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Einladung zur 14. WR-Bildungswerkstätte

1. Teil:
Wann: Freitag, 10. März 2017, 19.15-21.30 Uhr
Wo: Restaurant Bahnhof Gleis 13, Olten, 1. Stock (direkt neben dem
           Gleis 12)
Wer: öffentlicher Anlass
Kosten: keine, freie Kollekte

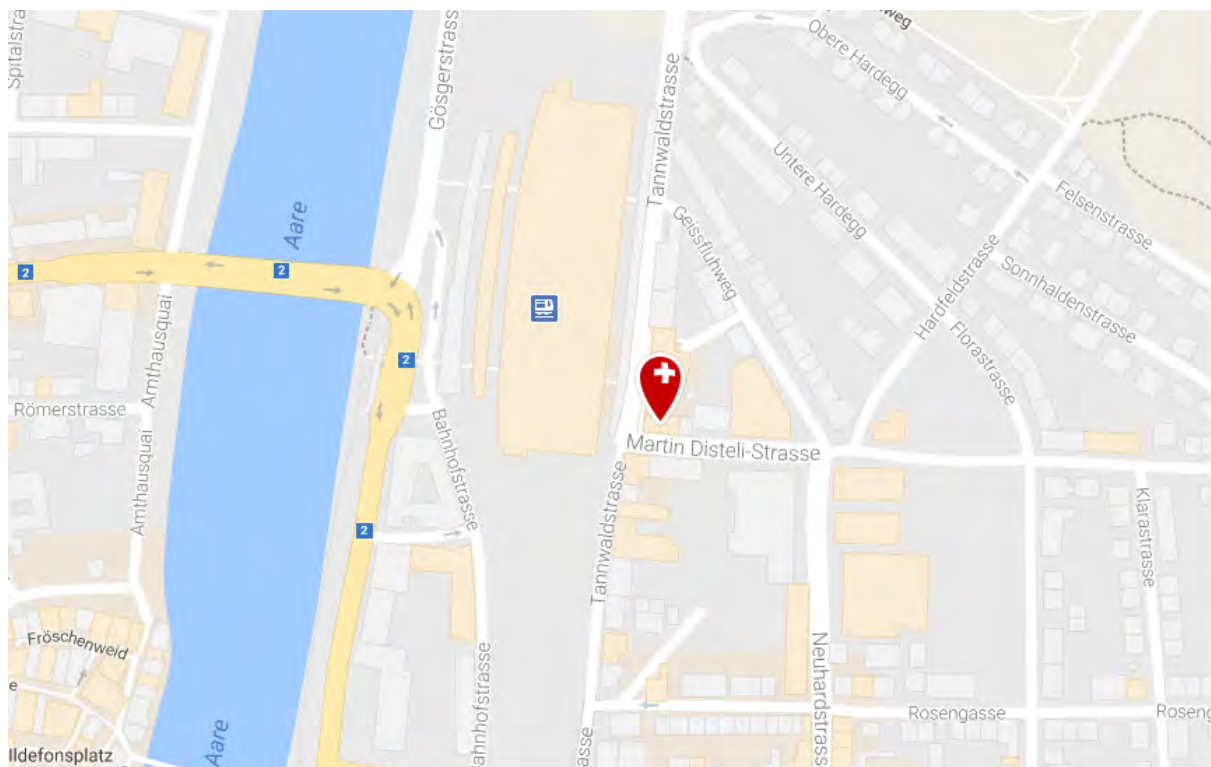
2. Teil:
Wann: Samstag, 18. März 2017, 09.30-13.00 Uhr
Wo: Restaurant Bahnhof Gleis 13, Olten, 1. Stock (direkt neben dem
           Gleis 12)
Wer: öffentlicher Anlass
Kosten: keine, freie Kollekte

Lageplan Restaurant Bahnhof Gleis 13

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Thema der 14. WR-Bildungswerkstätte

<u>Europa</u>: Wie weiter mit der europäischen Union

1. Text: *Quelle: Spiegel online von Markus Becker, Brüssel (1. März 2017)*
http://www.spiegel.de/politik/ausland/jean-claude-juncker-entwirft-in-eu-
weissbuch-einen-plan-fuer-europa-a-1136856.html

Weissbuch zur Zukunft der EU
Junkers Plan für Europa

Die Zukunft Europas in fünf Szenarien: Kommissionspräsident
Jean-Claude Juncker skizziert in seinem mit Spannung erwarteten
Weißbuch, wie die EU die Krise überwinden kann. Doch eine
Festlegung vermeidet er.

Wochenlang hat Brüssel gerätselt, welche Zukunft Jean-Claude Juncker für die EU
skizzieren wird. Jetzt ist klar: Der Kommissionspräsident stellt sich nicht eine Zu-
kunft vor, sondern gleich fünf. Das geht aus dem mit Spannung erwarteten Weiß-
buch hervor, das Juncker am Mittwoch ab 15 Uhr im Europaparlament (Übertra-
gung im Livestream) präsentieren wird und das dem SPIEGEL vorab vorlag.

In dem 32 Seiten starken Papier beschwört Juncker die Rolle der EU als Frie-
densprojekt - "auch wenn Europäer heute nicht mehr die gleiche Bindung zum
Frieden spüren wie ihre Eltern oder Großeltern". Die aktuelle Krise müsse die Zu-
kunft Europas nicht einschränken: Die EU sei an derartigen Situationen gewachsen
und habe sich immer angepasst.

Allerdings gebe es auch eine "einfache Wahrheit", schreibt Juncker: "Europas Platz
in der Welt schrumpft", der Anteil an Wirtschaft und Bevölkerung der Welt werde
immer kleiner. Umso wichtiger sei es, sich jetzt über die Zukunft der EU klar zu
werden. Dazu stellt Juncker fünf Szenarien und ihre Folgen bis zum Jahr 2025 vor:

Szenario 1: weiter so

Die EU, die nach dem Austritt Großbritanniens aus 27 Ländern besteht, bleibt auf
ihrem jetzigen Kurs und konzentriert sich auf die Umsetzung und den Ausbau ihrer

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Reformagenda. Der Euro wird strukturell gestärkt, die Mitgliedstaaten verbessern ihre Zusammenarbeit bei der Verteidigung, im Kampf gegen den Terrorismus und zum Schutz der Außengrenzen. In der Außenpolitik spricht die EU verstärkt mit einer Stimme, doch die Einigkeit bleibt wackelig bei inneren Konflikten.

Szenario 2: EU reduziert sich auf gemeinsamen Binnenmarkt
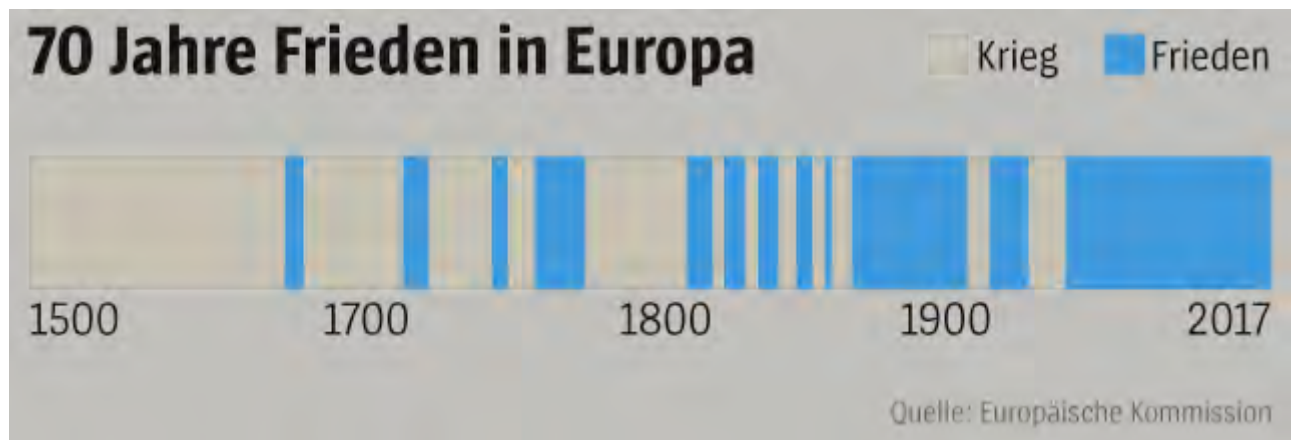
Die EU-Staaten konzentrieren sich lediglich darauf, bestimmte Bereiche des Binnenmarkts zu vertiefen. Auf anderen Feldern wird eine verstärkte Zusammenarbeit, wenn überhaupt, zwischen einzelnen Staaten vereinbart. Gemeinsames Handeln etwa bei Migration, Sicherheit oder Verteidigung bleibt aus. Die Folgen: Der Binnenmarkt wird zur Existenzberechtigung der EU. Der freie Verkehr von Waren besteht fort, der von Personen und Dienstleistungen könnte dagegen wegfallen. Wachsende Differenzen schwächen die Widerstandskraft gegen eine erneute Finanzkrise, der Euro gerät in Gefahr.

Szenario 3: EU der verschiedenen Geschwindigkeiten

Die EU besteht in ihrer jetzigen Form fort, einzelne Mitgliedstaaten schließen sich jedoch zu einer "Koalition der Willigen" oder auch mehreren Gruppen zusammen, die auf bestimmten Feldern schneller voranschreiten - etwa bei Sicherheit, Verteidigung oder Steuerrecht. Der Vertrag von Lissabon ermöglicht das schon heute dank des Instruments der "Ständigen Strukturierten Zusammenarbeit" (SSZ). Das führt zwar bei den entsprechenden Themen zu mehr Ergebnissen, könnte aber in Ländern, die weniger tun wollen, das Gefühl des Abgehängtseins erzeugen. Auch könnten die zusätzlichen Entscheidungsebenen die EU noch intransparenter werden lassen.

Szenario 4: Konzentration aufs Wesentliche

Die EU fokussiert ihre begrenzten Ressourcen auf eine kleinere Zahl von Bereichen - etwa Innovation, Handel, Sicherheit, Migration, Grenzschutz und Verteidigung. Hier handelt die EU wesentlich schneller und effizienter, auch weil sie mehr Befugnisse von den Mitgliedstaaten erhält. Aus anderen Bereichen zieht sie sich dagegen zurück, beispielsweise aus der regionalen Entwicklung oder der öffentlichen Gesundheit. Die Frage ist jedoch, ob eine Einigung auf die Prioritäten möglich ist - und ob die Mitgliedstaaten bereit sein werden, in diesen Feldern Kompetenzen an Brüssel abzutreten.

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70 Jahre Frieden in Europa

Krieg Frieden

1500   1700   1800   1900   2017

Quelle: Europäische Kommission

SPIEGEL ONLINE

Szenario 5: Die große Zusammenarbeit

Aus Sicht von EU-Freunden ist dies das wohl wünschenswerteste Szenario, andere
würden es wohl als Utopie bezeichnen: Die Europäer kommen zu der Einsicht,
dass weder die einzelnen Mitgliedstaaten noch die EU in ihrer jetzigen Form stark
genug sind, die Zukunft zu meistern. Sie entscheiden deshalb, in allen Bereichen
enger zu kooperieren und Macht zu teilen.

Die Folgen: International tritt die EU als Einheit auf, bei Handelsabkommen hat
das Europaparlament das letzte Wort. Als Ergänzung zur Nato wird die Europäi-
sche Verteidigungsgemeinschaft gegründet, die Zusammenarbeit in der Sicherheit
wird zur Routine. Im Klimawandel wird die EU die weltweit führende Kraft, ebenso
wie in der humanitären und der Entwicklungshilfe. Dank gemeinsamer Investitio-
nen in die Forschung entstehen gleich mehrere Silicon Valleys in der EU. In der
Eurozone gibt es eine deutlich bessere Koordinierung in Fiskal- und Steuerfragen.

Juncker sieht hier nur eine Gefahr: Teile der Gesellschaft könnten der Meinung
sein, dass die EU nicht ausreichend legitimiert ist und den Nationalstaaten zu viel
Macht genommen hat.

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2. Text: *Quelle Süddeutsche Zeitung von Daniel Brössler und Thomas Kirchner, Brüssel (1. März 2017)*
http://www.sueddeutsche.de/politik/junckers-weissbuch-fuenf-szenarien-fuer-die-zukunft-der-eu-1.3400487

Junkers Weissbuch
Fünf Szenarien für die Zukunft der EU

Wo steht Europa nach der Brexit-Entscheidung? Irgendwo zwischen Schmerz und ganz leiser Aufbruchstimmung. Wie es weitergehen soll mit dem gesamten Projekt der verbleibenden 27 Mitgliedstaaten, ja ob es auf Dauer überhaupt weitergehen wird, das alles ist offen.

Schon die Wahl in Frankreich mit einer möglichen neuen Präsidentin Marine Le Pen könnte die Ausgangslage radikal verändern. In dieser Situation versucht die EU-Kommission, ihrer Aufgabe als oberster Ideengeber der europäischen Einigung gerecht zu werden.

Bevor die Staats- und Regierungschefs am 25. März in Rom den 60. Jahrestag der Gründung des vereinten Europas begehen und ihre Vision der Zukunft in Form einer feierlichen Deklaration präsentieren werden, hat Kommissionspräsident Jean-Claude Juncker am Mittwoch seine eigenen Ideen zur Weiterentwicklung der Union vorgelegt.

Das 29 Seiten umfassende Weißbuch enthält fünf Szenarien, vom Weiter so bis zu einem Europa, das große Schritte in Richtung eines echten Bundesstaates mit viel mehr Kompetenzen für die Brüsseler Institutionen macht. Nur ein Szenario kommt - verständlicherweise - gar nicht vor: die Auflösung der Union. Einem Abbruch-Unternehmen will Juncker nicht vorstehen.
In der Kommission weiß man, dass nicht alle Hauptstädte dankbar sind für die Anregung. Umso forscher versucht man deshalb, das Papier als wegweisend zu verkaufen. Von der "Geburtsurkunde für die EU zu 27" ist sogar die Rede.

