in its current form.<sup>106</sup>

## Germany

### Date of Ratification:

The parliamentary ratification process in the *Bundestag* began in February 2005 and concluded in May with the ratification of both chambers. There was, however, some fear that the ratification could be delayed when the CDU/CSU demanded the expansion of the rights to national parliamentary involvement at the EU level. Nevertheless, the government pressed its intention to ratify the treaty before the French referendum in order to give the national vote some positive momentum<sup>107</sup> and was thus prepared to make concessions. Ratification in the *Bundestag* was completed on 12-13 May and in the *Bundesrat* on 27 May 2005.<sup>108</sup> An overwhelming majority of MPs approved the Constitutional Treaty, with 569 members voting for and only 23 members voting against the document. In the *Bundesrat*, the state of Mecklenburg-Western Pomerania abstained from voting due to an agreement of the red-red governing coalition of SPD and PDS.

### Method of Ratification:

Parliamentary; though the signature of the federal president, necessary for the final implementation of the Constitutional Treaty, has been withheld until the Federal Constitutional Court rules on a complaint filed against the European Constitutional Treaty by MP Peter Gauweiler (CSU). Most jurists, however, do not give the complaint any chance of success.

### Constitutional Basis for Holding a National Referendum:

No legal basis for a referendum; a constitutional amendment would be necessary for all forms of referenda at the federal level (two-thirds majority in *Bundestag* and *Bundesrat*.)

<sup>106</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 132.

<sup>107</sup> Cf. Verzögerte Zustimmung zur EU-Verfassung, Streit um die Mitwirkungsrechte des Deutschen Bundestages, in: Neue Zürcher Zeitung vom 25.2.2005, p. 3.

<sup>108</sup> Cf. Bundestag ratifiziert EU-Verfassung am 12. Mai, in: Süddeutsche Zeitung of 8.3.2005.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

In the summer of 2004, Franz Müntefering (party chair of the SPD), speaking for the governing coalition of SPD and Greens, announced a draft law that would have made possible referenda at the federal level. The law was, however, not presented to the *Bundestag*. In all probability, the law would not have come into force before the ratification of the Constitutional Treaty to still allow a referendum.<sup>109</sup>

Parts of the opposition, such as the FDP and some circles of the CSU would have likewise supported a referendum.

Shortly before the parliamentary ratification, CSU parliamentarian Peter Gauweiler once again raised the issue of a German referendum and filed a case with the Federal Constitutional Court. According to his arguments, the European constitution had to be legitimised directly by the people. In addition, the priority of European law over national law does not cohere with the German Basic Law, and a referendum according to Art. 146 of the Basic Law<sup>110</sup> is necessary.<sup>111</sup> However, the court initially rejected the claim as inadmissible since no ratification had as yet been completed. Gauweiler thus made his complaint against the Constitutional Treaty after the parliamentary ratification was completed.<sup>112</sup> Federal President Köhler then declared that he would withhold his signature from the certificate of ratification until the Federal Constitutional Court had decided the case.

#### Against:

The CDU is fundamentally opposed to the possibility of referenda at the federal level; in the summer of 2004, however, the party discussed whether an exception should be made for the European constitution. The majority

<sup>109</sup> Cf. Kein deutsches Referendum zur EU-Verfassung [www.netzeitung.de/spezial/europa/321113.html](http://www.netzeitung.de/spezial/europa/321113.html) Last accessed: 14.1.2005.

<sup>110</sup> Art. 146 Basic Law states: "This Basic Law, which, after the completion of the unification and freedom of Germany, applies to the entire German people, loses its validity on the day on which a constitution enters into force, which was passed by the German people in a free decision."

<sup>111</sup> Cf. Prantl, Heribert: Karlsruhe soll die Brücke sperren, in: Süddeutsche Zeitung vom 21.4.2005, p. 5.

<sup>112</sup> Cf. Zugeständnisse Schröders an die Länder – Mahnende Worte aus Karlsruhe zu Europa, in: Frankfurter Allgemeine Zeitung vom 29.4.2005, p. 1f.



rejected this with the justification that, for the SPD, a referendum would be an excuse simply to distract the population from the problems associated with labour market reforms.<sup>113</sup>

In January 2005 it became clear that the draft law of the SPD and Greens would not receive the necessary majority to make an exception for a referendum on the Constitutional Treaty.<sup>114</sup> Thus, support for such a law in government ranks strongly ebbed. The change in the national mood in France provided the SPD with an example of the dangers of direct democratic processes to such an extent that it decided against re-opening the debate, as some Social Democrats in the party demanded.<sup>115</sup>

### Positions Toward the Constitutional Treaty:

#### For:

Although all parties represented in the *Bundestag* expressed support for the Constitutional Treaty,<sup>116</sup> a conflict did emerge between the German states and the federal government. Especially the CDU-led states demanded amendments regarding their rights to participation. A delay of the ratification in the *Bundesrat* could have been used as a means to apply pressure in the event of further disagreement<sup>117</sup>, but the ratification itself was never in immediate danger.

The coalition agreement<sup>118</sup> between CDU, CSU and SPD clearly expresses its support for the EU Constitutional Treaty. The document makes the EU “more democratic, more capable to act, more efficient and more transparent.” In addition, the coalition agreement envisions a continuation of the ratification process, which is to receive new impetus during the German

Council Presidency in the first semester of 2007. In her government declaration of 1 May 2006, Chancellor Merkel pleaded for a new justification for the EU that would have relevance in the 21<sup>st</sup> century and that would place the citizen in the centre. Furthermore, the EU should become especially visible in the areas of economic dynamism, security and the capacity to act, according to Merkel.<sup>119</sup> She thus demanded a clear distribution of competences through the adoption of the Constitutional Treaty. She stated that the rejections in France and the Netherlands certainly represented setbacks, but they would not change her convictions.<sup>120</sup> At a special meeting of EU foreign ministers in Stift Klosterberg in May 2006, Frank-Walter Steinmeier announced the intention of the German government to make a “sustainable proposal” for a solution to the constitutional crisis in June 2007.<sup>121</sup> Further steps in the ratification process would then be discussed more intensively during the German Council presidency. Concerning the possible entry of the treaty into force, Steinmeier stated, “My timetable is roughly set for 2009.”<sup>122</sup>

#### Against:

At the time of parliamentary ratification, only the PDS (represented by two members in the *Bundestag*) rejected the Constitutional Treaty because it was too liberal, too undemocratic and too militaristic.<sup>123</sup>

At the beginning of May 2005, it became known that roughly 20 CDU representatives would also reject the Constitutional Treaty in the vote on ratification.

The Left Party, elected to the *Bundestag* in September 2005 with 53 representatives, supports revising the contents of the Constitutional Treaty, as the current version is defined too much by liberalisation, social welfare cuts and military build-up. The Left Party furthermore believes that the Constitutional Treaty should not be rescued by any “dirty tricks”, and it is in favour of a document that promotes “democ-

<sup>113</sup> Cf. Diering, Frank/Graw Ansgar: Die Mehrheit der Deutschen für Volksentscheide und EU-Referendum, in: Die Welt vom 1. September 2004.

<sup>114</sup> Cf. Kein deutsches Referendum zur EU-Verfassung, *Op. Cit.*

<sup>115</sup> Cf. Benoit, Bertrand: Silence is golden as Germany avoids treaty vote, in: The Financial Times vom 21.4.2005, p. 2.

<sup>116</sup> Cf. *Ibid.*

<sup>117</sup> Cf. Bannas, Günter: Eine gute Gelegenheit, wie die Union im Bundesrat europapolitische Interessen durchsetzen will, in: Frankfurter Allgemeine Zeitung vom 25. April 2005, p. 1.

<sup>118</sup> Koalitionsvertrag von CDU, CSU und SPD: Kapitel IX, Deutschland als verantwortungsbewusster Partner in Europa und der Welt, [www.bundesregierung.de/nn\\_22994/Content/DE/StatischeSeiten/Breg/koalitionsvertrag-9.html](http://www.bundesregierung.de/nn_22994/Content/DE/StatischeSeiten/Breg/koalitionsvertrag-9.html)

<sup>119</sup> Cf. Projekt Europa braucht eine Neubegründung, 11.5.2006, [www.sueddeutsche.de](http://www.sueddeutsche.de)

<sup>120</sup> Cf. Das deutsche Schweigen zur EU-Verfassung soll anhalten, 12.5.2006, [www.welt.de](http://www.welt.de)

<sup>121</sup> Cf. Deutschland will EU-Verfassungskrise bis 2009 lösen, 29.5.06, [www.welt.de](http://www.welt.de)

<sup>122</sup> *Ibid.*

<sup>123</sup> Cf. Plenardebatte Deutscher Bundestag vom 2.7.2004 [dip.bundestag.de/dtp/15/15119.pdf](http://dip.bundestag.de/dtp/15/15119.pdf)



ratio legitimacy, social responsibility and demilitarisation.<sup>124</sup>

### Public Opinion:

A majority of Germans (86%) would welcome the possibility of referenda at the federal level, and 78% supported the idea of a referendum in Germany on the future EU constitution.<sup>125</sup> According to the Eurobarometer survey, 54% of Germans endorsed the Constitutional Treaty and only 17% were opposed to it, though 30% were still undecided.<sup>126</sup> A survey conducted at the beginning of May 2005 by Infratest dimap showed that 59% of Germans would vote yes in a referendum and 15% would vote no. 26% of respondents indicated they were undecided, providing the reason that they were not informed enough about the constitution.<sup>127</sup> According to the most recent Eurobarometer survey (July 2006), 71% of Germans find sensible the idea of a European constitutional treaty and only 19% do not; 9% are still undecided.<sup>128</sup>

## Great Britain

### Date of Ratification:

A draft law (European Union Bill), which would implement the Constitutional Treaty into British law, was introduced in the House of Commons for a first reading by Foreign Minister Jack Straw on 25 January 2005 and was again debated on 9 February 2005.<sup>129</sup> In addition, the bill lays out the details of the referendum, e.g. the exact formulation of the question (“Should the UK approve the Treaty establishing a Constitution for the European Union?”), which should be posed to the people.<sup>130</sup> In the run-up to the lower house elec-

<sup>124</sup> Die Linke: Press release, Die Linke will neue EU-Verfassung und keine faulen Tricks, 29.5.2006, [www.linksfraktion.de](http://www.linksfraktion.de)

<sup>125</sup> Cf. Diering, Frank/Graw Ansgar: Die Mehrheit der Deutschen für Volksentscheide und EU-Referendum, *Op. Cit.*

<sup>126</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>127</sup> Cf. Umfrage: Mehrheit der Deutschen für EU-Verfassung, in: der Standard vom 8.5.2005.

<sup>128</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

<sup>129</sup> Cf. <http://bills.ais.co.uk/DH.asp?title=d#top>

<sup>130</sup> Cf. The draft law is available at: <http://www.publications.parliament.uk/pa/cm200405/cmbills/045/2005045.pdf>, Last accessed: 8.2.2005.

tions of 5 May, Prime Minister Tony Blair did not want to commit himself to a concrete timetable and indicated only that the referendum is planned for sometime in 2006.<sup>131</sup> However, Foreign Minister Jack Straw **cancelled the British referendum** at the beginning of June, after the rejection of Constitutional Treaty in France and the Netherlands.<sup>132</sup> After the reflection period was extended by the European Council (June 2006) for one year, Tony Blair said that he agreed with the reflection period because the Constitutional Treaty should be discussed over a longer period of time. During this pause, other topics should also be intensively considered in order to communicate Europe to its citizens better. Energy and immigration policy are most important to the citizens, according to Blair. Only when the EU delivers progress in these areas does it have a better chance of receiving the approval of the population for further institutional developments.<sup>133</sup>

### Method of Ratification:

Referendum with parliamentary confirmation

### Constitutional Basis for Holding a National Referendum:

No legal basis; facultative referendum; by initiative of parliament

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

Both the Labour government and the conservative opposition decided in favour of the referendum. In doing so, the government sought to link the vote to the one on the Euro. The referendum was supposed to take place following the House of Commons elections in May 2005 and the British Council presidency, which ended in December 2005.<sup>134</sup> Because it is becoming more probable that the Constitutional Treaty will be presented in an amended or simplified form by the end of 2008, the Con-

<sup>131</sup> Cf. Carter, Richard: UK government fires starting gun for referendum campaign, 26.1.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>132</sup> Cf. London sagt Referendum ab, 6.6.2005, in: FAZ-Net.

<sup>133</sup> Cf. Blair wants EU to focus on people's issues, 16.7.2006, [www.eubusiness.com](http://www.eubusiness.com)

<sup>134</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 63.

servatives continue to insist on a referendum for any transfer of power to the EU. An increase of the power of Europe may only proceed with the approval of the people.<sup>135</sup>

### **Positions Toward the Constitutional Treaty:**

#### **For:**

The British government under Tony Blair supports the Constitutional Treaty. It views the document as a chance for Great Britain to profile itself as a vanguard state that participates decisively in determining the direction of the EU.

#### **Against:**

The Conservatives – traditionally eurosceptic – would support the rejection of the Constitutional Treaty in a referendum campaign. A continuation of the integration process above and beyond the single internal market is not desirable. In addition, the Conservatives have indicated their readiness to declare the Constitutional Treaty dead.<sup>136</sup>

The Europe-hostile UKIP has also come out against the Constitutional Treaty and will campaign for its rejection.

#### **Public Opinion:**

As of the end of January 2005: Public opinion in Great Britain was completely unclear. According to a Sunday Telegraph survey, 39% support the EU constitution and 41% are against it. The remaining 20% are still undecided.<sup>137</sup> Other more eurosceptical daily newspapers, such as The Sun or the Daily Telegraph have published significantly more pessimistic results. According to their surveys, only 24% are for and approximately 50% are against. However, only 51% of British indicate they have permanently made up their minds.<sup>138</sup> The results are also dependent on the different formulations of the question. Respondents tend to respond more positively to words such as “treaty” or “support”, which is in stark contrast to when the question is posed, whether Great

Britain should sign the Constitutional Treaty.<sup>139</sup>

The rejections in France and the Netherlands further strengthened the British constitutional opponents. In case of a continuation of the British ratification process, the chance for a positive referendum would be even lower than before the referenda in France and the Netherlands. Most importantly, voices are gaining prominence, which declare the Constitutional Treaty “dead”. According to a current Eurobarometer (June 2006), 42% of British are for the Constitutional Treaty, 33% are against it and 25% claim they are still undecided.<sup>140</sup> However, the surveys indicate the British hardly distinguish between the idea of a constitutional treaty and the proposed document. 42% are fundamentally in agreement with the concept of a constitutional treaty and 35% hold a negative attitude toward the idea; 24% are still undecided on the question.<sup>141</sup>

## **Greece**

### **Date of Ratification:**

The parliamentary ratification took place on 19 April 2005. 268 of the 300 MPs voted for the Constitutional Treaty. 17 MPs voted against and 15 abstained.<sup>142</sup>

### **Method of Ratification:**

Parliamentary

### **Constitutional Basis for Holding a National Referendum:**

Facultative, binding referendum at the initiative of the president with the agreement of an absolute majority in “important issues of the national interest.”

### **Positions Toward a National Referendum on the Constitutional Treaty:**

#### **For:**

After the parliamentary ratification, the coalition of the progressive left and the socialists

<sup>135</sup> Cf. The Daily Telegraph: Tories warn of EU constitution revival, 24.6.2006, [www.telegraph.co.uk](http://www.telegraph.co.uk)

<sup>136</sup> Cf. *Ibid.*

<sup>137</sup> Cf. New poll sees greater British backing for EU constitution, 1.2.2005, [www.eubusiness.com](http://www.eubusiness.com)

<sup>138</sup> Cf. Fight for EU constitution begins now for Britain’s Blair, 1.2.2005, [www.eubusiness.com](http://www.eubusiness.com)

<sup>139</sup> Cf. Carter, Richard: UK ‘yes’ camp takes lead for first time, 9.2.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>140</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

<sup>141</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

<sup>142</sup> Cf. Sapp, Meghan: EU welcomes Greek backing for constitution, 20.4.2005, [www.euobserver.com](http://www.euobserver.com)

argued for a consultative referendum. However, the motion was rejected by parliament (165 yes-votes to 125 no-votes).<sup>143</sup>

**Against:**

The conservative government rejected a referendum because the left wanted to connect it with a fundamental debate on Europe.<sup>144</sup> The government also feared the political consequences of a negative result in a consultative referendum.<sup>145</sup>

**Positions Toward the Constitutional Treaty:**

**For:**

Both the governing parties and the socialist opposition party, the PASOK, called for the ratification of the Constitutional Treaty. In February 2006, after a meeting with his Spanish counterpart, Greek Foreign Minister Petros Molyviatis stated, "We have agreed...to revive the debate on the ratification of the constitution."<sup>146</sup>

**Against:**

Only the coalition of the progressive left Synaspismos and the Communist Unity Party KKE reject the constitution.<sup>147</sup>

**Public Opinion:**

The public showed itself rather ambivalent toward the Constitutional Treaty. According to the Eurobarometer survey from January 2005, only 34% of Greeks would have supported the adoption of the Constitutional Treaty; 11% would have rejected it. More than half of Greeks (55%) indicated that they were undecided on this question.<sup>148</sup> 62% of Greeks support the general concept of a constitutional treaty, while 35% reject it.<sup>149</sup> 49% of Greeks support a renegotiation of the current Constitutional Treaty and 28% support the continuation of the ratification process.<sup>150</sup>

<sup>143</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 60.

<sup>144</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 30.

<sup>145</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 60.

<sup>146</sup> Agence France Presse: Greece and Spain seek to revive EU constitution debate, 7.2.2006.

<sup>147</sup> Cf. [www.kas.de/db\\_files/dokumente/7\\_dokument\\_dok\\_pdf\\_5850\\_1.pdf](http://www.kas.de/db_files/dokumente/7_dokument_dok_pdf_5850_1.pdf) Last accessed: 8.2.2005.