Als Motto stellt Juncker ein Zitat des EU-Gründervaters Robert Schuman voran, der am 9. Mai 1950 in seiner berühmten Deklaration sagte: "Europa lässt sich nicht mit einem Schlage herstellen und auch nicht durch ei-

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nen einfachen Plan. Es wird durch konkrete Tatsachen entstehen, die zunächst eine Solidarität der Tat schaffen."

Auf die "konkreten Tatsachen" kommt es Juncker an. Sein zentrales Ansinnen lautet: Was muss getan werden, damit Europa funktioniert? Gemeint ist einerseits die Art und Weise, wie Entscheidungen fallen, andererseits die Frage, inwiefern das politische Endergebnis von Nutzen für den einzelnen Bürger ist.

Hier die Szenarien im Überblick:

Szenario eins: Weiter wie bisher

Es geht Schritt für Schritt nach vorn in allen Politikbereichen: Euro, Migration, Sicherheit, Verteidigung. Aber es wäre, wie bisher, ein langsamer und mühsamer Fortschritt. Die EU-Kommission würde bei ihrem Plan bleiben, möglichst nur so viel zu regulieren, wie unbedingt nötig ist. Die Einheit der 27 würde bestehen bleiben, könnte aber "bei größeren Streitfragen" aufs Spiel gesetzt werden. Eine positive Entwicklung hängt davon ab, wie viel guten Willen zur Zusammenarbeit die Mitgliedstaaten aufbringen können. Der Entscheidungsprozess bliebe so schwierig ("komplex") wie bisher und die Erwartungen blieben oft hinter den Hoffnungen zurück.

1. Sie lesen jetzt Fünf Szenarien für die Zukunft der EU
2. Szenario zwei: Binnenmarkt, mehr nicht
3. Szenario fünf: Sehr viel mehr gemeinsam machen

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3.   Text: *Quelle: Europäische Kommission (1. März 2017)*
      http://europa.eu/rapid/press-release_IP-17-385_de.htm

Europäische Kommission - Pressemitteilung

Kommission legt Weißbuch zur Zukunft Europas vor: Wege zur Wahrung der Einheit in der EU27

Wie Präsident Juncker in seiner Rede zur Lage der Union im Jahr 2016 angekündigt hat, legt die Europäische Kommission heute ein Weißbuch zur Zukunft Europas vor - ihr Beitrag zum Gipfel am 25. März 2017 in Rom.

Mit dem bevorstehenden 60. Jubiläum der EU blicken wir auf sieben Jahrzehnte Frieden zurück und schauen auf eine erweiterte Union mit 500 Millionen Bürgern, die in Freiheit in einer der Regionen mit dem größten Wohlstand der Welt leben. Gleichzeitig muss die EU nach vorne blicken und darüber nachdenken, welche Vision sie sich für ihre Zukunft mit 27 Mitgliedstaaten geben will. Das Weißbuch setzt sich mit den größten Herausforderungen und Chancen für Europa in den nächsten zehn Jahren auseinander. In fünf Szenarien wird skizziert, wo die Union 2025 stehen könnte – je nachdem, welchen Kurs sie einschlägt.

Der Präsident der Europäischen Kommission, Jean-Claude Juncker, erklärte hierzu: *„Vor 60 Jahren haben die Gründerväter der EU beschlossen, den Kontinent mit der Macht des Rechts und nicht durch den Gebrauch von Waffen zu einen. Wir können stolz auf das sein, was wir seitdem erreicht haben. Selbst unser dunkelster Tag in 2017 wird heller sein als jeder Tag, den unsere Vorväter auf den Schlachtfeldern verbracht haben. Zum 60-jährigen Jubiläum der Römischen Verträge gilt es, für ein geeintes Europa der 27 eine Vision für die Zukunft zu entwickeln. In diesen Zeiten sind Führungsstärke, Einheit und gemeinsamer Wille gefragt. Im Weißbuch der Kommission werden verschiedene Wege skizziert, die dieses geeinte Europa der 27 künftig einschlagen könnte. Das ist der Beginn und nicht das Ende eines Prozesses, und ich hoffe nun auf eine ehrliche und umfassende Debatte. Die Form wird dann der Funktion folgen. Die Zukunft Europas liegt in unserer Hand.“*

Im Weißbuch wird der Frage nachgegangen, wie Europa sich in den nächsten zehn Jahren verändern wird; von den Auswirkungen neuer Technologien auf Gesellschaft und Beschäftigung, über Bedenken hinsichtlich der Globalisierung, bis hin zu Sicherheitsfragen und dem zunehmenden Popu-

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lismus. Das Weißbuch macht deutlich, vor welcher Wahl wir stehen: Entweder werden wir von solchen Entwicklungen überrollt oder wir stellen uns ihnen und ergreifen die neuen Chancen, die sie mit sich bringen. Europas Bevölkerung und wirtschaftliches Gewicht schrumpfen, während andere Teile der Welt wachsen. Im Jahr 2060 entfällt auf jeden einzelnen EU-Mitgliedstaat ein Anteil von weniger als 1 % an der Weltbevölkerung – ein guter Grund, zusammenzuhalten, um auf diese Weise mehr zu erreichen. Europa ist eine positive globale Kraft. Sein Wohlstand ist nach wie vor von der Öffnung und von starken Beziehungen zu seinen Partnern abhängig.

Im Weißbuch werden fünf Szenarien beschrieben; jedes einzelne bietet einen Ausblick, wo die Union im Jahr 2025 stehen könnte – je nachdem, welchen Kurs Europa einschlägt (siehe Anhang). Die Szenarien decken verschiedene Möglichkeiten ab und dienen der Veranschaulichung. Sie schließen sich daher weder gegenseitig aus, noch sind sie erschöpfend.

• Szenario 1: Weiter so wie bisher - Die EU27 konzentriert sich auf die Umsetzung ihrer positiven Reformagenda entsprechend den Politischen Leitlinien der Kommission „Ein neuer Start für Europa" von 2014 und der von allen 27 Mitgliedstaaten im Jahr 2016 angenommenen Erklärung von Bratislava. Im Jahr 2025 könnte dies bedeuten:

o Europäerinnen und Europäer können sich in selbst fahrenden, vernetzten Fahrzeugen fortbewegen, stoßen aber aufgrund ungelöster rechtlicher und technischer Hindernisse an den Grenzübergängen möglicherweise auf Probleme.

o Europäerinnen und Europäer passieren Grenzen fast immer, ohne wegen Kontrollen anhalten zu müssen. Verschärfte Sicherheitskontrollen machen das sehr frühzeitige Erscheinen am Flughafen bzw. Bahnhof erforderlich.

• Szenario 2: Schwerpunkt Binnenmarkt – Die EU27 konzentriert sich wieder auf den Binnenmarkt, da die 27 Mitgliedstaaten in immer mehr Politikbereichen nicht in der Lage sind, eine gemeinsamen Haltung zu finden. Im Jahr 2025 könnte dies bedeuten:

o Regelmäßige Kontrollen an den Binnengrenzen behindern Handel und Tourismus. Einen Arbeitsplatz im Ausland zu finden wird ebenfalls schwieriger, und die Übertragung von Pensionsansprüchen in einen anderen Mitgliedstaat ist keine Selbstverständlichkeit. Wer im Ausland krank wird, muss mit hohen Behandlungskosten rechnen.

o Die Europäer halten sich aufgrund des Mangels an EU-weiten Regeln und technischen Standards bei der Nutzung vernetzter Fahrzeuge eher zurück.

• Szenario 3: Wer mehr will, tut mehr – Die EU27 Union verfährt weiter wie bisher, gestattet jedoch interessierten Mitgliedstaaten, sich

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zusammenzutun, um in bestimmten Politikbereichen wie Verteidigung, innerer Sicherheit oder Sozialem gemeinsam voranzuschreiten. Es entstehen eine oder mehrere **„Koalitionen der Willigen".** Im Jahr 2025 könnte dies bedeuten:

o   15 Mitgliedstaaten richten ein Korps aus Polizeibeamten und Staatsanwälten ein, das bei grenzüberschreitender krimineller Aktivität ermittelt. Sicherheitsrelevante Informationen werden unmittelbar weitergegeben, da nationale Datenbanken vollständig miteinander verknüpft sind.

o   In zwölf Mitgliedstaaten, die eine Harmonisierung der Haftungsregeln und technischen Standards vereinbart haben, werden vernetzte Fahrzeuge in großem Umfang genutzt.

• **Szenario 4: Weniger, aber effizienter** – Die EU27 konzentriert sich darauf, in ausgewählten Bereichen rascher mehr Ergebnisse zu erzielen, und überlässt andere Tätigkeitsbereiche den Mitgliedstaaten. Aufmerksamkeit und begrenzte Ressourcen werden auf ausgewählte Bereiche gerichtet. Im Jahr 2025 könnte dies bedeuten:

o   Eine europäische Telekom-Behörde ist befugt, Funkfrequenzen für grenzüberschreitende Kommunikationsdienste freizugeben, wie sie beispielsweise für die ungehinderte Nutzung vernetzter Fahrzeuge erforderlich sind. Sie schützt außerdem die Rechte von Internet- und Mobiltelefonnutzern unabhängig von deren Aufenthaltsort in der EU.

o   Eine neue europäische Agentur zur Terrorismusbekämpfung trägt mit der systematischen Beobachtung und Identifizierung Verdächtiger zur Verhinderung und Prävention schwerer Anschläge bei.

• **Szenario 5: Viel mehr gemeinsames Handeln** – Die Mitgliedstaaten beschließen, mehr Kompetenzen und Ressourcen zu teilen und Entscheidungen gemeinsam zu treffen. Auf EU-Ebene werden rascher Entscheidungen getroffen, die zügig umgesetzt werden. Im Jahr 2025 könnte dies bedeuten:

o   Europäische Bürgerinnen und Bürger, die sich über ein Vorhaben für ein EU-finanziertes Windkraftanlagenprojekt in ihrer Region beschweren wollen, haben Schwierigkeiten, die richtige Behörde zu erreichen, da sie an die zuständige europäische Stelle verwiesen werden.

o   Dank klarer EU-weiter Regeln können vernetzte Fahrzeuge ungehindert in ganz Europa unterwegs sein. Fahrerinnen und Fahrer können sich darauf verlassen, dass eine EU-Agentur die Regeln durchsetzt.

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Nächste Schritte

Das Weißbuch ist der Beitrag der Europäischen Kommission zum Gipfel in Rom, auf dem die EU ihre Errungenschaften der vergangenen 60 Jahre, aber auch ihre Zukunft als EU der 27 erörtern wird. Das Weißbuch soll am Anfang eines Prozesses stehen, in dessen Rahmen die EU27 die Weichen für die Zukunft der Union stellt. Um diesen Prozess zu unterstützen, wird die Europäische Kommission zusammen mit dem Europäischen Parlament und interessierten Mitgliedstaaten eine Reihe von Diskussionsrunden zur Zukunft Europas in europäischen Städten und Regionen veranstalten.

Die Europäische Kommission wird diese Gespräche in den kommenden Monaten durch verschiedene Diskussionspapiere ergänzen, etwa

- zur Entwicklung der sozialen Dimension Europas;

- zur Vertiefung der Wirtschafts- und Währungsunion auf der Grundlage des Berichts der fünf Präsidenten vom Juni 2015;

- zu den Chancen der Globalisierung;

- zur Zukunft der europäischen Verteidigung;

- und zur Zukunft der EU-Finanzen.

Wie das Weißbuch werden diese Diskussionspapiere verschiedene Ideen, Vorschläge, Optionen oder Szenarien für Europa im Jahr 2025 bieten, ohne in dieser Phase endgültige Beschlüsse zu präsentieren.

In der Rede Präsident Junckers zur Lage der Union im September 2017 werden diese Ideen weiterentwickelt, bevor auf dem Treffen des Europäischen Rates im Dezember 2017 erste Schlussfolgerungen gezogen werden könnten. Dies wird dazu beitragen, frühzeitig vor der Wahl zum Europäischen Parlament im Juni 2019 das weitere Vorgehen festzulegen.

Hintergrund

Den Traum einer friedlichen, gemeinsamen Zukunft vor Augen, haben die Gründungsmitglieder der EU vor sechzig Jahren mit der Unterzeichnung der Römischen Verträge den Grundstein für ein ehrgeiziges europäisches Integrationsprojekt gelegt. Sie kamen überein, ihre Konflikte lieber am Verhandlungstisch als auf dem Schlachtfeld zu lösen. Die schmerzvollen Erfahrungen der dunklen Vergangenheit Europas sind somit sieben Jahrzehnten des Friedens in einer Union mit 500 Millionen Bürgerinnen und Bürgern gewichen, die in Freiheit leben und in einem der weltweit wohlhabendsten Wirtschaftsräume Chancen nutzen können.

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Der 60. Jahrestag der Unterzeichnung der Römischen Verträge am 25. März 2017 ist für die Staats- und Regierungschefs der EU27 ein wichtiger Anlass, um zu sehen, wo unser europäisches Projekt steht. Es gilt nun, Errungenschaften und Stärken in die Waagschale zu werfen, über diejenigen Bereiche nachzudenken, in denen weitere Verbesserungen erforderlich sind, und gemeinsamen Willen zu zeigen, eine bessere gemeinsame Zukunft mit 27 Mitgliedstaaten zu gestalten.

Wie Präsident Juncker am 14. September 2016 in seiner Rede zur Lage der Union, die die Staats- und Regierungschefs der EU27 auf dem Gipfel in Bratislava vom 16. September 2016 ausdrücklich begrüßt haben, angekündigt hat, legt die Kommission heute ein Weißbuch zur Zukunft Europas vor. Dieses soll im Vorfeld des Gipfels in Rom eine Debatte anstoßen.

Das Weißbuch wird den 27 Staats- und Regierungschefs bei ihrer Debatte als Leitfaden dienen und dabei helfen, die Gespräche beim Gipfeltreffen in Rom und darüber hinaus zu strukturieren. Es ist zudem der Ausgangspunkt einer breiteren öffentlichen Debatte über die Zukunft unseres Kontinents.