<sup>148</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>149</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

<sup>150</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 132

## Hungary

**Date of Ratification:**

Hungary was the second member state to ratify the Constitutional Treaty, doing so on **20 December 2004**. 304 deputies voted for and nine voted against.

**Method of Ratification:**

Parliamentary

**Constitutional Basis for Holding a National Referendum:**

Facultative referendum at the initiative of parliament or the president; authorised by law.

**Positions Toward a National Referendum on the Constitutional Treaty:**

**For:**

Only one of the four parliamentary parties, the Alliance of Free Democrats, called for a ratification by referendum.<sup>151</sup>

**Positions Toward the Constitutional Treaty:**

**For:**

All parties in the Hungarian parliament supported the Constitutional Treaty.<sup>152</sup> President Laszlo Solyom recently expressed his support for the Constitutional Treaty by calling on all member states to ratify the document, especially in order to be able to behave univocally in foreign policy.<sup>153</sup>

**Public Opinion:**

60% of the population also supports the treaty, with only 9% against. 31% claimed to be undecided in the question.<sup>154</sup> In the Eurobarometer survey of July 2006, 78% of Hungarians fundamentally supported the concept of a European constitutional treaty, 8% were opposed to it and 15% had not formed any opinion on the matter.<sup>155</sup>

<sup>151</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 32.

<sup>152</sup> Cf. *Ibid.*, p. 32.

<sup>153</sup> Agence France Presse: Hungary urges Estonia, rest of EU to ratify constitution, 27.3.06.

<sup>154</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>155</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

## Ireland

### Date of Ratification:

A referendum was expected for the **end of 2005**.<sup>156</sup> However, Ireland announced during the European Council of 16-17 June 2005 that it would **postpone its referendum indefinitely**.<sup>157</sup> Foreign Minister Dermot Ahern stated that Ireland would postpone a referendum on the disputed document until the treaty gains more support in Europe. In the meantime, Ireland will “support sensible projects that the public can identify with”, in order to thus convince the voters of the Constitutional Treaty. Ahern also continued to offer his satisfaction with a “longer reflection period”.<sup>158</sup> At a press conference after the June 2006 European Council, the foreign minister gave his assurance that the Irish government still has a very positive attitude toward the Constitutional Treaty, but he did not state a timetable for a referendum on ratification in Ireland.<sup>159</sup>

### Method of Ratification:

Referendum + parliamentary approval

### Constitutional Basis for Holding a National Referendum:

In every EU treaty revision and the thus resulting need to amend the Irish constitution, a referendum, in addition to the approval of both chambers of parliament, is obligatory.

### Positions Toward the Constitutional Treaty: For:

The majority of political parties, such as Fianna Fail, Fine Gael Green Party, the Labour Party, Progressive Democrats and the Socialist Party, supports the adoption of the Constitutional Treaty.<sup>160</sup> However, the Green Party criticises the reflection period because it produced confusion. A more constructive ap-

<sup>156</sup> Cf. Bennhold, Kartin: EU treaty’s long march faces big test in France, *Op. Cit.*, p. 4.

<sup>157</sup> Cf. Bulletin Quotidien Europe No. 8971, 18.6.2005, p. 6

<sup>158</sup> Cf. Daily Mail (London): Poll on EU constitution delayed indefinitely, 16.6.2006.

<sup>159</sup> Cf. The Irish Times: Republic committed to constitution, says Ahern, 16.6.2006.

<sup>160</sup> Cf. Kurpas/Incerti/Schönlau: What prospects for the European Constitutional Treaty?, *Op. Cit.*, p. 5.

proach would be the introduction of the uncontested elements of the treaty, which can be ratified without a referendum.<sup>161</sup> Prime Minister Bertie Ahern made clear in June 2006 his continued support for the Constitutional Treaty. It should come into force “as soon as the circumstances allow.”<sup>162</sup>

### Against:

The Sinn Fein party is the only party that has come out expressly against a ratification of the Constitutional Treaty. In its eyes, the document places Irish sovereignty in question and is an additional step toward the creation of a European superstate.<sup>163</sup>

### Public Opinion:

Since the “No” to Nice, a “Yes” to EU treaties in Ireland is questionable. The Eurobarometer survey of January 2005 highlighted this uncertainty. According to that poll, 67% of Irish were still completely undecided and only 28% supported the adoption of the Constitutional Treaty.<sup>164</sup> The rates of approval following the French and Dutch rejection proved that the adoption in an eventual continuation of the ratification process by the Irish population is still uncertain. According to a poll by the Irish Times from the start of June 2005, only 30% support the Constitutional Treaty while 35% would reject it.<sup>165</sup> More recent polls see the situation somewhat more positively, with 48% for, 12% against and 40% undecided in a Eurobarometer poll.<sup>166</sup>

## Italy

### Date of Ratification:

According to statements by Italian Foreign Minister Frattini, Italy wanted to be the first member state – before Christmas 2004 – to

<sup>161</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 66.

<sup>162</sup> Associated Press Worldstream, “EU constitution central to debate on Europe’s future, Irish prime minister says”, 21. Juni 2006.

<sup>163</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 32.

<sup>164</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>165</sup> Cf. Ireland also likely to vote against EU constitution: poll, 13.6.2005, [www.eubusiness.com](http://www.eubusiness.com)

<sup>166</sup> Cf. The Irish Times: Only 12% of Irish people oppose EU constitution, survey shows, 6.7.2006.



ratify the constitution.<sup>167</sup> This timetable, however, was not kept, but the ratification process was concluded on **26 January 2005** in the Chamber of Deputies (436 yes-votes, 28 no-votes and 45 abstentions).<sup>168</sup> The Senate then made the Italian ratification perfect. On **6 April**, 217 Senators voted for and only 16 voted against the Constitutional Treaty.<sup>169</sup>

#### **Method of Ratification:**

Parliamentary

#### **Constitutional Basis for Holding a National Referendum:**

Facultative, binding referendum for constitutional amendments; facultative, consultative referendum upon the initiative of parliament; referenda on international treaties excluded.

#### **Positions Toward a National Referendum on the Constitutional Treaty:**

##### **For:**

Both then Prime Minister Berlusconi and then Foreign Minister Franco Frattini came out in support of a referendum in August 2004.<sup>170</sup>

##### **Against:**

The majority of parties and the Italian president Ciampi, however, decided against a referendum.<sup>171</sup>

#### **Positions Toward the Constitutional Treaty:**

##### **For:**

The majority of the Italian parties supported the Constitutional Treaty. The new Prime Minister Romano Prodi calls European integration Italy's largest foreign policy priority and repeatedly stated that his government will work to strengthen Europe. However, Prodi admitted that the Constitutional Treaty must be significantly changed before it can be revived. More-

over, further progress in the run-up to the French presidential elections are rather improbable.<sup>172</sup> At a press conference with German Foreign Minister Frank-Walter Steinmeier, Italian Foreign Minister Nassimo D'Alema made clear that Italy and Germany would work together to be able to present an amended treaty by the end of the German Council presidency in June 2007: "Germany and Italy have a common task...I believe we can find a good compromise."<sup>173</sup>

##### **Against:**

The Greens and the Northern League expressed some reservations.<sup>174</sup> In addition, the reformed Communists (PRC) deemed the Constitutional Treaty too liberal and without sufficient assurances for basic social rights.<sup>175</sup>

#### **Public Opinion:**

According to the Eurobarometer of September 2005, the Italian population supported the adoption of the Constitutional Treaty with 74%. Only 11% were against a ratification and 13% were undecided.<sup>176</sup>

## **Latvia**

#### **Date of Ratification:**

In December 2004, the Latvian parliament began its debate on the Constitutional Treaty.<sup>177</sup> Despite the rejection in France and the Netherlands, the Latvian parliament ratified the Constitutional Treaty on **2 June 2005** with a vote of 71 to 5 with 6 abstentions (100 deputies in total).<sup>178</sup>

#### **Method of Ratification:**

Parliamentary

<sup>167</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 32.

<sup>168</sup> Cf. Kurpas/Incerti/Schönlaue: What prospects for the European Constitutional Treaty?, *Op. Cit.*, p. 8.

<sup>169</sup> Cf. Mahony, Honor: Italy ratifies European Constitution, vom 7.4.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>170</sup> Cf. [http://www.unizar.es/euroconstitucion/Treaties/Treaty\\_Const\\_Rat\\_Italy.htm](http://www.unizar.es/euroconstitucion/Treaties/Treaty_Const_Rat_Italy.htm)

<sup>171</sup> Cf. Interview with Ex-Foreign Minister Franco Frattini, in La Stampa of 21.10.2004, [http://www.esteri.it/eng/6\\_38\\_90\\_01.asp?id=1446&mod=2&min=1](http://www.esteri.it/eng/6_38_90_01.asp?id=1446&mod=2&min=1) Last accessed: 8.2.2005

<sup>172</sup> Associated Press Worldstream: EU draft faces a significant rewrite, Italian premier says, 13.6.2006.

<sup>173</sup> Deutsche Presse-Agentur: Italy vows push with Germany for EU constitution, 28.6.2006.

<sup>174</sup> Cf. Interview mit Ex-Außenminister Franco Frattini, *Op. Cit.*

<sup>175</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 69.

<sup>176</sup> Cf. Eurobarometer, September 2005, *Op. Cit.*, p. 134.

<sup>177</sup> Cf. [http://www.kas.de/db\\_files/dokumente/7\\_dokument\\_dok\\_pdf\\_5850\\_1.pdf](http://www.kas.de/db_files/dokumente/7_dokument_dok_pdf_5850_1.pdf)

<sup>178</sup> Cf. Vucheva, Elitsa: Latvia ratifies EU constitution, 2.6.2005, [www.euobserver.com](http://www.euobserver.com)



### **Constitutional Basis for Holding a National Referendum:**

Referenda on international treaties excluded; obligatory, binding referendum for amendments to the constitution.

### **Positions Toward a National Referendum on the Constitutional Treaty:**

#### **For:**

Only the Green PCTVL called for a referendum.

#### **Against:**

Despite the constitutional basis, President Vaira Vike-Freiberga and Foreign Minister Artis Pabriks worked to oppose holding a referendum, since they believed one was not necessary. In essence, the Constitutional Treaty would not change any of the conditions of Latvian membership in the EU. The approval of the people for EU accession represented sufficient legitimation. The Latvian parliament followed this argument and rejected the motion of the Green PCTVL for a referendum.<sup>179</sup>

### **Positions Toward the Constitutional Treaty:**

#### **For:**

The majority of political parties have come out in support of the adoption of the Constitutional Treaty.<sup>180</sup>

### **Public Opinion:**

If a referendum were held, Eurobarometer (January 2005) indicates that 41% of Latvians would have voted for the Constitutional Treaty and 16% would have voted against it. A large number of 43% of Latvians would have been undecided.<sup>181</sup> According to the most recent Eurobarometer poll (July 2006), 52% of Latvians are for the adoption of a constitutional treaty for the EU, while 17% are against and 31% are undecided.<sup>182</sup>

<sup>179</sup> Cf. [http://www.unizar.es/euroconstitucion/Treaties/Treaty\\_Const\\_Rat\\_latvia.htm](http://www.unizar.es/euroconstitucion/Treaties/Treaty_Const_Rat_latvia.htm) Last accessed: 14.12.2004

<sup>180</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 37.

<sup>181</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>182</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

## **Lithuania**

### **Date of Ratification:**

Just two weeks after it was signed by all 25 member states in Rome on 29 October 2004, the Lithuanian parliament passed the EU Constitutional Treaty on **11 November 2004** (84 deputies voted for, 4 against and 3 abstained). Lithuania thus became the first country to ratify the Constitutional Treaty.<sup>183</sup>

### **Method of Ratification:**

Parliamentary

### **Constitutional Basis for Holding a National Referendum:**

Obligatory referendum on approval of or amendment to the constitution or certain constitutional articles;

Facultative referendum in important questions of the life of state and people.

### **Positions Toward a National Referendum on the Constitutional Treaty:**

#### **For:**

For Prime Minister Algirdas Brazauskas, a referendum was not necessary, since Lithuanians had already voted for EU accession.<sup>184</sup>

### **Positions Toward the Constitutional Treaty:**

#### **For:**

The majority of political parties supports the adoption of the Constitutional Treaty.

### **Public Opinion:**

There was no public debate on the Constitutional Treaty. A Eurobarometer poll submits that 51% of Lithuanians would have voted for and 11% would have voted against the Constitutional Treaty. 38% had no opinion on the issue.<sup>185</sup> According to the newest Eurobarometer survey, 58% of Lithuanians fundamentally support the concept of a European constitutional treaty. 16% are opposed and 26% undecided.<sup>186</sup>

<sup>183</sup> Cf. Mahony, Honor; Žemaitytė, Jurgita: Lithuania first to ratify EU Constitution, 11.11.2004, [www.euobserver.com](http://www.euobserver.com)

<sup>184</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 40.

<sup>185</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>186</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

## Luxembourg

### Date of Ratification:

The referendum took place on **1 July 2005**.<sup>187</sup> After brief deliberation as to whether the Luxembourg referendum is even sensible after the failure of the Constitutional Treaty in France and the Netherlands, the Luxembourg premier came to the decision to hold the referendum as planned and announced that he would respect the vote of the people,<sup>188</sup> but not without linking his own political fate on the results of this referendum.<sup>189</sup>

**56.52% of Luxembourgers followed their government and voted for the Constitutional Treaty. 43.48% voted against it.**<sup>190</sup>

Two weeks before the planned referendum on 28 June, Luxembourg's parliament passed the first legislative proposal on the Constitutional Treaty. All 55 deputies present voted in favour. 5 deputies from the ADR parties remained absent from the voting.<sup>191</sup> After the positive result of the referendum, the parliament had to permanently ratify the Constitutional Treaty in a second reading on **25 October 2005**, in which 57 voted for the document and only one voted against it.<sup>192</sup>

### Method of Ratification:

Parliamentary + consultative referendum

### Constitutional Basis for Holding a National Referendum:

Facultative, consultative referendum.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

For the first time in the entire European integration process, the adoption of a document

<sup>187</sup> Cf. Bennhold, Kartin: EU treaty's long march faces big test in France, *Op. Cit.*, p. 4.

<sup>188</sup> Cf. Mahony, Honor: Luxembourg continues with referendum plans, 20.6.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>189</sup> Cf. Laitner, Sarah: Juncker puts his career on the time at EU summit, in: Financial Times vom 14.6.2005, p. 4.

<sup>190</sup> Cf. Vucheva, Elitsa: Luxembourg says yes to EU constitution, 10.7.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>191</sup> Cf. Mahony, Honor: Luxemburg parliament ratifies EU constitution, 29.6.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>192</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, pp. 77-78.

negotiated in the EC/EU was decided by referendum in Luxembourg. Both the government and opposition parties came out in support of the vote. The last referendum in Luxembourg dates back to the year 1936.<sup>193</sup>

### Positions Toward the Constitutional Treaty:

#### For:

Both the governing parties and the majority of the opposition parties came out in support of the adoption of the Constitutional Treaty. When receiving the Charlemagne Prize on 24 May 2006, Luxembourg Premier Jean-Claude Juncker made clear that the Constitutional Treaty is in no way dead: "This constitution is not dead. It is not enough when just two [France and the Netherlands] declare something as dead, rather all must declare it as dead." In addition, Juncker said he will continue to fight for the Constitutional Treaty.<sup>194</sup>

#### Against:

Only a small group of lobbyists, such as left-wing pacifists and globalisation opponents resisted the ratification.<sup>195</sup> To a certain extent, the overwhelmingly positive result of the ratification in the Luxembourg parliament does not reflect the true attitudes in the party landscape. The populist ARD only supported the Constitutional Treaty in order to respect the will of the majority of Luxembourgers. The radical left-wing Socialists and the Greens did not vote yes out of political conviction, but rather because the Constitutional Treaty is already dead due to the French and Dutch rejections.<sup>196</sup>

### Public Opinion:

The majority of Luxembourgers have very positive attitudes toward the European Union and there was thus initially no doubt that ratification by referendum would proceed without any problems.<sup>197</sup>

This was further highlighted by the Eurobarometer survey of January 2005, which indicated that 57% would vote for the Constitu-

<sup>193</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 42.

<sup>194</sup> Associated Press Worldstream: Luxembourg's Juncker insists EU constitution isn't dead, 25.5.2006.

<sup>195</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 42.

<sup>196</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 78.

<sup>197</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004 *Op. Cit.*, p. 42.

tional Treaty and only 12% against it, with about a third still undecided.<sup>198</sup>

The polls from the beginning of June 2005 seemed to show that the rejection of the Constitutional Treaty in France and the Netherlands led the one third undecided to swing completely into the camp of the constitutional opponents. Only 55% of Luxembourgers still wanted to vote for the Constitutional Treaty. 45% then disapproved of the treaty. Four weeks before the referendum, no more survey results were allowed to be published.<sup>199</sup> In the July 2006 Eurobarometer, 64% of Luxembourgers supported the concept of a constitutional treaty and 24% rejected it.<sup>200</sup>

## Malta

### Date of Ratification:

Malta ratified the Constitutional Treaty on **6 July 2005**. Malta was the first country to accept the Constitutional Treaty with a unanimous vote.<sup>201</sup>

### Method of Ratification:

Parliamentary

### Constitutional Basis for Holding a National Referendum:

A consultative referendum can be initiated by a the passage of a special law for that purpose.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### Against:

Ex-Prime Minister Eddie Fenech Adami announced that Malta will not hold a referendum, since the referendum on EU accession represented a clear vote in favour.<sup>202</sup>

### Positions Toward the Constitutional Treaty:

#### For:

The assumption of the nationalist government under Prime Minister Lawrence Gonzi that the

ratification will proceed smoothly was fully confirmed.<sup>203</sup> Although the eurosceptical opposition Labour Party initially opposed the Constitutional Treaty (it was also against Malta's EU accession), it changed course in the run-up to the ratification. In an internal party vote, it instead decided to support the Constitutional Treaty.<sup>204</sup>

### Public Opinion:

According to Eurobarometer (September 2005), 49% of the Maltese supported the Constitutional Treaty, 16% opposed it and 35% indicated that they were undecided in the question.<sup>205</sup>

## Netherlands

### Date of Ratification:

After the Dutch Senate had given its approval on 25 January 2005,<sup>206</sup> the Netherlands held a referendum for the first time in the country's history.<sup>207</sup> However, this was not a crowing achievement, since **more than 62% of Dutch rejected the Constitutional Treaty**.<sup>208</sup>

### Method of Ratification:

Referendum/parliamentary confirmation

### Constitutional Basis for Holding a National Referendum:

No legal basis; parliamentary majority for the introduction of a non-binding referendum. However, the government decided to respect the result of the referendum as though it were binding.<sup>209</sup>

<sup>203</sup> Cf. *Ibid.*, p. 43.