Weitere Informationen
Weißbuch der Europäischen Kommission zur Zukunft Europas
Website: Die EU mit 60
Die Europäische Geschichte: 60 Jahre gemeinsamer Fortschritte
Präsident Junckers Rede zur Lage der Union aus dem Jahr 2016: Hin zu einem besseren Europa – einem Europa, das schützt, stärkt und verteidigt

Die englischen Versionen können HIER heruntergeladen werden.

Wir freuen uns auf Dich!

Das Kernteam der WRB
2. März 2017/NW

European Parliament

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT C
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS

Constitutional Affairs

Justice, Freedom and Security

Gender Equality

Legal and Parliamentary Affairs

Petitions

Referendums on EU Matters

STUDY

2017

DIRECTORATE GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT FOR CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

CONSTITUTIONAL AFFAIRS

REFERENDUMS ON EU MATTERS

STUDY

Abstract

This study was commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Committee on Constitutional Affairs of the European Parliament. It analyses the political and legal dynamics behind referendums on EU-related matters. It argues that we have entered a period of increasing political uncertainty with regard to the European project and that this new political configuration will both affect and be affected by the politics of EU-related referendums. Such referendums have long been a risky endeavour and this has been accentuated in the wake of the Great Recession with its negative ramifications for public opinion in the European Union. It is clear that referendums on EU matters are here to stay and will continue to be central to the EU's future as they are deployed to determine the number of Member States within the EU, its geographical reach, its constitutional evolution and adherence to EU policies. Only now they have become an even riskier endeavour.

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CONTENTS

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LIST OF ABBREVIATIONS

AFCO	European Parliament Committee on Constitutional Affairs
ALDE	Group of the Alliance of Liberals and Democrats for Europe
ECI	European Citizens' Initiative
ECR	European Conservatives and Reformists Group
EEA	European Economic Area
EFD	Europe of Freedom and Direct Democracy
EP	European Parliament
EPP-ED	Group of the European People's Party and European Democrats
GREENS/	Greens/ European Free Alliance
GUE/NGL	Confederal Group of the European United Left-Nordic Green Left
IGC	Intergovernmental Conference
IND/DEM	Independence/ Democracy Group
JHA	Justice and Home Affairs
PES	Party of European Socialists
S&D	Group of the Progressive Alliance of Socialists and Democrats
SEA	Single European Act
TEU	Treaty on European Union
TFEU	Treary on the Functioning of the European Union

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EXECUTIVE SUMMARY

Background

To date there have been 60 referendums on EU-related matters making the referendum a key feature of the European integration process since the 1970s. Yet, while the past is certainly instructive, this study's point of departure is that we are entering a new period in the use of direct democracy on EU matters. Since the mid-2000s, referendums (and how to deal with them) have come to play an increasingly central role in discussions of the EU's constitutional and political future. One of the most controversial aspects of the EU's direct democratic landscape has been the rise of the treaty revision referendum since its appearance in the mid-eighties. This is ultimately because the EU's rules of treaty change require unanimous ratification from all Member States and in the presence of a negative referendum such change cannot take place. But there are other types of referendums emerging in the contemporary setting that are potentially more problematic.

Evidence is accumulating that we are entering a new phase in the practice of direct democracy in the EU. And while the EU referendum terrain has been mapped in terms of its legal and political contours, this new phase is still very much unchartered territory. This study provides an exploratory mapping of the new contours by drawing on a wealth of material, both of a quantitative and qualitative nature. It does so at a moment when the challenges facing the EU are unprecedented. From the onset of the Great Recession in the late 2000s to the security challenges posed by Russia's growing assertiveness, the ISIS terrorist threat and a refugee crisis, and now the expected departure of one of its most powerful Member States, the EU's collective policy response has been strained to the point of fragmentation. The coming together of the various crises is raising questions that go to the very core of its Member States' conception of statehood and sovereignty. That these particular contemporary challenges have generated such contestation and conflict among the Member States is easy to understand for they impinge upon three of the core pillars of statehood: (1) economic sovereignty (e.g. for Eurozone members); (2) external security (e.g. foreign and defence policy related to matters such as Russian sanctions or ISIS) and (3) internal security (the refugee crisis and the internal terrorist threat).

It is not altogether surprising, therefore, that collective EU responses in these areas have generated referendums. These have included Prime Minister Tsipras' unprecedented staging of a referendum – organised within a single week – on a third bailout, the 2016 Dutch referendum on the EU-Ukraine Association Agreement – a core element of the EU's external policy – and Prime Minister Orban's controversial decision in 2015 to hold a referendum on the flagship EU response to the refugee crisis. While the national backdrop to each referendum has its own particular dynamic, taken together they each represent a new type of EU referendum and herald a potentially new phase in the deployment of referendums on EU matters. What is clear is that referendums on EU matters are here to stay and will continue to be central to the EU's future as they are deployed to determine the number of Member States it will have, it's geographical boundaries, its constitutional evolution and settle policy matters of salient national importance. That this is so, is not especially surprising for a multi-layered polity that spans a continent. The difference is that now the referendum routes have become a much riskier endeavour than before, when approval rates were significantly higher.

In exploring the historical dynamic of EU-related referendums, this study distinguishes between the different types of referendums and the reasons for which they were called. While the fact that most referendums have been related to membership issues is not surprising, the fact that most EU-related referendums – certainly the one's that matter most for the EU

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and do not include third-countries such as Switzerland- are called for purely partisan reasons is no doubt alarming. Coinciding with a greater politicization of the EU, this study finds that there is an accelerating rate of failure associated with EU-related referendums. Since the advent of the Great Recession, failure has become the new norm.

Aim

This study pays particular attention to a series of referendums that have taken place since 2012 that herald a potentially new configuration in the politics of EU-related referendums and the latter's constitutional implications.

Referendums such as the rejection of the Constitutional Treaty or the Irish votes on the Lisbon Treaty, the Brexit referendum, or even the most recent referendums in Denmark on the Unified Patent Court or Justice and Home Affairs opt-in, can be accounted for within the existing framework of EU-related referendums. Nonetheless, they still offer some valuable insights. On the other hand, a series of recent referendums sit less easily within existing frameworks. The following can be singled out in requiring further analytical attention in the various Annexes to this study:

- The Irish referendum on the Fiscal Compact Treaty in 2012 which is the first such extra-EU treaty to be subjected to a referendum.

- The Greek bailout referendum in mid-2015 that followed protracted negotiations between Greece and its Eurozone creditors.

- The Dutch referendum on the EU-Ukraine Association Agreement in April 2016 which is the first, but certainly not the last, instance of a bottom-up policy referendum on the EU taking place that has extraterritorial implications.

- The Hungarian Prime Minister's proposal in February 2016 to hold a referendum on a measure on which Hungary had been outvoted – the mandatory refugee redistribution quota.

An important part of the research goal, therefore, is to take stock of these new referendums and to see how they fit within the overall scheme of EU-related referendums. What can be gleaned from these new referendums and what is their likely institutional impact? The research design relies on a mix of quantitative and qualitative methodologies. Where relevant, existing compilations of EU-related referendums have been updated with new data, which allows for a broader mapping of trends.

In the last stage, the study maps the field of policy recommendations for accommodating referendums on EU matters. In doing so it evaluates their political and legal feasibility. Its main conclusion is that, while there are some normatively very appealing proposals, these are mostly not feasible in the current political climate. Instead, the study concludes with some modest proposals for operating within the current decision rule system while alluding to the significant democratic pay-off that would accrue from reconfiguring current, largely dysfunctional practices of direct democracy on EU matters.

1. THE DIRECT DEMOCRACY SETTING IN THE EU

KEY FINDINGS

- Referendums on EU matters are part of a broader deployment of direct democratic instruments on EU matters only one of which, the European Citizens' Initiative (ECI) is an instrument provided for by the EU itself.

- Among democratic federations, Switzerland aside, the use of referendums at the federal level is rather rare.

- Among democratic federations, bottom-up mechanisms of direct democracy on federal level issues are rare and the citizen-initiated referendum on federal level issues is only provided for by Switzerland. The agenda initiative is slightly more common than the latter type of initiative.

- Seen from a comparative federal perspective, the ECI is a seminal achievement in terms of providing for channels for direct citizen participation on the equivalent of federal level issues.

This Chapter surveys the state of direct democracy in the EU. This entails focussing on one instrument of direct democracy in particular, the referendum. Yet it is important to note that there are other instruments of direct democracy that can be inextricably linked to the referendum. This is the case, for instance, with the device commonly known as a citizen's initiative which can in many constitutional systems trigger a referendum if its procedural requirements are satisfied. Insofar as referendums related to EU matters are concerned, the most distinctive feature is that they are mostly held in a national space. Or, to put it another way, there is no procedure for holding a referendum at the EU level. Strictly speaking, there are no EU referendums but rather national (or subnational) referendums related to the EU.

National contexts are therefore shaping the practice of direct democracy on EU matters in myriad ways. The interplay of these dynamics cannot but have a significant impact on the governance of the broader EU polity. However, the challenges confronted by the EU, in terms of providing meaningful channels for citizen input, are of a different order than those facing the Member States themselves in the midst of a purported crisis of representation. Given the EU's weakly consolidated democratic status, those challenges tend to take on a more acute form and lead to a questioning of the polity itself. Whenever such questions emerge, it seems the tools of direct democracy are not very far away. And, so it is with the EU as it confronts a series of systemic challenges, from a Eurozone crisis to a refugee crisis and a more assertive Russian neighbour. Perhaps not surprisingly, as we shall see in this study in greater detail, all three challenges have led to popular votes or pledges to hold referendums. An additional challenge has since emerged, this time of an institutional nature, and this time the product of an EU referendum, as the EU finds itself having to deal with the repercussions of the UK's popular vote to leave the EU.

It is because referendums have become so central to the future institutional trajectory of the EU that scholars have been increasingly attracted to the topic. As a result, the EU's experience with direct democratic practice has become a subject of growing scholarly inquiry. Below we will cover aspects of the general debate on direct democracy and show its connection to contemporary discussion on EU referendum practice. The next section identifies the instruments of direct democracy that are in use today with regard to EU matters while

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the last section adopts a comparative perspective to benchmark the availability and practice of direct democracy on EU matters.

1.1.   The scholarly debate

This section flags some of the most salient debates on direct democracy. An obvious point of departure is to try and pin down what exactly is meant by the term direct democracy since, ultimately, the debate surrounding EU-related referendums is one about the practice of direct democracy. In fact, it is difficult to isolate current discussion about EU-related referendums, be it by scholars or political pundits, from the more general normative attitudes towards direct democracy. At one level of abstraction, direct democracy is simply a regime in which citizens as a whole debate and vote on the most important decisions and where, crucially, their vote determines the action to be taken (Budge 1996). It is not unconnected to broader normative ideals that trumpet the value of an active citizenry engaged in the process of self-government, frequently referred to as participatory democracy

Critics have long pointed out that while direct democracy is certainly normatively appealing, it seems mostly suited to the city-state rather than the modern national state. Indeed, the inspiration for participatory models of democracy comes from classical variants of Athenian democracy or the city-states of Renaissance Italy and Geneva in the eighteenth century. The feasibility critique rests on the difficulties of face-to-face engagement and enlightened deliberation in larger polities. In fact, it is precisely because of challenge of scope when moving beyond the confines of the city-state that modern representative democracy was invented (Dahl 1956, 1971). Active participation in the modern state, it follows, is impractical for reasons of size and the complexity of policy-making.

With the advent of new technologies and mass media the potency of the feasibility argument has been somewhat diminished. This has made the core critique of direct democracy, the citizens' competence argument all the more salient. The competence argument has a rich historical pedigree, going back to Plato through to Schumpeter and Bobbio in the twentieth century. Although there are many strands to the critique at its core is a unifying thread that posits ordinary citizens as poorly informed and on the whole ill-equipped to deal with the complexities of decision-making.

The competence argument has been used in reaction to major upsets in the practice of direct democracy on EU matters. Thus, Moravscik argued that ignorance carried the day in Ireland's first vote on the Lisbon Treaty (Moravscik 2008). Dehousse, in reaction to the failed Constitutional Treaty referendums, warned against the use of devices that can imperil patiently negotiated compromises while they are incapable of providing alternatives (Dehousse 2006). For others, used in the EU context the device is a response to populist pressures that intensify and legitimate populism (Hooghe and Marks 2009). All of these critiques rely in one form or other on the competence argument.

Yet there have been voices parting from very different assumptions about the merits of direct democracy. Shortly before the Laeken Declaration that led to the Constitutional Treaty Habermas (2001) had called for a pan-European referendum. It was justified in terms of its catalytic effect in arousing a Europe-wide debate. Indeed, a standard argument in favour of direct democracy is its educational role and positive impact on political knowledge (Altman 2011). Others, such as Schmitter, have drawn on the feasibility argument to argue that new technologies have tremendously lowered the transaction cost of organising and participating in a continent-wide popular consultation (Schmitter 2005). Rose (2013) has argued that an

EU-wide referendum could foster greater democratic legitimacy as well as making state executives more accountable to their electors. All of these arguments also draw from the general debates, which emphasise that instruments of direct democracy push policy towards the centre of public opinion, can have a positive impact on opinion formation and are valuable instruments of legitimation.

None of the preceding arguments suggest that scholars in favour of direct democracy are in any way supportive of current referendum practice in the EU. As pointed out by Cheneval, an advocate of pan-EU direct democracy, the practice of plebiscitary referendums is discriminatory, creates political inequalities among EU citizens and thereby reduce legitimacy (Cheneval 2007). All of this suggests that a more fruitful avenue is to examine the actual practice of direct democracy rather than engage in the loftier debates surrounding direct democracy versus representative democracy. For one, neither model can exist in practice. There is no empirical example of a direct democratic state, which is why Switzerland – the country with the most prolific use of direct democracy – is best described as a semi-direct democracy (Kriesi and Trechsel 2008). Similarly, a pure representative or Schumpeterian model where citizens are restricted to merely choosing among cartel political elites who get on with the job of governing largely impervious to the impact of public opinion is equally infeasible. Hence, the empirical literature has focussed less on the normative debates than on how direct democracy actually operates in practice.