<sup>204</sup> Cf. Rufino, Filipe: Malta ratifies European constitution, *Op. Cit.*

<sup>205</sup> Cf. Eurobarometer, September 2005, *Op. Cit.*, p. 134.

<sup>206</sup> Cf. Beunderman, Mark: Dutch Constitution referendum gets final go-ahead, 25.1.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>207</sup> Cf. Vucheva, Elitsa: Dutch referendum date announced, 23.2.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>208</sup> Cf. Auch in den Niederlanden ein klares Nein, in: FAZ of 2.6.2005, p. 1.

<sup>209</sup> Cf. Termin für EU-Referendum in den Niederlanden festgelegt, in: Neue Zürcher Zeitung vom 24.2.2005.

<sup>198</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>199</sup> Cf. Mahony, Honor: Luxembourg continues with referendum plans, 20.6.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>200</sup> Cf. Eurobarometer, July 2006 *Op. Cit.*, p. 62.

<sup>201</sup> Cf. Rufino, Filipe: Malta ratifies European constitution, 7.7.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>202</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 43.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

A majority of the Dutch parliament supported a referendum. The initiative was introduced by the Partij van de Arbeid (Labour Party), Groen Links and the coalition-member Democraten 66 and was additionally supported by the Volkspartij voor Vrijheid en Democratie (also part of the governing coalition).<sup>210</sup> Concerning an amended treaty text, Wouter Bos, Chairman of the Partij van de Arbeid (Labour Party), supports an additional referendum.<sup>211</sup>

#### Against:

The governing Christian Democrats were opposed to the consultative referendum on the ratification of the Constitutional Treaty. Dutch Prime Minister Jan Peter Balkenende however announced his intention to respect the result.<sup>212</sup> In June 2006, Prime Minister Balkenende came out against a second referendum on a possible amended Constitutional Treaty or some other new EU treaty text: "Referenda are risky affairs. If one could avoid it, that would be my preference."<sup>213</sup> In the case of the eventual presentation of an amended constitutional text, the Dutch parliament would likely come under pressure to hold a second referendum.

### Positions Toward the Constitutional Treaty:

#### For:

The great majority of parties (Democraten 66 - D66, Groen Links - GL, Partij van de Arbeid, Socialistische Partij, Volkspartij voor Vrijheid en Democratie) came out in support of the Constitutional Treaty.

#### Against:

Parts of the opposition, such the Pim Fortuyn list, the Christian parties and the socialist left were against the Constitutional Treaty.<sup>214</sup> Although the Partij van de Arbeid counted among the ranks of the proponents of the constitution in the run-up to the last referendum, Party

Chairman Bos possesses a highly critical attitude toward the treaty. His most recent statements indicate that a social democratic government in the Netherlands could represent a rather uncooperative European partner.<sup>215</sup>

#### Public Opinion:

The Eurobarometer survey judged that, at the beginning of 2005, 63% of Dutch still supported the Constitutional Treaty, while 11% rejected it. 26% were undecided.<sup>216</sup> Critical newspaper articles, however, indicated already in February that the approval can in no way be considered certain and that the EU-sceptical attitude of the population would grow.<sup>217</sup> Another poll by Les Echos of 18 February 2005 showed that 42% of Dutch were against the project, 29% were for it and 30% were undecided.<sup>218</sup> Surveys from March and April 2005 demonstrated that the constitution's proponents and its opponents were approximately equal, although a large percentage of Dutch were still undecided. The government was forced to accept the criticism that it had not done enough to support the Constitutional Treaty.<sup>219</sup> When it became known that the Dutch Gulden was valued 5-10% too low at the time of the introduction of the Euro,<sup>220</sup> Dutch eurosceptics received even more impetus. In mid-May, a survey confirmed the upward trend of the opponents of the constitution. Accordingly, 54% of respondents indicated their opposition to the Constitutional Treaty and only 27% showed support for it.<sup>221</sup> As in France, this vote was first of all viewed as penalising the Dutch gov-

<sup>215</sup> Cf. Beunderman, Mark: Dutch PM hopeful demands second treaty referendum, 5.7.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>216</sup> Cf. Special Eurobarometer, January 2005, *Op. Cit.*, p. 10.

<sup>217</sup> Cf. Termin für EU-Referendum in den Niederlanden festgelegt, in: Neue Zürcher Zeitung vom 24.2.2005, p. 2.; Vote early, vote often, in: The Economist of 26.2.2005, p. 27.

<sup>218</sup> Cf. Larroutourom Pierre: Messieurs les Bataves, votez les premiers ..., in: Le Figaro of 28.2.2005, p. 11.

<sup>219</sup> Cf. Nienhuysen, Frank: Die Apathie ist unglaublich, in: Süddeutsche Zeitung of 20.4.2005, p. 8; sowie Stroobants, Jean-Pierre: Aux Pays-Bas, les partisans du oui craignent les effets d'un non français, in: Le Monde of 7.4.2005, p. 6.

<sup>220</sup> Cf. Beunderman, Mark: Euro row boosts Dutch No camp, 18.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>221</sup> Cf. Tiedemann, Elsbeth: Le non néerlandais s'impose dans les sondage, in: Le Figaro of 24.5.2005.

<sup>210</sup> Cf. The Netherlands likely to hold referendum on EU constitution, 12.9.2003, [www.euractiv.com](http://www.euractiv.com)

<sup>211</sup> Cf. Beunderman, Mark: Dutch PM hopeful demands second treaty referendum, 5.7.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>212</sup> Cf. The Netherlands likely to hold referendum on EU constitution, 12.9.2003, [www.euractiv.com](http://www.euractiv.com)

<sup>213</sup> Beunderman, Mark: Dutch leader seeks to avoid new EU treaty referendum, 1.6.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>214</sup> Cf. Termin für EU-Referendum in den Niederlanden festgelegt, in: Neue Zürcher Zeitung vom 24.2.2005.



ernment, although the vote for the rejection of the Constitutional Treaty in the Netherlands came even more decisively than in France. According to the Eurobarometer of June 2006, 58% of Dutch support the Constitutional Treaty. However, this should not be considered a surprising change of opinion, since participation in the Eurobarometer study does not exactly correspond to participation in the January 2005 referendum.<sup>222</sup> Should a new treaty text eventually be proposed, 83% of Dutch would be for a repeat referendum on its ratification.<sup>223</sup>

## Poland

### Date of Ratification:

A firm date for a referendum has not been set. There was only a certain basic consensus in the Polish government that the referendum should be held together with the presidential election (initially planned for 25 September and then fixed for 9 October)<sup>224</sup> On 21 June, Polish President Kwasniewski declared that Poland would not hold a referendum on 9 October.<sup>225</sup> However, he seized upon the Austrian proposal of a Europe-wide vote to end the Union crisis.<sup>226</sup> However, on 6 July, 189 deputies to 180 voted for the freezing of the ratification process in Poland.<sup>227</sup> In May 2006, Foreign Minister Anna Fotyga declared that Poland is in no hurry to ratify the Constitutional Treaty, and the reflection period will be used to its full extent.<sup>228</sup> Following a two-day summit in Brussels in June 2006, Prime Minister Kazimierz Marcinkiewicz expressed his agreement

<sup>222</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

<sup>223</sup> Cf. Beunderman, Mark: Dutch leader seeks to avoid new EU treaty referendum, 1.6.2006, *Op. Cit.*

<sup>224</sup> p. Poland to hold referendum on EU constitution in September, [http://english.people.com.cn/200503/05/print20050305\\_175664.html](http://english.people.com.cn/200503/05/print20050305_175664.html) Last accessed: 4.4.2005; Auch Polen erwägt späteres Referendum, in: Handelsblatt of 8.6.2005, p. 3.

<sup>225</sup> Cf. Rufion, Filipe: Portugal paves the way for future EU referendums, 22.6.2005

[www.euobserver.com](http://www.euobserver.com)

<sup>226</sup> Cf. Mahony, Honor: Polish president calls for referendum on EU, 27.6.2005,

[www.euobserver.com](http://www.euobserver.com)

<sup>227</sup> Cf. Rettman, Andrew: Poland kicks EU constitution into uncertain future, 6.7.2005,

[www.euobserver.com](http://www.euobserver.com)

<sup>228</sup> Cf. Associated Press Worldstream: Poland's new foreign minister says no rush to ratify EU constitution, 17.5.2006.

with the time table proposed by the Austrian presidency, according to which the EU finds a solution to the constitutional crisis by the end of 2008. Regarding the possibility of a referendum, Marcinkiewicz said only that there would be an active debate in Poland and a concrete decision on a referendum would be made only after two years.<sup>229</sup> Prime Minister Jaroslaw Kaczynski of the Law and Justice Party (PiS), named to the office in July 2006, held at his parliamentary confirmation a speech, which seemed not to correspond with his eurosceptical and anti-liberal reputation: "We want to be in the EU and take part in everything that leads to a solution of the current EU-crisis. This also means the introduction of new legal bases."<sup>230</sup>

### Method of Ratification:

Not yet permanently decided

### Constitutional Basis for Holding a National Referendum:

Facultative, binding referendum foreseen in three cases: for the transfer of sovereignty to supranational institutions (by parliamentary initiative); for amendments to parts of the constitution; for important issues at the initiative of the president, the Senate or 1/5 of the deputies.

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

President Aleksander Kwasniewski had announced a referendum, since the Constitutional Treaty was not to become an object of the political game in parliament. He is convinced of the fact that at least 65% of Poles will approve the adoption of the constitution.<sup>231</sup> He is supported by the governing Democratic Left Alliance (SLD). This attitude is explained primarily by the fact that the governing parties only have a narrow majority and a parliamentary ratification would require a 2/3 majority,

<sup>229</sup> Cf. BBC Worldwide Monitoring, PAP: Poland to take EU Constitution in "two years"—premier, 16.6.2006.

<sup>230</sup> Rettman, Andrew: Poland's new leader sets pro-EU tone, 20.7.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>231</sup> Cf. Polens Präsident vertraut seinen Bürgern, in: Handelsblatt of 28.2.2005, p. 6.



something which currently seems difficult to reach.<sup>232</sup>

**Against:**

The civil opposition parties, Citizens' Platform (PO) and Law and Justice (PiS), came out against a referendum and also against the Constitutional Treaty. They welcomed the postponement of the referendum.<sup>233</sup>

**Positions Toward the Constitutional Treaty:**

**For:**

The SLD and the SDPL, as well as the Union of Labour, all support the adoption of the Constitutional Treaty.

**Against:**

The civil catholic conservative opposition PO and PiS opposed the Constitutional Treaty on the one hand because it lacked a reference to Christianity in the Preamble<sup>234</sup>, and on the other because the Constitutional Treaty was viewed as a "dead" document following the referenda in France and the Netherlands. According to the opinion of the opposition, this is a poor treaty and they thus support a renegotiation.<sup>235</sup> After the change in the Spanish government in March 2004, the left-democratic Polish government also gave up its blockade position regarding the voting rules, which then allowed the conclusion of the Constitutional Treaty on 18 June 2004. Polish President Lech Kaczynski has meanwhile come out against the Constitutional Treaty. The document, he says, has no chance of being ratified, either by a referendum or in parliament. Moreover, he calls for a decentralised treaty that more intensively takes the interests of the member states into consideration.<sup>236</sup>

**Public Opinion:**

At the beginning of the year 2005, 68% of Poles supported the adoption of the Constitutional Treaty, although a possible referendum

would have only been valid when at least 50% turned out to vote. Only 42% of Poles indicated their intention to actually participate in the vote.<sup>237</sup> Despite sinking approval ratings (in May, 55% on average), the government remained ever confident that a possible referendum would have a positive result in the population. Nevertheless, the approval ratings here also started to sink following the rejections in France and the Netherlands, reaching as low as 40%. The percentage of opponents grew from 25 to 35%.<sup>238</sup>

After the referendum was cancelled and after the victory of the EU-sceptical parties in the parliamentary elections of September 2005<sup>239</sup>, the Constitutional Treaty could also fail in Poland if the civil parties raised a 2/3 majority against the ratification or if the possible referendum resulted in a negative decision on the Constitutional Treaty. It lately seems, however, that a certain dissonance exists between the Polish people and its eurosceptical government. According to a report by the Polish Institute of Public Affairs (ISP), 64% of Poles support EU membership and 68% the Constitutional Treaty. 52% support the idea of a European foreign minister and 52% are for a common European security force. The ISP report criticises the silence of the Polish government on EU political questions. 56% of Poles accordingly consider themselves uninformed about the Constitutional Treaty.<sup>240</sup>

According to the Eurobarometer of June 2006, 58% of Poles are for the Constitutional Treaty, 21% are against it and 21% are undecided on the question.<sup>241</sup>

## Portugal

**Date of Ratification:**

Despite the constitutional hurdle (changed since 22 June 2005), Prime Minister Pedro Lopez announced that a referendum would be organ-

<sup>232</sup> Cf. Carter, Richard: Poland pushes back election over Constitution fears, 1.2.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>233</sup> Cf. Raabe, Stephan: Polen drei Monate vor den Wahlen, KAS Länderberichte 7.7.2005.

<sup>234</sup> Cf. Kurpas/Incerti/Schönlau: What prospects for the European Constitutional Treaty?, *Op. Cit.*, p. 5.

<sup>235</sup> Cf. Raabe: Polen drei Monate, *Op. Cit.*

<sup>236</sup> Cf. Beunderman, Mark: 'No Chance' for EU constitution in Poland, Kaczynski says, 24.2.2006, [www.euobserver.com](http://www.euobserver.com)

<sup>237</sup> Cf. [http://www.cbos.pl/Opinia/2004/11\\_2004.pdf](http://www.cbos.pl/Opinia/2004/11_2004.pdf) Last accessed: 2.2.2005.

<sup>238</sup> Cf. Poland wants EU referendum despite French, Dutch 'no', 2.6.2005, [www.Eubusiness.com](http://www.Eubusiness.com); Poland loses taste for EU constitution after French, Dutch reject it, 8.6.2005, [www.eubusiness.com](http://www.eubusiness.com)

<sup>239</sup> Cf. Raabe: Polen drei Monate, *Op. Cit.*

<sup>240</sup> Cf. Instytut Spraw Publicznych: Polish public opinion on the European Union and the constitutional treaty, 8.6.2006, [www.isp.org/pl](http://www.isp.org/pl)

<sup>241</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

ised for April 2005.<sup>242</sup> However, the new regime under José Socrates, which emerged from the parliamentary elections of 20 February 2005, postponed the date of the referendum to fall 2005. An amendment to the Portuguese constitution was first necessary. The referendum was then supposed to be held together with local elections in Portugal.<sup>243</sup> However, Portugal eventually postponed its referendum indefinitely due to the French and Dutch “no”.<sup>244</sup> Because the Portuguese Council presidency begins in July 2007, Prime Minister Socrates has taken it upon himself to revive the Constitutional Treaty.<sup>245</sup> He also expressed the opinion that the Constitutional Treaty is in no way dead and the EU needs to agree upon one text. Socrates however indicated that the EU must accept a reformulation of the treaty text before it can be presented to the people in a referendum.<sup>246</sup>

### Method of Ratification:

Referendum

### Constitutional Basis for Holding a National Referendum:

Facultative referendum (initiated by the state president on the recommendation of the government / parliament, or by citizens' petition); binding with a turn-out of at least 50% of registered voters.

Referenda excluded for international treaties.<sup>247</sup>

The Portuguese parliament passed the amendment to the constitution on 22 June 2005, which made referenda possible for EU treaties.<sup>248</sup>

<sup>242</sup> Cf. Kurpas/Incerti/Schönlau: What prospects for the European Constitutional Treaty?, *Op. Cit.*, p. 4.

<sup>243</sup> Cf. Kubosova, Lucia: Portugal to vote on EU Constitution in December, 14.3.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>244</sup> Cf. Bulletin Quotidien Europe No. 8971, 18.6.2005, p. 6.

<sup>245</sup> Cf. Agence France Presse: Portugal wants to revive EU constitution: premier, 20.12.2005.

<sup>246</sup> Cf. Associated Press Worldstream: Finnish, Portuguese PMs upbeat on EU constitution, 6.3.2006.

<sup>247</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 50.

<sup>248</sup> Cf. Rufino, Filipe: Portugal paves the way for future EU referendums, 22.6.2005, [www.euobserver.com](http://www.euobserver.com)

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

In the run-up to the French and Dutch referenda, a referendum on the ratification of the Constitutional Treaty in Portugal was supported by both the government and opposition parties.<sup>249</sup>

### Positions Toward the Constitutional Treaty:

#### For:

Both the government (Social Democratic Party-PSD) and the majority of the opposition parties (including the Socialist Party) have come out in support of the adoption of the text.