There are many strands to this literature, from dealing with the policy impact of direct democracy, the effects on political efficacy, through to the spread of direct democracy in the contemporary setting. Insights from the general literature have shaped how scholars study the practice of direct democracy in the EU. This includes investigating the reasons for which referendums are called (Morel 2007), the diffusion of EU-related referendums (Hug 2002; Mendez et al 2014) as well as individual voting behaviour (Hug 2002; Hobolt 2009; Glencross and Trechsel 2011; Garry 2014), and other factors that contribute to referendum outcomes (Qvortrup 2016) -to name but a few examples inspired by the broader literature.

1.2.   Instruments of direct democracy in the EU

Procedures of direct democracy can take a variety of institutional forms the most common of which are the citizens' initiative, the recall election, and various types of referendums. The bulk of the literature focuses on two instruments of direct democracy: the referendum and the citizens' initiative. The latter are activated through a bottom-up process usually involving a signature gathering process. If the requisite signatures are gathered, and other procedural requirements met, the citizens' initiative can trigger a referendum on a given issue of policy. To distinguish it from other, weaker form of citizens' initiatives, some scholars call this type of instrument a "full-scale initiative" (Schiller and Setala 2012). We prefer to adopt the terminology of "citizen-initiated referendum" as it is relatively self-explanatory and precise. The citizen-initiated referendum is an un-mediated form of political decision-making in which the scope for influencing the policy agenda is direct. A weaker form of citizen initiative is the agenda initiative. It can be thought of as a halfway house between the weak and generally non-committal petition – which is provided for in most constitutional systems – and the citizen-initiated referendum. Unlike the petition, the agenda initiative is usually much more tightly regulated than a petition and typically requires a formal response by public authorities. It is thus a mediated form of bottom-up direct democracy in which political elites decide whether to follow up a policy initiative. Referendums also come in many forms. One useful distinction made is to ask whether a referendum is automatically triggered by a constitutional process, as is the case with a mandatory referendum on a constitutional amendment, or

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whether the referendum choice is at the discretion of the executive and triggered for ad-hoc political reasons. The former is usually seen as a legitimate device while the latter is generally viewed as democratically suspect and often referred to as a plebiscite.

When we direct our attention to the practice of direct democracy in the EU, there are three broad categories of EU-related direct democratic instruments that are in use today:

- The first is the referendum on an EU issue. These votes are held either by Member States, constituent parts of a Member State or by non-EU Member States. The EU itself does not hold referendums nor does it require them to be held, though there have been calls for it to do so (see further Chapter 5).

- The second type of direct democratic instrument relating to the EU is the recent and growing phenomenon of the use of citizens' initiatives at Member State level on EU issues. This second form can also be the trigger for a referendum on an EU issue. The first mandatory EU referendum triggered by a 'bottom-up' process recently took place in the Netherlands (April 2016) when the Dutch voted on the EU-Ukraine Association Agreement.

- The third type is the EU's very own fledgling instrument of supranational direct democracy, the European Citizens' Initiative (ECI), which allows a minimum of 1 million citizens to request a legal act from the European Commission. Although it only came into force in May 2012, it has already generated a flurry of bottom-up activity.

In terms of the scholarly literature, it has been the first of the categories of direct democracy that has been the dominant focus. This is not without good reason for it has the oldest pedigree, the first such referendum having been held in 1972, and has given rise to a significant body of practice with well over 50 such referendums to date. Key questions explored at length by political scientists have included why such referendums are called, the role of parties, campaigning, turnout and voting behaviour (two key monographs in this respect are Hobolt 2009 and Hug 2002).

Legal scholars have also given attention to these referendums (e.g. Dehousse 2006; Auer 2007 & 2016; Tierney 2012), particularly the treaty revision referendum that in the event of a negative vote is capable of halting the integration process (de Búrca 2010). Literature on the second and third categories of EU-related direct democracy instruments is in its infancy, which is to be expected given how new these instruments are. Nonetheless the emerging practice under the ECI is being carefully scrutinised by political scientists and legal scholars (see e.g. Organ 2014; Boussaguet 2015; Karatzia 2015; Conrad et al 2016; Mendez and Mendez 2016).

1.3.   Direct democracy in the EU from comparative perspective

In this section we will situate the practice of direct democracy in an international, comparative setting. How unique is the EU's practice of direct democracy? Certainly there is little to learn from international organisations since they tend not to generate referendums (NATO and the UN being the exception albeit in very rare instances). Can any comparative insights be gleaned from other political systems? In order to address this question we apply a comparative federalism lens. A comparative federalism approach to various dimensions of EU politics has been a common research strategy among analysts of the EU (e.g. Kelemen 2005; Fabbrini 2004; McKay 2001; Mendez et al 2014). The rationale is straightforward: in

terms of its political system the EU most closely resembles a special form of political organisation: a federal system, albeit a very incomplete one. Thus, depending on the specific research objectives, a comparative federalism approach can be revealing of the dynamics of EU politics. Drawing on this logic, we begin by examining the federal universe in relation to the availability and functioning of direct democracy mechanisms. This initial mapping exercise will help to situate the EU's evolving practice of direct democracy in a broader setting.

Table 1 : Traditions of direct democracy in federations

Country	Rated as free	N of referendums since 2000	Subnational DD	Citizens initiative at fed level
Argentina	Yes	0	Yes	Yes
Brazil	Yes	4	Yes	Yes
Switzerland	Yes	>50*	Yes	Yes
Australia	Yes	0	Yes	No
Canada	Yes	0	Yes	No
United States	Yes	NA	Yes	No
Germany	Yes	NA	Yes	No
India	Yes	NA	No	No
South Africa	Yes	0	Yes	No
Russia	No	0	Yes	Yes
Venezuela	No	4	Yes	Yes
Ethiopia	No	0	Yes	No
Malaysia	No	NA	No	No
Mexico	No	0	Yes	No
Nigeria	No	0	Yes	No
Pakistan	No	1	No	No
United Arab Emirates	No	0	No	No

* Switzerland has over 50 cases whether only mandatory referendums or citizen-initiated referendums are included.
** NA (not applicable) in the third column refers to the non-provision for federal level referendums.
Source: Compiled using Freedom House for the 'Rated as Free' variable; IDEA Direct democracy database, and the c2d database.

Table 1 provides a synoptic overview of the availability and use of direct democracy instruments in federations. It is organised in terms of three federal groupings based on how `free' a country is according to Freedom House scores (since 2000). The first two groups can

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be considered free democracies and include some of the classic federations, i.e. Australia, Canada, Germany, Switzerland and the United States (US). Most of these cases, apart from Argentina, Brazil, India and South Africa, are also wealthy advanced democracies that are members of the OECD. The third group of federations, typically authoritarian regimes, are coded as either `partly free' or `not free' by Freedom House[1]. In terms of our mapping exercise, and comparative lesson drawing for the EU, there is little to learn from this third group of cases.

Let us begin by taking a glimpse at the frequency of federal referendums in column three. The referendum count gives us an idea of the frequency of federal level referendums in federations. Leaving aside the outlier case of Switzerland, which we will discuss later, only two countries (Brazil and Venezuela) have held more than one federal level referendum since 2000. Furthermore, in these two cases the number of referendums has been very low -not more than four referendums. The message is quite clear, leaving Switzerland aside the use of the most studied instrument of direct democracy, the referendum, is extremely rare in federations at the federal level. In some cases, such as Germany or the US, the dearth of federal level direct democracy is easy to explain since there are no provisions for federal level referendums. On the other hand, in virtually all federations, especially among the advanced democracies, there is ample evidence of direct democracy practice at the subnational level (with the exception of India). The cases of both the US and Germany are illustrative of this general dynamic in which there is evidence of vibrant direct democratic activity at the subnational level -especially in some of the constituent units- but no mechanism for direct democracy exists at the federal level.

Perhaps one of the most instructive comparisons for the EU on the availability and practice of direct democracy at the federal level can be gleaned from comparing outcomes in two advanced democratic federations, Switzerland and Australia. Both systems incorporated during their foundational moments the mandatory referendum for effecting constitutional change. The outcomes are strikingly different however. Whereas around 80 percent of constitutional referendums fail in Australia, the success rate is almost 75 percent in Switzerland for non-citizen-initiated constitutional referendums (Mendez et al 2014: 179). The end result of the high failure rate in Australia is that alternative strategies involving political means and courts have been used to institute constitutional change.

The last column in Table 1 examines the availability of bottom-up instruments of direct democracy. Among the democratic federations, only Argentina, Brazil and Switzerland have managed to provide for bottom-up mechanisms of direct democracy. Yet, this bundling together of citizen initiatives masks an important distinction. Only Switzerland provides for - a citizen-initated referendum – i.e. for a signature-gathering instrument that triggers a referendum on a proposed policy. This is an extremely rare institution in multi-tiered polities, Switzerland being the only example providing for such an institution. The citizen-initiated referendum is on the other hand quite popular at the subnational level – the United States being a good example of a country with a vibrant tradition of direct democracy via the citizen-initiated referendum at the subnational level.

An equally rare institution is the weaker form of a citizens' initiative, the agenda initiative. Among federations, only two Latin American cases have provisions at federal level for bottom-up direct democracy that is functionally similar to the ECI. The agenda initiatives in Argentina and Brazil were introduced during transitions from authoritarian rule. There is however divergence between the two cases that may herald some insights for the EU's experiment with the ECI. As with the EU's agenda initiative, Argentina and Brazil have thresholds in terms of signatures gathered from the various constituent units. However, the agenda initiative in Argentina is more tightly regulated. The end result, is that very few initiatives clear the regulatory thresholds to be registered – let alone have a direct policy

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[1] The Freedom House compilation uses a trichotomous variable: free, partly free, and not free. We have converted this to a binary variable, i.e., defined as free: Yes/No.

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impact. This has led to a self-undermining dynamic whereby the instrument is rarely used and there is a lack of awareness among the citizenry as to its existence. By contrast, in Brazil there has been a process of institutional reinforcement with the agenda initiative having the capacity to mobilise citizens and a general awareness of the instrument. Furthermore, it has had a direct policy impact in terms of concrete legislative outputs in five instances over its two-decade long existence. With the exception of Brazil, agenda initiatives rarely have any direct policy impact.

In short, among the cluster of democratic federations, the practice of direct democracy at the federal level is rather rare. With the exception of Switzerland, most democratic federations rarely resort to referendums on federal level issues even when such votes are constitutionally permissible. In other cases, most notably the United States and Germany, recourse to a federal level referendum is not constitutionally permissible. While no referendum mechanism exists at the equivalent of the federal level, it is surprising from comparative perspective that the EU has been the object of so many referendums. Perhaps the closest analogy is the territorial expansion of the United States during the nineteenth century, a process that generated over 100 subnational referendums on federal matters that would be similar to contemporary 'membership' referendums in the EU (Mendez and Germann 2016).

A similar paucity of federal level direct democracy occurs with regard to bottom-up forms of direct democracy – Switzerland again being the exception. The use of bottom-up direct democracy mechanisms is very rare at the federal level (three cases among federations). Furthermore, the two forms of bottom-up direct democracy, the citizen-initiated referendum and the agenda initiative, appear to be mutually exclusive. Either provisions exist for a citizen-initiated referendum (Switzerland) or they take the form of an agenda initiative (Argentina and Brazil). No federal instance has both instruments. Seen from comparative, international perspective, the ECI is a seminal achievement in terms of providing channels for direct citizen participation on the equivalent of federal level issues. While the jury is very much still out on its future evolution and whether it fulfils its promise to provide meaningful channels for direct citizens' participation (see contributions in Conrad et al 2016), the fact that it exists constitutes a rare example of EU democratic innovation –certainly from a comparative international perspective.

2. EU-RELATED REFERENDUMS: TWO TYPOLOGIES

KEY FINDINGS

- Referendums on EU matters vary considerably in terms of (1) their functional properties or type and (2) the reasons for calling them. Taking into account these two dimensions is crucial to understanding the dynamics of EU-related referendums

- There are four main types of EU-related referendum: (1) membership referendums (which can be divided between the frequently deployed accession referendum and the rarely used withdrawal referendum); (2) treaty revision referendums, which were generated by all six main rounds of treaty revision from the SEA to Lisbon; (3) policy referendums, which are held by EU Member States on an EU-related policy matter but are neither about membership nor treaty revision; (4) third-country referendums, which are held on the topic of European integration by states that are neither EU Member States nor are they Candidate States voting directly on an accession treaty.

- There are three broad categories of motives for referendums on EU matters which operate under distinct decisional logics: (1) the logic of constitutionality where referendums are either clearly constitutionally mandatory or at least considered to be; (2) the logic of appropriateness where the overriding rationale for deployment of a referendum is due to legitimacy concerns; (3) the logic of partisan calculus where the referendum is held for partisan motives whether to boost the popularity of an incumbent leader or to mediate divisions within a political party.

This Chapter provides an overview of the EU's referendum experience according to two typologies. This first focuses on the functional properties of the particular type of referendum. The second typology addresses the motives for calling referendums, what can be considered as the logic underpinning a referendum choice. For each typology, we begin by offering a definition of the category and provide a brief survey of some of the practice thereunder.

2.1. Types of referendums

2.1.1. Membership referendums

This type of referendum can take two very distinctive forms, an accession referendum and a withdrawal referendum. The former is undertaken by candidate states after a typically lengthy negotiation process. In very rare instances, a subnational entity may also undertake a separate accession referendum (as did the Finnish Åland Islands). This definition precludes the inclusion of referendums on the 'policy' of joining the EU by non-candidate states, which are thus coded separately. The second type of referendum in this category relates to withdrawal from the EC/EU. This type of referendum can only be held by an EU Member State, or a territorial entity that belongs to an EU Member State.

Table 2: Membership referendums

Case & Year	Issue
Denmark 1972	Accession to the European Community
Ireland 1972	Accession to the European Community
Norway 1972	Accession to the European Community

Case & Year	Issue
UK 1975	Remaining in the European Community
Greenland 1982	Remaining in the European Community
Aland Islands 1994	Accession to the EU
Austria 1994	Accession to the EU
Finland 1994	Accession to the EU
Norway 1994	Accession to the EU
Sweden 1994	Accession to the EU
Czech Republic 2003	Accession to the EU
Estonia 2003	Accession to the EU
Hungary 2003	Accession to the EU
Latvia 2003	Accession to the EU
Lithuania 2003	Accession to the EU
Malta 2003	Accession to the EU
Poland 2003	Accession to the EU
Romania 2003	Constitutional Amendment for EU Accession
Slovakia 2003	Accession to the EU
Slovenia 2003	Accession to the EU
Croatia 2012	Accession to the EU
UK 2016	Remain in the EU

Source: Authors

Accession referendums account for 19 of the 22 membership referendums. None of the founding Member States put accession to the people. This is perhaps unsurprising given, firstly, that the constitutional significance of the organisation was not yet fully apparent, secondly, that the founding members (Belgium aside) had new clauses in their constitutions precisely for legitimising the delegating of powers to international organisations, and, thirdly, that referendum practice was then largely non-existent. Indeed, the German Constitution would, as now, have needed an amendment to permit their use. However, since the founding, sixteen of twenty-two candidate states have put accession to the people. The accession referendum emerged with the very first round of enlargement when three of the four candidate states sought popular approval for accession - the UK being the exception, albeit an exception in which popular approval for continued membership was accorded only two years after entry. One of those four candidate states, Norway, is the only one to have ever rejected accession, which it repeated in a 1994 accession referendum. Of the five other candidate states not to have held an accession referendum, it is noteworthy that three

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(Greece, Spain and Portugal) joined prior to the first major change to the treaties (the Single European Act (SEA)); the other two are recent entrants (Cyprus and Bulgaria). With rare exception since the SEA, the accession referendum has thus become the general norm for legitimising membership.

Withdrawal referendums account for three of 22 membership referendums. Only two withdrawal referendums have been held by any Member State of the EU. Both have taken place in the United Kingdom (UK). The first was in 1975 when the UK, following renegotiations, held a referendum on its continued membership. This process was replicated just over forty years later when in June 2016 a Conservative government in the UK fulfilled its manifesto commitment to hold an in-out EU referendum on renegotiated terms of membership. The first withdrawal referendum had actually taken place at a time when there was still debate as to whether a Member State could actually leave the organisation (Athanassiou and Laulhé Shaelou 2014: 1–2). The second referendum took place following the inclusion by the Lisbon Treaty of an express treaty provision on withdrawal (Art 50 TEU). That clause specifies that "[a]ny Member State may decide to withdraw from the Union in accordance with its own constitutional requirements." Normally States rarely constitutionally require a referendum for withdrawing from a treaty, though there are recent instances of constitutional texts that at least require such referendums where a popular vote was used to approve the treaty (see Mendez 2017). Because so many states have used the referendum device for accession to the EU, whether this has been constitutionally required or not, as well as others which have used a referendum to approve of a treaty revision (e.g. France, Spain & Luxembourg, even if the Constitutional Treaty itself did not come into force), it is highly unlikely that a different device could be used for the constitutionally momentous step of withdrawal. Indeed, it seems unlikely that anything but the referendum device would be used even for those states that have never held an EU referendum, or where referendums are not even constitutionally permissible as in Germany.[2] It also currently seems unlikely, given the rising tide of euroscepticism and dissatisfaction with the EU, that the UK's 2016 referendum will be the last of the Member State withdrawal referendums. However, it may be the case that the UK's experience with a withdrawal referendum actually dampens demand for such referendums and certainly the willingness of politicians to call them unless they do actually wish to leave the EU. As Prime Minister Cameron found out, there are simply no guaranteed outcomes when one calls such referendums, and a comfortable poll lead can rapidly dissipate as it had previously for President Mitterrand with the Maastricht Treaty.

The only other express withdrawal referendum has been held by a constituent part of a Member State, Greenland, which in the national accession referendum in 1972 had voted overwhelmingly against joining. Denmark had granted Greenland a form of home rule by the late 1970s and in 1982 Greenland held a consultative referendum in which a small majority approved of withdrawal. That decision was later approved by Greenland's parliament and led to Denmark negotiating Greenland's withdrawal, which took place in 1985 with a treaty revision having been necessary to give effect to this change (Athanassiou and Laulhé Shaelou 2014: 5-6).

Membership referendums are likely to continue to determine the future geographical contours of the EU, whether through Member States joining or leaving. Another important challenge to the membership dynamic -the process of acquiring or dispensing with the status of being

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[2] One cannot completely discount the possibility that an electoral mandate could be used to legitimise withdrawal taking place via mere parliamentary approval, which it seems was the position adopted by the British Labour Party in 1981: see Tatham (2012: 149)

a Member State- comes from territorial restructuring within the Member States themselves, specifically independence referendums that have potentially significant ramifications for the EU (see Closa 2016). The Scottish independence referendum of 2014 is the preeminent example. Such a referendum is clearly distinct from a constituent part of a Member State voting exclusively and expressly on withdrawing from the EU, as was the case with Greenland. The latter is clearly a referendum specifically on the EU, the former is a referendum on a different question, albeit with potentially considerable ramifications for the EU, and has not been included within our four-fold typology. Nonetheless it is worth noting that the challenge posed by Scottish type independence referendums in which the seceding entity wishes to remain within the EU is precisely how to accommodate this. In the Scottish case there was considerable debate as to whether a seamless internal EU enlargement could take place via the treaty amendment procedure (Douglas-Scott 2014) or, perhaps the more persuasive view, that a seceding entity would need to apply to join (Armstrong 2014; Closa 2016). The "No" vote on Scottish independence meant that this vexed issue remained unanswered, since the UK withdrawal referendum it has already re-emerged in a different format, this time whether Scotland can remain in the EU while the UK leaves. Catalonia's continued pursuit of secession from Spain ensures that this issue will remain firmly on the table.

2.1.2. Treaty revision referendums

These are referendums held by Member States as a precursor to ratifying a revision to the EU treaties and have arguably been the most controversial aspect of the EU's direct democratic landscape. The existence of these referendums, and the complications to which they give rise, stems from the fact that for a treaty revision to enter into force the EU's rules (currently Article 48 TEU) require ratification "by all the Member States in accordance with their respective constitutional requirements." If those domestic requirements are, or become, a referendum then this becomes a prerequisite to treaty revision taking place.

Table 3: Treaty revision referendums

Case & Year	Issue
Denmark 1986	Single European Act
Ireland 1987	Single European Act
Denmark 1992	Treaty of Maastricht
France 1992	Treaty of Maastricht
Ireland 1992	Treaty of Maastricht
Denmark 1993	Second Treaty of Maastricht vote
Denmark 1998	Treaty of Amsterdam
Ireland 1998	Treaty of Amsterdam
Ireland 2001	Treaty of Nice
Ireland 2002	Second Treaty of Nice vote
France 2005	Constitutional Treaty

Case & Year	Issue
Luxembourg 2005	Constitutional Treaty
The Netherlands 2005	Constitutional Treaty
Spain 2005	Constitutional Treaty
Ireland 2008	Treaty of Lisbon
Ireland 2009	Second Treaty of Lisbon vote

Source: Authors

All six main rounds of treaty revision, including the attempted revision via the Constitutional Treaty, have generated such referendums. However, only six states have actually held them. Three of the states to have held them did so only once (Luxembourg, the Netherlands and Spain) precisely for the only revision, the Constitutional Treaty, to have been expressly framed in bold constitutional language. Attempts to require such referendums through the use of constitutional challenges, the parliamentary process, and bottom-up mechanisms have however been a regular and growing occurrence across a wide range of Member States and there is no reason to think that this is not likely to generate more successes, as a constitutional challenge once did in Ireland, for those desiring a popular vote (Mendez *et al* 2014, chapter 2).

Most EU treaty revision referendums are actually accounted for by the constitutional specificities of Denmark and Ireland. The Danish Constitution's transfer of powers clause stipulates a five-sixths parliamentary approval requirement, with popular approval required if only an ordinary parliamentary majority is obtained. The SEA did not actually fall within that clause and thus the first treaty revision referendum to have been held was Denmark's non-constitutionally required consultative referendum on the SEA. However, the only other revising treaties to be subjected to popular approval in Denmark, the Treaties of Maastricht and Amsterdam, did fall within that clause and the failure to obtain the necessary five-sixths majority approval necessitated referendums. Famously the Danish "No" vote on Maastricht ratification in 1992 gave the EU its first experience with a negative popular vote bringing treaty revision grinding to a halt. This led to European leaders agreeing to a range of opt-outs so that Danish ratification could take place, and thus the entry into force of the Maastricht Treaty, as it did following popular approval in Denmark. Denmark, however, has managed to avoid holding a treaty revision referendum on the two most recent major treaty revisions, namely Nice and Lisbon because they were found by the Ministry of Justice not to fall within the Danish transfer of powers clause (Mendez *et al* 2014: 53-54).

As concerns Ireland, its need for EU treaty revision referendums was unexpected and is owed to a constitutional challenge to the government's attempt to ratify the SEA using the ordinary parliamentary approval route. That challenge led to a Supreme Court ruling in 1987 which found that EU revising treaties going beyond the scope or objectives of the existing treaties, as did the SEA, would require a constitutional amendment and thus a referendum (Barrett 2009). Following this famous *Crotty* ruling, Irish governments have put all main treaty revisions to the people.[3] This has led on two occasions (the Treaties of Nice and Lisbon) to negative votes. As with the earlier Danish example, the treaty revision process was brought

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[3] The small-scale Article 136 TFEU revision post-Lisbon saw the Irish government follow the Attorney General's advice that it did not require a constitutional amendment referendum.

to a halt and led to various assurances that allowed for a second referendum to take place in Ireland, which duly approved of the relevant treaties and thus allowed them to enter into force for all of the EU.

2.1.3.   Policy referendums

These referendums are about a specific policy field, such as monetary policy, fiscal policy or the EU's foreign policy (e.g., enlargement). Ultimately, this is somewhat of a mixed bag category, which is most easily defined by stating what it is not: i.e. a referendum about the EU that is neither a membership referendum nor a treaty revision referendum but is nonetheless held by an EU Member State. The last condition is necessary to distinguish policy referendums held by EU Member States from those held by third countries on matters of EU policy, which constitute our fourth type.

Table 4: Policy referendums

Case & Year	Issue
France 1972	Enlargement of the European Community
Italy 1989	European Parliament to elaborate a European Constitution
Denmark 2000	Adopting the Euro
Sweden 2003	Adopting the Euro
Ireland 2012	Fiscal Compact Treaty
Denmark 2014	Accession to European Unified Patent Court (UPC)
Greece 2015	Bailout package
Denmark 2015	Opting in to certain JHA issues
Netherlands 2016	Ukraine–European Union Association Agreement
Hungary 2016	EU Migrant quotas

Source: Authors

From the perspective of the EU polity the most significant of the policy referendums, because of its potentially considerable direct extraterritorial impact, was the very first EU referendum to be held: the 1972 French enlargement referendum. The EU's rules on enlargement (as outlined currently in Article 49 TEU) require accession treaties to be approved by all the Member States in accordance with their respective constitutional requirements. There was no such constitutional requirement for an enlargement referendum in France, but the President called this non-binding vote and if the outcome had not been favourable, it is hard to believe that France would nonetheless have simply proceeded to ratify the accession agreement. In short, a "No" vote could have jeopardised the EU's first enlargement. This is unlikely to be the last time that a Member State deploys a popular vote on the accession of other States to the European Union. France's first ever constitutionally obligatory referendum was introduced in 2005 to require enlargement referendums following any accessions after Romania, Bulgaria and Croatia, although following a 2008 amendment this can now be avoided via a particularly high super-majority in parliament. How this French enlargement

referendum lock plays out will be of great consequence, not least if other Member States follow suit. A domino logic with EU referendums is not unknown and was previously seen in relation to treaty revision with the Constitutional Treaty. Bulgaria, for example, has witnessed a bottom-up attempt to generate a Turkish enlargement referendum using a new law on direct citizen participation, whilst in Austria political parties have promised to submit future Turkish accession to a referendum (see Mendez et al 2014, chapter 2). The new bottom-up Dutch referendum instrument is also applicable to accession Treaties (see Heringa 2016), and it seems likely that Eurosceptic groups would seek to deploy it vis-à-vis any future enlargement.

Two referendums have been held on adopting the Euro, but given that 19 states have adopted the Euro one might have expected more. Part of the explanation for the paucity is that EU Member States, Denmark and the UK aside, are under a legal obligation to join the Euro once they fulfil the entry conditions. This also helps explain why many states that adopted the Euro relatively soon after EU accession referendums did not feel an additional Euro referendum was required (examples include Austria, Finland, Malta, Slovakia, Slovenia). It also helps to put in legal context Latvia and Lithuania's adoption of the Euro in the midst of the Eurozone crisis post-2010. Yet this legal obligation, and an accession referendum less than ten years earlier, did not stop Sweden from pursuing a consultative referendum on joining the Euro in 2003. The negative outcome means that it would only be politically feasible for Sweden to join following popular approval. The Swedish referendum choice was perhaps influenced by its Nordic neighbour, Denmark, which had already held the first Euro accession referendum in 2000 –a referendum that was famously rejected by the people. Denmark's referendum was however constitutionally obligatory when a five-sixths parliamentary majority was not obtained, though it was in any event politically obligatory given Danish opt-outs from the single currency following its first failed referendum on the Maastricht Treaty. Denmark's opt-outs are also responsible for another policy referendum, when in 2015 Danish voters rejected an arrangement, similar to that of the UK and Ireland, allowing them to opt-in to Justice and Home Affairs measures.