#### Against:

Only two extreme left-wing parties (PCP and BE) withheld their approval of the Constitutional Treaty.<sup>250</sup>

### Public Opinion:

According to surveys from the year 2004, 57% of Portuguese supported the constitutional text.<sup>251</sup> But after the French and Dutch referenda, the margin of support in Portugal was only razor-thin. In a survey for the newspaper Expresso from 10 June 2005, 50.8% expressed support for and 49.2% opposition to the Constitutional Treaty.<sup>252</sup> The Eurobarometer poll published in June 2005 states that 55% of Portuguese support the Constitutional Treaty, 13% reject it and 32% are still undecided.<sup>253</sup>

## Romania

### Date of Ratification:

On **17 May 2005**, the two chambers of the Romanian parliament unanimously ratified the Accession Treaty between the Member States of the European Union and the Republic of Bulgaria and Romania. As in the case of Bulgaria, Romania is also to become party to the

<sup>249</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 2 January 2006, *Op. Cit.*, p. 86.

<sup>250</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 50.

<sup>251</sup> Cf. *Ibid.*, p. 50.

<sup>252</sup> Cf. Wallström rechnet nicht mit Referendum in Dänemark, 10.6.2005, [www.spiegel-online.de](http://www.spiegel-online.de)

<sup>253</sup> Cf. Eurobarometer, Juni 2006, *Op. Cit.*, p. 378.

constitution on the day of its accession.<sup>254</sup> If the Constitutional Treaty has not yet entered into force, then all treaties on which the EU is based hold too for Romania.<sup>255</sup> Should the Constitutional Treaty come into force after the accession of Romania, it so too comes into force in Romania without the requirement of any additional ratification.<sup>256</sup> In this respect, by ratifying the EU accession treaty, the Romanian parliament essentially also approved the Constitutional Treaty.

#### **Method of Ratification:**

Ratification of the Constitutional Treaty succeeded with the parliamentary ratification of the accession treaty.

#### **Constitutional Basis for Holding a National Referendum:**

Referenda on questions of the national interest possible at the initiative of the president with parliamentary consultation.<sup>257</sup>

#### **Positions Toward a National Referendum on the Constitutional Treaty:**

##### **For:**

On 23 March, Mircea Geoana, ex-foreign minister and chairman of the foreign policy commission of the Senate, proposed the idea of a referendum on EU accession.<sup>258</sup> He emphasised that almost all new accession countries had ratified their accession treaties through referenda and that Romania should likewise pose the complicated question of EU accession to the people.

##### **Against:**

After the conclusion of accession negotiations, Chief Negotiator Vasile Puscas rejected a referendum on EU accession. For him, a referendum was completely unnecessary, since almost 80% of the Romanian population supported

EU accession.<sup>259</sup> After the parliamentary ratification in May 2005, Prime Minister Calin Tariceanu ruled out holding a referendum, since "Romanians want to join the EU."<sup>260</sup>

#### **Positions Toward the Constitutional Treaty:**

##### **For:**

In supporting the Romanian EU accession treaty, all parties represented in parliament implicitly also supported the Constitutional Treaty.

##### **Public Opinion:**

According to Eurobarometer, 68% of Romanians approve of the Constitutional Treaty, while only 7% reject it. However, 24% still indicate they are undecided on the question.<sup>261</sup>

## **Slovakia**

#### **Date of Ratification:**

On **11 May 2005**, the overwhelming majority of the both government and opposition parties in the Slovakian parliament voted for the Constitutional Treaty. 116 deputies voted with yes, 27 with no and four abstained from voting.<sup>262</sup>

However, the constitutional court asked Slovakian President Gasparovic to withhold his signature from the parliamentary ratification until the court had delivered its final decision in a case brought by 13 activists.<sup>263</sup>

#### **Method of Ratification:**

Parliamentary

#### **Constitutional Basis for Holding a National Referendum:**

Facultative referendum in important questions of the public interest; a referendum can also be

<sup>254</sup> Cf. Treaty between the Member States of the European Union and the Republic of Bulgaria and Romania, 21.6.2005, L 157/11: Article 1, Paragraph 2.

<sup>255</sup> Cf. *Ibid.*: Article 2, Paragraph 1.

<sup>256</sup> Cf. *Ibid.*: Article 2, Paragraph 3.

<sup>257</sup> Cf. Romanian Constitution: Title III, Chapter II, Article 90, [www.cdep.ro/pls/dic/site.page?id=371](http://www.cdep.ro/pls/dic/site.page?id=371)

<sup>258</sup> Cf. BBC Monitoring International Reports, Rompres: Ex-foreign minister wants referendum on Romania's EU entry, 23.3.2005.

<sup>259</sup> Cf. BBC Monitoring International Reports, Mediafax: Chief negotiator for EU rejects idea of referendum on EU entry, 26.7.2004.

<sup>260</sup> Agence France Presse: Romanian parliament ratifies EU adhesion, 17.5.2005.

<sup>261</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.

<sup>262</sup> Cf. Kubosova, Lucia: Slovakia gives green light to EU constitution, 12.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>263</sup> Cf. Kubosova, Lucia: Slovakia freezes EU constitution ratification, 15.7.2005, [www.euobserver.com](http://www.euobserver.com)

scheduled if at least 350 000 Slovaks call for one through a petition.<sup>264</sup>

### Positions Toward a National Referendum on the Constitutional Treaty:

#### For:

One of the coalition partners, the Christian Democratic movement, and a small opposition party, Ludova unia (People's Union), had supported a referendum.<sup>265</sup> In addition, 13 activists brought a case before the Slovakian constitutional court in which they claimed that the Constitutional Treaty signified the transformation of Slovakia into a transnational state and thus required legitimation by referendum. A decision of the Constitutional Court is expected by the end of the year.<sup>266</sup>

#### Against:

Prime Minister Mikulas Dzurinda views a referendum as unnecessary, since the referendum on EU accession also provides an adequate basis for the Constitutional Treaty.<sup>267</sup>

### Positions Toward the Constitutional Treaty:

#### For:

The majority of parties came out in support of the adoption of the Constitutional Treaty.

#### Against:

There was resistance against the Constitutional Treaty only from the ranks of the Christian Democratic Movement (member of the four-party coalition) and from the Communist Party, with the justification that the treaty framework aims at the creation of a European superstate and contributes to the erosion of the sovereignty of the member states. The Christian Democratic side finds fault with the fact that a reference to the Christian roots is lacking from the treaty.<sup>268</sup>

### Public Opinion:

A referendum can still not be completely ruled out. On the one hand, there existed the possi-

bility that a vote, also by the people, could have been initiated, which would have been binding on the parliament for three years if more than 50% of Slovaks had turned out and the majority rejected the treaty.<sup>269</sup> This scenario, however, appeared less realistic, because even in the case of the holding of a referendum, the numbers looked reassuring. According to the Eurobarometer survey of July 2006, 55% would decide in favour of a constitutional treaty and only 16% would be against one. 26% indicated they were undecided in this question.<sup>270</sup>

Finally, it remains to be seen whether the Slovakian constitutional court will sustain the complaint of the 13 activists, declare the ratification of the Slovakian parliament invalid and instead have a referendum scheduled. The constitutional court, however, only has this possibility as long as the Slovakian president still has not signed the ratification certificate.<sup>271</sup>

## Slovenia

### Date of Ratification:

Slovenia was the third country to ratify the European Constitutional Treaty, doing so on **1 February 2005**. 79 deputies in the Slovenian parliament voted for the treaty, only 4 voted against it and 7 abstained from the voting.<sup>272</sup>

In the first half of 2008, Slovenia assumes the European Council presidency and will, according to all expectations, occupy itself intensively with the constitution. Slovenian Foreign Minister Dimitrij Rupel is of the view that the gap between the German and French Council presidencies must be bridged in order to solve the constitutional crisis. Slovenia will therefore work hard toward this goal during its Council presidency.<sup>273</sup>

<sup>264</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 52.

<sup>265</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 52.

<sup>266</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 3 July 2006, p. 56.

<sup>267</sup> In [http://www.unizar.es/euroconstitucion/Treaties/Treaty\\_Const\\_Rat\\_slovakia.htm](http://www.unizar.es/euroconstitucion/Treaties/Treaty_Const_Rat_slovakia.htm)

<sup>268</sup> Cf. Die Slowakei ratifiziert die EU-Verfassung, in: Neue Zürcher Zeitung of 12.5.2005, p. 2.

<sup>269</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 52.

<sup>270</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

<sup>271</sup> Cf. Goldirova, Renata: Renewed uncertainty about EU constitution in Slovakia, 19.7.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>272</sup> Cf. Kubosova, Lucia: Slovenia's parliament says a loud yes to EU Constitution, 2.2.2005 [www.euobserver.com](http://www.euobserver.com)

<sup>273</sup> Cf. Rupel: EU Presidency Top Priority of Slovenian Diplomacy, [www.eastbusiness.org](http://www.eastbusiness.org)



**Method of Ratification:**

Parliamentary

**Constitutional Basis for Holding a National Referendum:**

Facultative, binding referendum for constitutional amendments upon parliamentary initiative.