A recent development is referendums on extra-EU treaties, which accounts for two of the policy referendums. Such treaties are intimately connected to EU law, and indeed can even make use of the EU's institutions, but have hitherto only been concluded between a range of EU Member States. Not only have they so far all been born without all EU Member States as parties, such treaties have also not required unanimous ratification by all contracting parties to enter into force.[4] The Fiscal Compact Treaty, which is primarily aimed at enhancing fiscal discipline by Eurozone states, is the first such extra-EU treaty to be subjected to a referendum. This was successfully held in Ireland in 2012 following the Attorney General's recommendation that a constitutional amendment and thus popular vote was required. The second was held in Denmark on the Unified Patent Court Agreement, which creates a Court with exclusive competence over European patents. As the Ministry of Justice concluded that this treaty constituted a transfer of sovereign powers, once it became clear that the Danish government could not obtain the necessary five-sixths parliamentary majority, a referendum was called for the same day as the 2014 European Parliament elections and popular approval was duly given. Another Unified Patent Court Agreement referendum may yet soon be added, given that the legislative programme of the Irish government announced in June 2016 includes a constitutional amendment referendum to permit ratification of the Agreement.

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[4] Although each of the four largest Eurozone states would have constituted veto points to the entry into force of the European Stability Mechanism Treaty

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This category also includes two rather idiosyncratic policy referendums. The first was a consultative referendum held by Italy in 1989, which saw the people vote in favour of the European Parliament being accorded a mandate to draw up a constitution for Europe. This referendum is distinctive from all the other policy referendums in that nothing actually directly flows from a yes vote; it simply is not up to the Italian electorate to accord a mandate to the European Parliament for drawing up a constitution. Until very recently it was also distinctive in being the first bottom-up EU referendum, its origins lying in an agenda initiative that obtained over 100,000 signatures and which the Italian parliament decided to give effect to. The second of the idiosyncratic policy referendums is the Greek bailout referendum in mid-2015 that followed protracted negotiations between Greece and its Eurozone creditors. Among its many idiosyncrasies, two included the shortest time between a referendum announcement and the vote (just over one week) and the fact that the terms of the bailout package on which the Greek people voted had already been withdrawn by the creditors.

Two new additions to the EU's referendum landscape have recently emerged. The first was the second bottom-up EU referendum to have taken place, only this time via a citizen-initiated referendum and, unlike the much earlier Italian referendum, with extra-territorial implications. The new Dutch Advisory Referendum Act of 2015 requiring a referendum to be held on laws or treaties approved by Parliament where at least 300,000 citizens support it was rapidly deployed vis-à-vis the EU-Ukraine, EU-Georgia and EU-Moldova Association Agreements that the Dutch Parliament passed in 2015. Only the Ukraine Agreement met the initial required threshold of 10,000 signatures within 4 weeks, and soon thereafter it proceeded to satisfy the 300,000 signatures requirement. On the lowest turnout (32%) of any EU referendum held to date, though this bottom-up device has a 30% threshold that encouraged abstention, approval was not given. In the absence of Dutch approval, which following this non-binding referendum has not been forthcoming, this important Agreement cannot enter fully into force for the entirety of the EU.   The most recent addition to the EU referendum landscape is the wholly unprecedented policy referendum that emerged in the wake of the EU's response to the refugee crisis. In 2015 Hungary was one of four Member States outvoted in the Council on the mandatory refugee relocation quota. The response of the Prime Minister was to hold a referendum in 2016 on whether the EU should have the power to impose compulsory settlement of non-Hungarian citizens in Hungary without the Hungarian Parliament's approval.

2.1.4.   Third-country referendums

These are referendums held on the topic of EU integration by third countries. A third country for the purposes of our referendum typology is a country that is not an EU Member State nor a country that has acquired candidate status and can therefore vote directly on EU membership. One of the most recent examples is San Marino's 2013 referendum on accession negotiations with the EU - which failed the quorum. Third-country EU referendums are a rather common occurrence with most of them related to treaties (or the extension thereof) signed with the EU. In practice, 75 percent of third-country referendums are accounted for by a specific country, Switzerland, with a vibrant tradition of direct democracy (Serdült 2014). It is unsurprising therefore that Switzerland has generated so many referendums related to its relationship with the EU (see also Sciarini 2016). More generally, thus far, third-country referendums have been only held by countries neighbouring the EU. However, this need not be the case - for instance any of the many countries in other parts of the world that are engaged in negotiating trade or association agreements with the EU could seek to have a referendum on the relevant agreement, which would be covered by the category.

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Table 5: Third-country referendums

Case & Year	Issue
Liechtenstein 1992	Accession to EEA
Switzerland 1992	Accession to EEA
Liechtenstein 1995	Accession to EEA
Switzerland 1997	Popular initiative to let people decide on joining EU
Switzerland 2001	Popular initiative referendum on EU accession negotiations
Switzerland 2000	Bilateral treaties with the EU
Switzerland 2005 (b)	Bilaterals (extension of free movement)
Switzerland 2005 (a)	Bilaterals (Schengen)
Switzerland 2006	Bilaterals (extension to Eastern European countries)
Switzerland 2009	Bilaterals (free movement to Bulgaria and Romania)
San Marino 2013	Accession negotiations with the EU
Switzerland 2014	Migration quotas (affects bilateral treaties)

Source: Authors

2.2. The logic of EU-related referendums

We now turn to some of the dynamics surrounding the supply of EU-related referendums. The fundamental question posed is: why are referendums held? We have already hinted in the previous Chapter at the motives behind some referendums. More generally, apart from those referendums triggered by mandatory constitutional provisions, there are myriad reasons why political elites may opt for the referendum route. Indeed, there is a lively debate in the literature on the motives for holding referendums more generally (Smith 1976; Morel 2007), as well as in relation to the EU (Closa 2007; Oppermann 2013; Mendez et al 2014). The most basic distinction is between cases where there is no political discretion, i.e. a referendum must be held because it is mandatory, on the one hand and cases where the referendum choice is at the discretion of political elites on the other. A classic example is when a referendum is not required but is held for strategic partisan motives. There is a fuzzy area between the two instances where a referendum may not be constitutionally required but it has become de facto mandatory to hold one. This gives rise to three broad categories of motives for referendums, which operate under very distinct decisional logics. We look at each logic in turn.

2.2.1. Referendums under the logic of constitutionality

This category is perhaps the most straightforward, though there are some nuances. In the context of EU-related referendums, the clearest example of a constitutionally mandatory referendum comes from a non-EU Member State, Switzerland. Swiss referendums, including EU-related ones, are automatically triggered by virtue of its constitutional order. In no EU Member State (or any other country across the globe) is direct democracy so fully integrated into its constitutional order as in Switzerland (Serdült 2014). Among EU member or candidate states, constitutionality-driven logic is at play in four distinct scenarios. One is where a court decides a referendum is constitutionally required, as in the case of Ireland with the SEA. A second occurs, in the case of Denmark, when the required five-sixths threshold in the legislature cannot be reached for delivering ratification of an EU treaty, thus triggering a constitutionally mandatory referendum. A third scenario emerges when the executive decides that a particular issue, whether membership of the EU or an EU treaty, falls within the scope of a constitutionally mandatory referendum as has been the case with Austria's accession to the EU or Ireland's accession or its post-SEA treaty referendums. Lastly, there is the case of The Netherlands where the recent introduction of a citizens' initiative at the national level has led to a mandatory referendum on an EU matter – the EU-Ukraine Association Agreement.

Table 6: Logic of constitutionality

Case & year	Type	Reason	Issue
Ireland 1972	Membership	Mandatory	Accession to the European Community
Ireland 1987	Treaty revision	Mandatory	Single European Act
Denmark 1992	Treaty revision	Legislative	Treaty of Maastricht
Ireland 1992	Treaty revision	Mandatory	Accession to the EU
Liechtenstein 1992	Third-country	Mandatory	Accession to EEA
Switzerland 1992	Third-country	Mandatory	Accession to EEA
Austria 1994	Membership	Mandatory	Accession to the EU
Liechtenstein 1995	Third-country	Mandatory	Accession to EEA
Switzerland 1997	Third-country	Mandatory	Citizen's initiative to let people decide on joining EU
Denmark 1998	Treaty revision	Legislative	Treaty of Amsterdam
Ireland 1998	Treaty revision	Mandatory	Treaty of Amsterdam
Switzerland 2000	Third-country	Mandatory	Bilateral treaties with the EU
Ireland 2001	Treaty revision	Mandatory	Treaty of Nice
Switzerland 2001	Third-country	Mandatory	Popular initiative referendum on EU accession negotiations
Ireland 2002	Treaty	Mandatory	Second Treaty of Nice vote
Switzerland 2005 (b)	Third-country	Mandatory	Bilaterals (extension of free movement)

Case & year	Type	Reason	Issue
Switzerland 2005 (a)	Third-country	Mandatory	Bilaterals (Schengen)
Switzerland 2006	Third-country	Mandatory	Bilaterals (extension to Eastern European countries)
Ireland 2008	Treaty revision	Mandatory	Treaty of Lisbon
Ireland 2009	Treaty revision	Mandatory	Second Treaty of Lisbon
Switzerland 2009	Third-country	Mandatory	Bilaterals (free movement to Bulgaria and Romania)
Ireland 2012	Policy	Mandatory	Fiscal Compact Treaty
San Marino 2013	Third-country	Mandatory	Accession negotiations with the EU
Switzerland 2014	Third-country	Mandatory	Against mass migration (affects bilateral treaties)
Denmark 2014	Policy	Legislative	Unified Patent Court (UPC)
Denmark 2015	Policy	Legislative	Opting in to certain JHA issues
Netherlands 2016	Policy	Mandatory	EU-Ukraine Association Agreement

Source: Authors

2.2.2. Referendums under the logic of appropriateness

Referendums operating under the logic of appropriateness share a trait that demarcates them from the more overtly partisan referendums described below. Broadly stated they are driven by an overriding legitimacy concern rather than overtly partisan considerations. Scholars have given different labels to these referendums, 'de facto obligatory' (Morel 2007) or to the motives for convening them, e.g. the 'rule of appropriateness' (Closa 2007). Generally, two dynamics can be at play whereby elites are constrained by either external political factors very much outside of their control or as a result of strong internal, domestic pressure. The accession wave of referendums, when the EU expanded in 2004 to incorporate the Central and Eastern European Countries can be considered as an example where strong external forces were at play in the choice to convene referendums. Not only were referendums convened among candidate states because of the decisions of neighbouring countries', but they were also then programmed in chronological sequences such that countries with more favourable EU attitudes held their referendums first (Albi 2005:141; Szczerbiak and Taggart 2004). We refer to this subcategory of referendum where external diffusion effects are present as a domino category.

By contrast, with the 'de facto obligatory' referendum the propelling forces are mostly endogenously generated. Good examples include Norway's second accession referendum in 1994. Having rejected membership in 1972, it was politically inconceivable not to have consulted the people again when the question re-emerged for the 1994 enlargement wave - even though a referendum was not constitutionally required. Similarly, the Swedish referendum on joining the Euro in 2003 was not constitutionally mandatory, but politically it was obligatory despite clearly not being in the interest of the then government.

Table 7: Logic of appropriateness

Case & Year	Type	Reason	Issue
Denmark 1993	Treaty revision	De-facto obligatory	Second Treaty of Maastricht vote
Aland Islands 1994	Membership	Domino	Accession to the EU
Norway 1994	Membership	De-facto obligatory	Accession to the EU
Denmark 2000	Policy	De-facto obligatory	Adopting the Euro
Czech Republic 2003	Membership	Domino	Accession to the EU
Estonia 2003	Membership	Domino	Accession to the EU
Hungary 2003	Membership	Domino	Accession to the EU
Latvia 2003	Membership	Domino	Accession to the EU
Lithuania 2003	Membership	Domino	Accession to the EU
Poland 2003	Membership	Domino	Accession to the EU
Slovakia 2003	Membership	Domino	Accession to the EU
Slovenia 2003	Membership	Domino	Accession to the EU
Sweden 2003	Policy	De-facto obligatory	Adopting the Euro
France 2005	Treaty revision	De-facto obligatory	Constitutional Treaty
Croatia 2012	Membership	De-facto obligatory	Accession to the EU

Source: Authors

2.2.3. Referendums under the logic of partisan calculus

This last category includes those cases where the referendum choice was neither constitutionally required nor the result of strong internal/external pressures. Instead, these referendums are held for purely partisan motives. Two types of partisan referendums exist. The overtly 'power-reinforcing' referendum is held to boost the popularity of an incumbent leader. Classic examples of this type mentioned in the literature are the two referendums called by French Presidents in 1972 (on enlargement) and 1992 (on the Maastricht Treaty). A second motive for convening the partisan referendum is to mediate a crisis within a party. Here the referendum operates as a crisis resolving instrument to address conflict within a party (or coalition). The classic example is the 1975 UK continued membership referendum, which was held to resolve the internal divisions within the British Labour Party. The same referendum was repeated forty years later. However, in its new manifestation the aim was to mediate deep divisions within the Conservative Party. One of the most recent partisan EU-related referendums, the Greek 2015 referendum on a bailout package, was held for a blend

of the two motives, both to quell deep divisions within the SYRIZA party and to boost the popularity and negotiating position of the Greek leader.

Table 8: Logic of partisan calculus

Case & year	Type	Reason	Issue
Denmark 1972	Membership	Mediation	Accession to the European Community
France 1972	Policy	Power-reinforcing	Enlargement of the European Community
Norway 1972	Membership	Mediation	Accession to the European Community
UK 1975	Membership	Mediation	Remaining within the European Community
Greenland 1982	Membership	Power-reinforcing	Remaining within the European Community
Denmark 1986	Treaty revision	Mediation	Single European Act
Italy 1989	Policy	Power-reinforcing	European Parliament to elaborate a European Constitution
France 1992	Treaty revision	Power-reinforcing	Treaty of Maastricht
Finland 1994	Membership	Mediation	Accession to the EU
Sweden 1994	Membership	Mediation	Accession to the EU
Malta 2003	Membership	Power-reinforcing	Accession to the EU
Romania 2003	Membership	Power-reinforcing	Constitutional Amendment for EU Accession
Luxembourg 2005	Treaty revision	Power-reinforcing	Constitutional Treaty
Netherlands 2005	Treaty revision	Mediation	Constitutional Treaty
Spain 2005	Treaty revision	Power-reinforcing	Constitutional Treaty
Greece 2015	Policy	Power-reinforcing	Bailout package
UK 2016	Membership	Mediation	Remaining in the EU
Hungary 2016	Policy	Power-reinforcing	EU Migrant quotas

Source: Authors

Evidently, there can be a grey area when classifying referendums according to the three logics since combinations of reasons can always be given for some cases. The coding strategy has therefore focused on the overriding motive for holding a referendum when more than one motive may be at play.

3. MAPPING EU REFERENDUM DYNAMICS: PRACTICE AND POLICY PREFERENCES

KEY FINDINGS

- Excluding third-country referendums, the most common type of EU-related referendum is the membership referendum. Treaty revision referendums are the next most popular but have been in decline since Lisbon given that major treaty revision has not taken place. Historically, policy referendums have been the least popular. However, since 2010 the policy referendum is in the ascendancy, accounting for 75 percent of referendum activity.

- Most EU-related referendums have been held for partisan motives irrespective of the type of referendum. Just under one-third have been constitutionally required.

- There has been an accelerating referendum failure rate across the three-fold referendum typology with nearly 40 percent of those held since 2000 having failed, as compared to 20 percent before that period. Since 2010 the failure rate has jumped to over 60 percent.

- Salient EU referendums, defined as referendum events characterised by a combination of low levels of elite consensus and high turnouts are extremely prone to failure (around six times more likely to fail).

- Analysis of public opinion data confirms that EU citizens are overwhelmingly in favour of referendums on treaty revision, and are open to overcoming the single Member State veto to treaty change.

- Expert coded positions of parties represented in the European Parliament indicate a growing number of parties in favour of treaties on EU revisions, although parties in the EPP and the PES/S&D group are less favourable. Across the European Parliament chamber there is not a majority in favour of giving up the Member State veto.

Two distinct strategies are followed in this Chapter. The first maps the actual practice of EU-related referendums to date. It draws on the typologies presented in the previous Chapter to investigate relationships among variables of interest. To that end, the referendum events are the units of analysis. In the second strategy, a rather different question is pursued. Its focus is on the supply (political parties) and demand (by citizens) for EU referendums. Specifically, it combines a focus on policy preferences regarding how treaty revision should be implemented, either by Parliament or by citizens via a referendum, as well as the issue of the Member State veto with regard to treaty change. Here we rely on two different types of data, the expert coding of the policy positions of the political parties as represented in the current European Parliament chamber on the one hand, and the individual level opinions of citizens, on the other.

3.1.   EU-related referendums in practice

This section surveys EU-related referendum practice according to the various categories and typologies presented in the previous Chapter as well as additional, key variables that are pertinent to the study. The analysis is largely exploratory and based on descriptive statistics.

3.1.1. Dynamics according to referendum type and logic

We begin by noting the distribution of referendums by their functional properties as shown in Figure 1. In terms of the type of referendum, membership referendums are the most common accounting for almost half of all referendum activity –when excluding third-country referendums. Indeed, for the remainder of this Chapter we shall exclude all third-country referendums from the aggregate analysis since their inclusion would significantly affect the overall summary statistics being presented (Switzerland, for instance, accounts for 75 percent of third-country referendums). The focus, in other words, is on referendum cases that matter directly for the European integration process. Nonetheless, it must be pointed out that third-country referendums are presently more popular than policy referendums (see Figure 1).

Figure 1 : Distribution of EU-related referendums by type (percent)
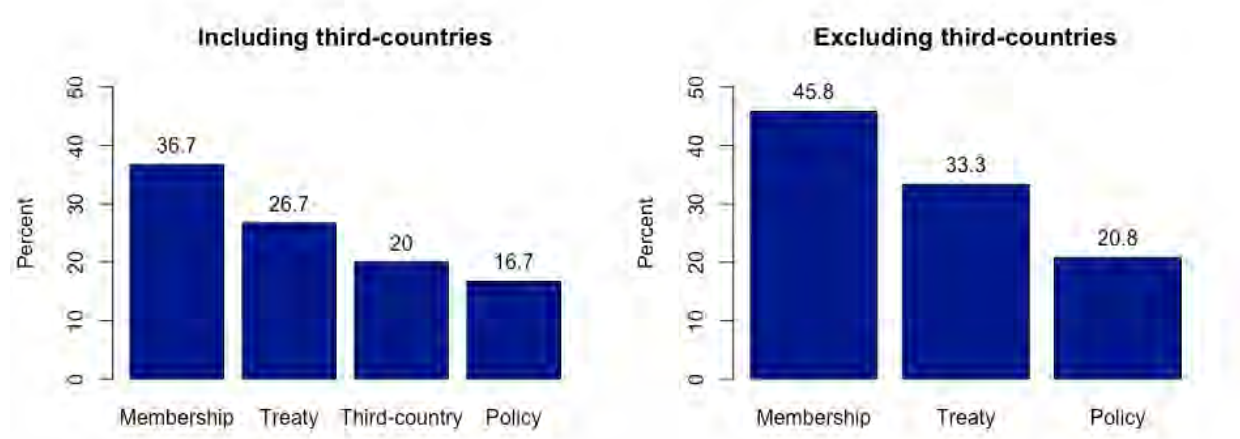
Source: Authors

Figure 2: Distribution of EU-related referendums by logic (percent)
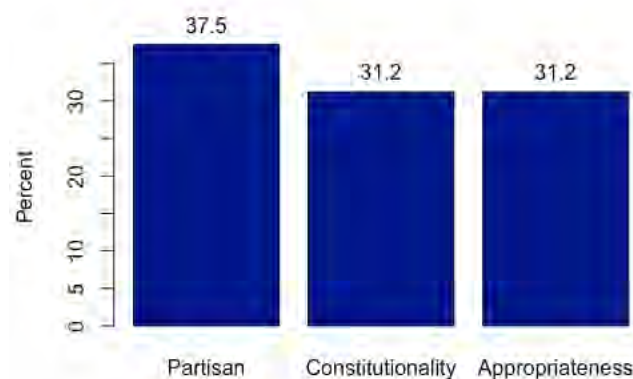
Source: Authors
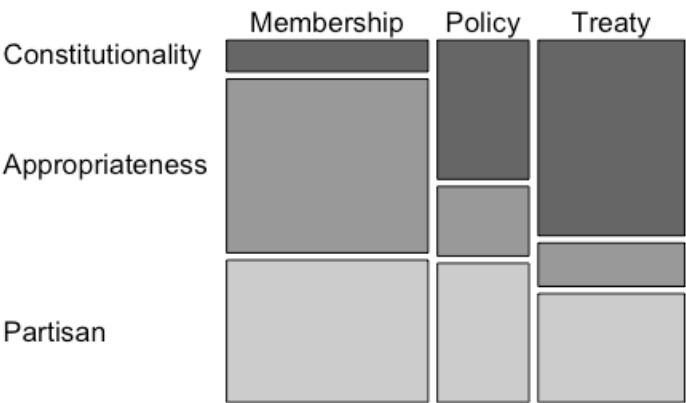
The second plot in Figure 1 shows that while membership referendums are the most common, accounting for nearly half of all referendums, policy referendums amount to only one fifth of the total referendum activity. The membership referendum has been a regular feature of the EU referendum landscape taking place every decade since the 1970s. The treaty revision

referendum that emerged in the mid-1980s has been held in every decade since, with the exception of the present decade, the 2010s. By contrast the policy referendum, while historically a laggard, is in the ascendancy in the contemporary setting. Since the eruption of the Eurozone crisis, the policy referendum has become the most common type of referendum accounting for six of the eight referendums since 2010, which is 75 percent of all referendum activity during the period of the 2010s. This is a sharp contrast to the period before the 2000s when this type of referendum was comparatively rare, only two referendums out of 24 (8 percent of the total).

We now turn our attention to the overriding logic behind calling for referendums. Figure 2 reveals a slightly more balanced distribution as concerns the logic underpinning why referendums take place. As of 2016, the most common motive for holding EU-related referendums is for partisan reasons. This is actually in line with a historical trend in which partisan considerations have been the main motive for holding EU-related referendums. In other words, most EU referendums have been called for the most 'suspect' motive from a normative democratic perspective irrespective of the decade analysed.

The mosaic plot in Figure 3 reveals the distribution of referendum type by the logic for calling a referendum. The plot takes into account the relative proportions between all the categories so that, for instance, the area occupied by the policy referendums is smaller than the more popular membership referendums, and so on for each of the categories for type and logic. A clear picture emerges when looking at the motives for calling the two most popular referendums, membership and treaty revision referendums. Most membership referendums have been called under the logic of appropriateness and to a slightly lesser extent for partisan motives. A conspicuously small area is occupied in the membership referendum category by the logic of constitutionality. This can be starkly contrasted with the treaty revision referendum category where most referendums have been called because of constitutionality motives. For the policy referendums, it is still too early to draw conclusions as to a dominant logic. For the time being, appropriateness seems to be the least popular motive.

Figure 3: Mosaic plot of referendum type by and logic

Some of the patterns observed are, of course, reinforced due to the fact that there are repeated instances of some types of referendum. However, as mentioned above the units of analysis are the referendums themselves, not the Member States. Each referendum is a unique event with its own characteristics. Nonetheless, the high proportion of constitutionality cases for treaty revision referendums is driven by two cases, Ireland and Denmark. Apart from these two cases that account for well over half of all treaty revision referendums, the remainder have been mostly held for partisan motives. This can be seen in Figure 3 where partisan referendums account for roughly one third of referendums for the three types.

3.1.2. Referendum outcomes according to type and logic

Turning to the next question, we now focus on the role of citizens in producing referendum outcomes according to the various categories. Both plots in Figure 4 reveal that most referendums are actually passed –passed referendums are depicted in the green colour fill. However, a number of patterns stand out regarding the type of referendum. First, membership referendums have the highest success rate. This is perhaps not too surprising given that much is at stake during a membership referendum. Notwithstanding the most recent referendum failure on the continued EU membership of the UK, the success rate of this type of referendum is by far the highest with just over 80 percent passing. On the other hand, when focusing on the failed referendums it is noticeable that policy referendums are the most likely to fail, indeed more than half do (55 percent). With regard to treaty revision referendums approximately one third fail.

Figure 4: Mosaic plot of referendum type and logic by outcomes
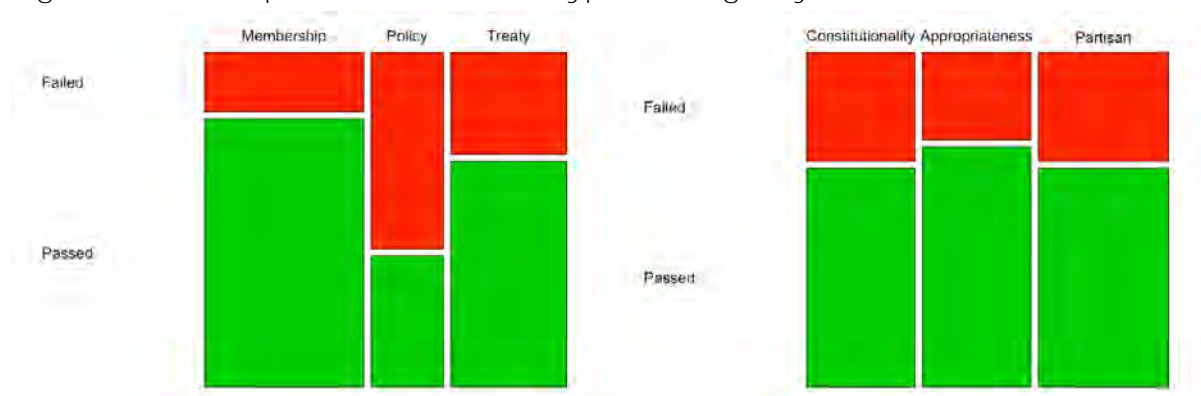
Source: Authors

When focusing on the motives part of Figure 4 (second plot), a fairly homogenous picture emerges. There is very little difference across the three categories in terms of the relative success rate of referendums under competing logics. Approximately one third of referendums in each of the logic categories fail. There is little variation with regard to referendum outcomes based on their underlying logic. Overall then, the main driver of variance in referendum outcomes is clearly the type of referendum.

There is another dimension of EU-related referendums that has not been touched upon yet. In Mendez et al. (2014:111) it was referred to as the extraterritorial referendum and defined as a popular vote with the potential to veto a proposed change in the status quo that has been agreed at EU level. In other words, the veto is not only felt by the Member State holding the referendum but also by the entire Union. Such referendums share the characteristic that they prevent the Union from moving forward on a particular issue or package of issues,

usually, as in the case of treaty revision, after having surmounted the unanimity requirement at EU level.

Table 9: Referendums with an extraterritorial impact

Case & Year	Type	Logic	Result
France 1972	Policy	Partisan	Passed
Denmark 1986	Treaty	Partisan	Passed
Ireland 1987	Treaty	Constitutionality	Passed
Denmark 1992	Treaty	Constitutionality	Failed
France 1992	Treaty	Partisan	Passed
Ireland 1992	Treaty	Constitutionality	Passed
Denmark 1993	Treaty	Appropriateness	Passed
Denmark 1998	Treaty	Constitutionality	Passed
Ireland 1998	Treaty	Constitutionality	Passed
Ireland 2001	Treaty	Constitutionality	Failed
Ireland 2002	Treaty	Constitutionality	Passed
France 2005	Treaty	Appropriateness	Failed
Luxembourg 2005	Treaty	Partisan	Passed
Netherlands 2005	Treaty	Partisan	Failed
Spain 2005	Treaty	Partisan	Passed
Ireland 2008	Treaty	Constitutionality	Failed
Ireland 2009	Treaty	Constitutionality	Passed
Netherlands 2016	Policy	Constitutionality	Failed

Source: Authors

Table 9 lists all 18 referendums that had a 'potential' extraterritorial impact. This amounts to almost 40 percent of all EU-related referendums to date. Evidently, given the definition, most of the extraterritorial referendums have been treaty revision referendums. Yet, there have been two 'policy' referendums with a potential extraterritorial impact that did not involve the ordinary treaty revision process: the first ever EU referendum by France on the EC's enlargement and the recent Netherlands referendum on the Ukraine–EU Association Agreement. In looking at the specific reasons for calling these referendums and their overriding logic, it is perhaps not surprising that constitutional factors are the driving force behind just over half (55 percent) of extraterritorial referendums. That is because most extraterritorial activity is accounted for by treaty revision involving two Member States, Denmark and Ireland. One third of extraterritorial referendums have been motivated by partisan considerations.