**Positions Toward a National Referendum on the Constitutional Treaty:****Against:**

Alone in 2004, there were five referenda in Slovenia. For this reason, the government preferred not to organise another one; there was a fear that the Slovenes would become overwhelmed. The accession to the EU was highly supported and there was therefore no purpose to holding a further referendum.<sup>274</sup>

**Positions Toward the Constitutional Treaty:****For:**

A broad majority of the political elite is for the Constitutional Treaty, since the Slovenian demands were fulfilled to “105 or even 110%”.<sup>275</sup> The voting behaviour of the Slovenian parliament clearly underlined this fact. Foreign Minister Dimitrij Rupel is convinced that Constitutional Treaty is not dead, even after the French and Dutch rejections, but a formulation acceptable to all EU member states must be found.<sup>276</sup> If a speedy ratification of the Constitutional Treaty does not succeed, he indicates the possibility of a temporary agreement to strengthen the efficiency and capacity to act of the EU.<sup>277</sup> The foreign minister additionally made clear the support of the Slovenian government for new impetus in the ratification process.<sup>278</sup> President Janez Drnovsek also called for a continuation of the ratification process: “We must continue the process...so that we intro-

duce a firm framework for the European institutions as well as for future enlargements.”<sup>279</sup>

**Public Opinion:**

According to the July 2006 survey published by Eurobarometer, 71% of Slovenes support the concept of a constitutional treaty and only 14% are opposed to it. The rest are undecided.<sup>280</sup>

**Spain****Date of Ratification:**

Spain was the first country, on **20 September 2005**, to vote on the Constitutional Treaty in a referendum, in which an overwhelming majority of **77% came out in support of the treaty and only 17% voted against it**. The parliamentary ratification was completed on **28 April**. 311 of 330 deputies voted for the Constitutional Treaty and 19 against it.<sup>281</sup> On **19 May 2005**, the Spanish Senate also gave its approval of the Constitutional Treaty. The chamber passed the document with a vote of 225 Senators to 6.<sup>282</sup>

**Method of Ratification:**

Referendum/parliamentary

**Constitutional Basis for Holding a National Referendum:**

Facultative, non-binding referendum upon the proposal of the prime minister and with the permission of the Congress.

**Positions Toward a National Referendum on the Constitutional Treaty:****For:**

Prime Minister Zapatero announced the holding of a referendum and fixed the date for 20 February 2005.

<sup>274</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 56.

<sup>275</sup> *Ibid.*, p. 53.

<sup>276</sup> Cf. BBC Monitoring, STA: Slovene foreign minister says EU constitution not dead, 27.1.2006.

<sup>277</sup> Cf. BBC Monitoring, STA: Slovene foreign minister calls for interim solution for EU constitution, 15.5.2006.

<sup>278</sup> Cf. BBC Monitoring, STA: Slovenia welcomes Austrian call for new impetus for EU constitution, 28.1.2006.

<sup>279</sup> Associated Press Worldstream: Slovenian president urges new effort to ratify EU constitution, 27.3.2006.

<sup>280</sup> Cf. Eurobarometer, July 2006, *Op. Cit.*, p. 62.

<sup>281</sup> Cf. Spaniens Abgeordnete ratifizieren die EU-Verfassung, in: Neue Zürcher Zeitung of 29.4.2005, p. 5.

<sup>282</sup> Cf. Rufino, Filipe: Spain concludes European Constitution ratification process, 19.5.2005, [www.euobserver.com](http://www.euobserver.com)

**Positions Toward the Constitutional Treaty:****For:**

The PSOE (Socialists) and the Popular Party support Zapatero and the Constitutional Treaty.<sup>283</sup> The Conservatives as such are also for the Constitutional Treaty, since they were the ones that actually elaborated it. They do not, however, want to openly support the Spanish government.

**Against:**

The Izquierda Unida (United Left), the left-wing nationalist Catalans and the small national splinter parties are all against the constitution, since it does not show enough social progress and promotes the formation of an EU of states instead of an EU of peoples.<sup>284</sup>

**Public Opinion:**

An overwhelming majority of 77% supported the treaty and only 17% voted against it. Slightly disappointing was the relatively low turn-out of only 42%.<sup>285</sup> According to the latest Eurobarometer survey from July 2006, 63% of Spaniards fundamentally support the concept of a Constitutional Treaty, while 13% are opposed to it and 24% are undecided.<sup>286</sup>

**Sweden****Date of Ratification:**

In May 2005, the government presented a draft law to the parliament in order to enable the ratification by December 2005.<sup>287</sup> However, in the course of the European summit in June, the Swedish government also announced that it would put off its ratification process.<sup>288</sup> A further continuation of the Swedish ratification process before the parliamentary elections in September 2006 is improbable.<sup>289</sup>

<sup>283</sup> Cf. Spain fires starting gun in EU referendum campaign; 03.02.2005, [www.eubusiness.com](http://www.eubusiness.com)

<sup>284</sup> Cf. Institut für Europäische Politik: EU-25 Watch, No. 1 December 2004, *Op. Cit.*, p. 57.

<sup>285</sup> Cf. Spanier für die Eu-Verfassung, in: Frankfurter Allgemeine Zeitung of 21. 2. 2005, p. 1.

<sup>286</sup> Cf. Eurobarometer, July 2006, *Op. Cit.* p. 62.

<sup>287</sup> Cf. Kirk, Lisbeth: No Swedish referendum on EU Constitution, 9.12.2004, [www.euobserver.com](http://www.euobserver.com)

<sup>288</sup> Cf. Bulletin Quotidien Europe No. 8971, 18.6.2005, p. 7.

<sup>289</sup> Cf. Associated Press Worldstream: Sweden's PM wants deadline for ratification of EU constitution extended, 14.6.2005.

**Method of Ratification:**

Parliamentary

**Constitutional Basis for Holding a National Referendum:**

Facultative, consultative referendum at the initiative of parliament

**Positions Toward a National Referendum on the Constitutional Treaty:****For:**

The eurosceptical Junilistan and two left parties (Greens and the Left Party) are for a referendum. However, they do not have the required votes of 30% of the Swedish parliament to effect a parliamentary motion for holding a referendum.<sup>290</sup>

It seems to be becoming clear that, in the question of a referendum, the last word has not yet been spoken. In March 2005, more than 120 000 Swedes signed a petition, which calls on the government to hold a referendum. This initiative was even supported by the Greens and the Left Party, on whose support the social democratic majority government relies.<sup>291</sup>

Moreover, some members of the governing Social Democratic Party under the leadership of Sören Wibe launched another initiative. Using a clause in the party statute of their party, which has not been used since 1922, they seek to force the government to initiate a referendum. Under this clause, 5% of party members (approx. 7000) can force the party to hold a referendum.<sup>292</sup> Surveys indicate that two thirds of Swedes also support the holding of a referendum.<sup>293</sup>

**Against:**

SAP (Social Democrats), the Centrist Party and the Liberal Party have come out against a referendum. A parliamentary ratification is entirely sufficient, since the Constitution does not transfer any sovereignty to the benefit of the EU. On 8 December 2004, the 5 most important parties

<sup>290</sup> Cf. Kurpas/Incerti/Schönlau: What prospects for the European Constitutional Treaty?, *Op. Cit.*, p. 8.

<sup>291</sup> Cf. Petition für EU-Referendum in Schweden, in: Neue Zürcher Zeitung of 23.3.2005, p. 2.

<sup>292</sup> Cf. Kirk, Lisbeth: Sweden's ruling party in battle over EU poll, 3.5.2005, [www.euobserver.com](http://www.euobserver.com)

<sup>293</sup> Cf. Associated Press Worldstream: Swedish poll shows two out of three voters want referendum on EU constitution, 31.5.2005.

agreed on the parliamentary ratification of the Constitutional Treaty.<sup>294</sup>

### Positions Toward the Constitutional Treaty:

#### For:

SAP, the Centrist Party and the Liberal Party want to ratify the Constitutional Treaty.

#### Against:

The eurosceptical Junilistan and the two left parties (Greens and the Left Party), which have also worked for a referendum, reject the Constitutional Treaty. In their opinion, the constitution would be a first step towards founding a “superstate” and would thus threaten the existence of the Swedish social model.<sup>295</sup>

#### Public Opinion:

Part of the Swedish population is rather eurosceptical. A rejection of the Constitutional Treaty, as in the case of the Euro, would not be completely improbable.<sup>296</sup> Surveys from June 2004 demonstrate that one half of the population would ratify the constitution and 43% would reject it.<sup>297</sup> The Eurobarometer survey from June 2006 indicated that 44% of Swedes support the treaty and 34% reject it. 22% are still undecided.<sup>298</sup>

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<sup>294</sup> Cf. Kirk, Lisbeth: No Swedish referendum on EU Constitution, 9.12.2004, *Op. Cit.*

<sup>295</sup> Cf. *Ibid.*

<sup>296</sup> Cf. *Ibid.*

<sup>297</sup> Cf. Institut für Europäische Politik: EU-25

Watch, No. 1 December 2004, *Op. Cit.*, p. 59.

<sup>298</sup> Cf. Eurobarometer, June 2006, *Op. Cit.*, p. 378.