When looking at referendum outcomes an interesting picture emerges with regard to extraterritorial referendums. Historically, most of these problematic referendums have passed, 72 percent versus a failure rate of 27 percent. However, if we take the new millennium as a convenient cut off point we see that whereas prior to 2000 there was only one failed referendum (a 12 percent failure rate) after the 2000s a very different picture emerges. In the post-2000 era of European integration the failure rate of extraterritorial referendums jumps to 55 percent.

We can investigate the rising failure rate across all EU referendums irrespective of their extraterritorial impact. Figure 5 plots the "yes" vote share for all EU-related referendums over time grouped by their type. The 50 percent pass threshold is depicted by the green dashed line. What can be quite clearly seen is that the number of observations failing to cross the pass threshold begins to increase since the 2000s. This is of course not unconnected to the fact that there is also greater referendum activity during this period as shown in Figure 5. Nonetheless, the difference is substantial. Before the 2000s the failure rate for EU referendums was 20 percent. After 2000, the failure rate almost doubles to 39 percent. Since the emergence of the Eurozone crisis in 2010, a period now referred to by scholars as the constraining dissensus (Marks and Hooghe 2009) the failure rate has jumped to 62 percent. What we observe at the aggregate level is the association between increasing levels of the EU's politicisation and referendum failure rates.

Figure 5: "Yes" vote by referendum type over time
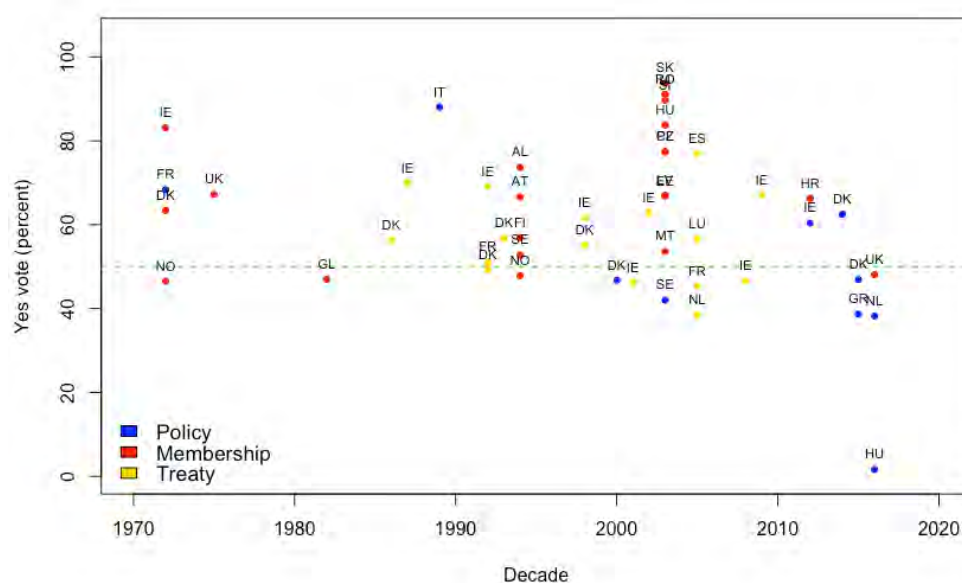
Source: Authors

3.1.3. The saliency of EU-related referendums and outcomes produced

We now turn our attention to other factors that may help to uncover putative associations between referendum outcomes and variables of interest. The focus will be on two dimensions: the political supply side and the political demand side. For the demand side, we are interested in how salient the referendum was for citizens in terms of mobilising them to participate. This can be easily measured by using turnout rates. On the political supply side, we are interested in measuring the degree of consensus among elites. Elite consensus is measured by identifying the positions of parties represented in the parliament on the referendum issue, i.e. those in favour of "Yes" versus "No". By taking the absolute difference in the percent

share of parliamentary seats for parties on either side of the referendum issue, we can construct an indicator of elite level consensus. A value of 100 means all parties represented in parliament were in favour of the issue, while a 0 value would entail a perfect split with 50 percent of seat share on the "Yes" side and a 50 per cent on the "No" side.

The intuition here is that, *grosso modo*, the higher the turnout the more salient the issue is on the political demand side (i.e., for citizens). On the other hand, the lower the elite level consensus, the more salient and contested the issue is on the political supply side (i.e., for parties). There is indeed a significant negative relationship between the two variables. Higher levels of elite consensus tend to be associated with lower turnout rates. This is a fairly intuitive finding. Greater polarisation among elites is likely to be reflected in a more intense political campaign, which can ultimately drive up the participation rate among a more mobilised citizenry. How do these dynamics play out with regard to referendum outcomes?

Figure 6: Turnout by levels of elite consensus grouped by referendum outcome
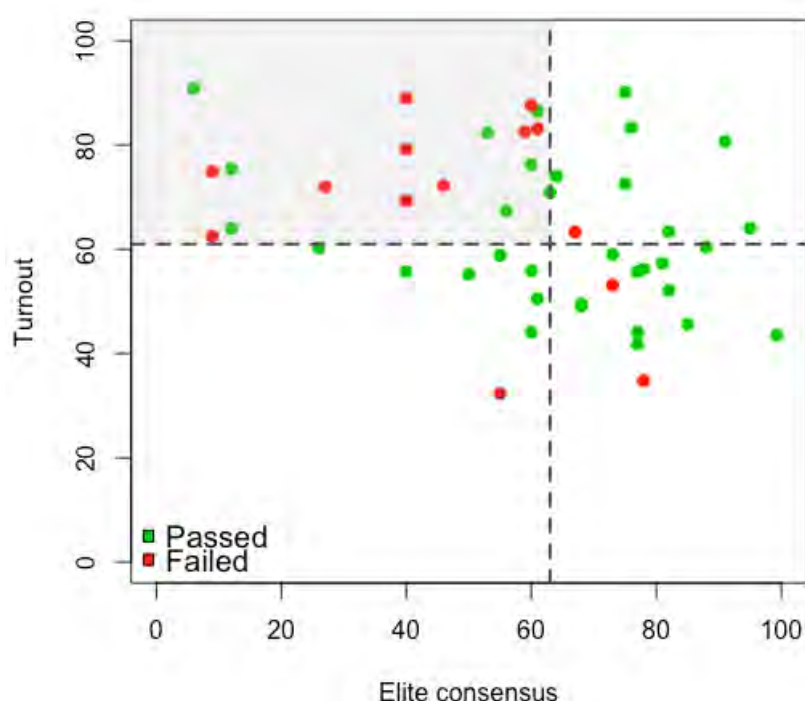
Source: Authors

Figure 6 plots the two dimensions of political supply and demand in terms of whether the referendum passed or failed. The two dashed lines represent the median for elite consensus and turnout. The grey shaded box area represents a zone in which levels of elite consensus were below the median and turnout was above the median. We can think of this grey area in the plot as a more contested zone insofar as the EU average is concerned. The referendums in this contested zone are more likely to be high saliency events where there has been above average citizen mobilisation and high levels of polarisation among elites. How does this affect outcomes?

Figure 6 shows that most failed referendums (in red) are clustered within this contested zone. Most passed referendums (in green) are outside the zone. The plot also reveals that there are two outlier cases, 'failed' referendums that have extremely low turnout rates and are fully outside the contested zone. The two events are the 2016 Dutch referendum on the EU-Ukraine Association Agreement and the first Irish Treaty of Nice referendum in 2001. This suggests that there may be a threshold below which low levels of participation risk opening

the space for Eurosceptic voters who may be more inclined to turnout to vote. Notwithstanding the two outlier cases, this very simple condition –whether a referendum event falls within the high contested zone- offers a rather robust model for predicting referendum outcomes. It can correctly classify 75 percent of referendum outcomes. Being in the contested zone makes a referendum almost 7 times more likely to fail. The model fit itself can be improved by controlling for the type of referendum.

Figure 7: Interaction plot of consensus and referendum outcomes
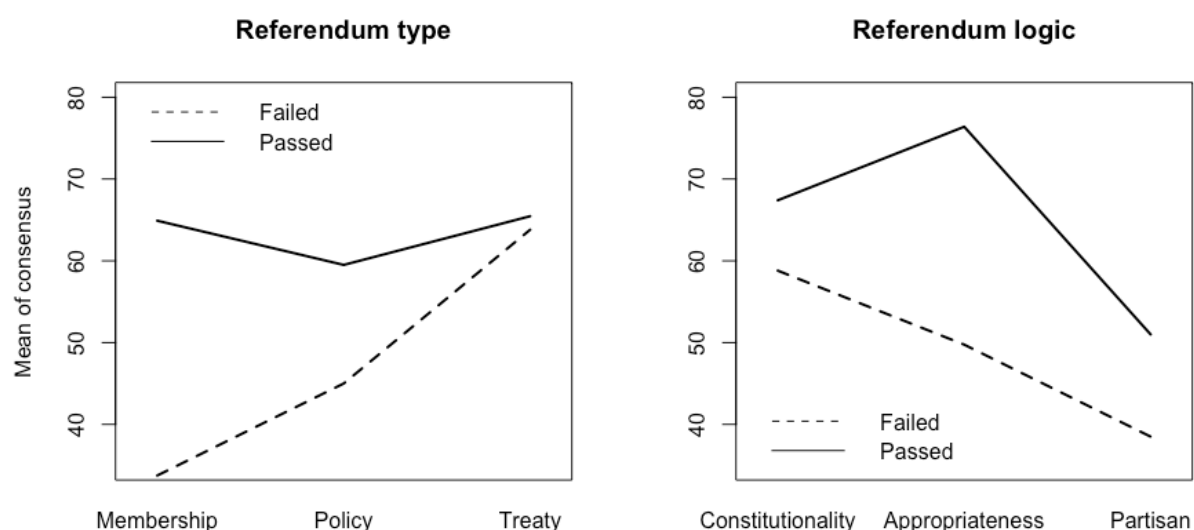
Source: Authors

Of the two dimensions, it is the level of elite consensus that is the strongest predictor of referendum outcomes. Indeed, turnout, on its own, is not a significant predictor. The interaction plots of Figure 7 allows us to see how consensus is affected by the type of referendum and its logic. The first plot in Figure 7 shows clearly how elite consensus and referendum outcomes are conditioned by the referendum type, with low levels of consensus being especially associated with failed membership and policy referendums. On the other hand, there is little difference with regard to treaty revision referendums. The level of elite consensus, which is significantly higher for treaty revision referendums than the two other categories, does not appear to play a role in driving referendum outcomes. A mirror image emerges when looking at the referendum logic. In the second plot in Figure 7 constitutionality plays no role since there is little difference between the two means. This is not surprising given that a large proportion of treaty revision referendums fall within the constitutionality category. Insofar as the logic of a referendum is concerned, levels of elite consensus affect referendum outcomes most significantly under the logic of appropriateness and, to a lesser extent, where partisan considerations are at play.

3.2. Policy preferences on EU referendums

In this next subsection, we turn our attention to policy preferences regarding EU referendums among EU elites and the EU citizenry. To investigate this, we draw on new data that was collected during the European Parliament elections of 2014. Specifically, we draw on two of the 30 questions that were included in a voter advice application (EUvox) that was run across the EU. The first question is whether 'EU treaties should be decided by Parliaments rather than by citizens in a referendum'. This item's formulation reverses the direction of the wording in the EES survey question of 2009, 'EU treaty change should be decided by

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referendum'. The EES wording is more likely to elicit what is known in the survey literature as acquiescence bias –the tendency to agree with statements. Furthermore, the 2014 EUvox wording includes a clear, specific trade-off between deciding by Parliament or by referendum. Many analyses, even contemporary ones, have drawn on data from the 2009 EES survey (e.g. Rose and Borz 2016). This is because the latest EES survey of 2014 did not include a question on EU referendums. The second question from the 2014 EUvox focuses on the Member State veto and was also formulated with a specific trade-off: 'A single Member State should be able to block a treaty change, even if all the other Members States agree to it'. Together these two questions allow us to map policy preferences among elites and citizens at an EU-wide level.

3.2.1.   The elite level

For implementing the EUvox platform it was necessary to also position all the main political parties competing during the 2014 EP elections on the policy questions included in the voter advice application. This, then, provides the elite level data for the analysis conducted below. Beginning with the political supply side, Figure 8 depicts the distribution of party positions (grouped by ideological family) on the referendum question. As with previous mosaic plots, the width of the bars in Figure 8 approximately correspond to the representation of the various ideological groups in the European Parliament. We use the ideological family rather than the party group acronym. The party groups were assigned the following ideological labels: 'EPP' as Centre Right; 'S&D' as Social Democrats; 'ALDE' as Liberals; 'ECR' as Conservatives; 'GUE/NGL' as Left; 'Greens/EFA' as Greens; 'EFD' as Right; and 'Non-Inscrit' as NI. The mosaic plot clearly shows how as one moves from left to right, i.e. from biggest to smallest party groups, the level of disagreement with the statement that Parliaments rather than citizens should decide treaty changes increases. In particular, it is clear that the two main governing party formations, the EPP from the centre right and the PES representing social democrats mostly agree that Parliaments ought to decide. As one moves to the ideological extremes, whether on the far-right or far-left, there is an overwhelmingly greater preference for referendums on treaty change. This is broadly in line with party data from 2009 on a similar question (Mendez et al. 2014 drawing on EUprofiler 2009 data). The most significant change in the distribution among ideological groups would be for the centrist liberal party group (ALDE) which is now coded as being more in favour of treaty change referendums than before.

Figure 8: EP party positions on referendums and treaty change (grouped by ideology)

EU treaties should be decided by Parliament rather than by citizens in a referendum
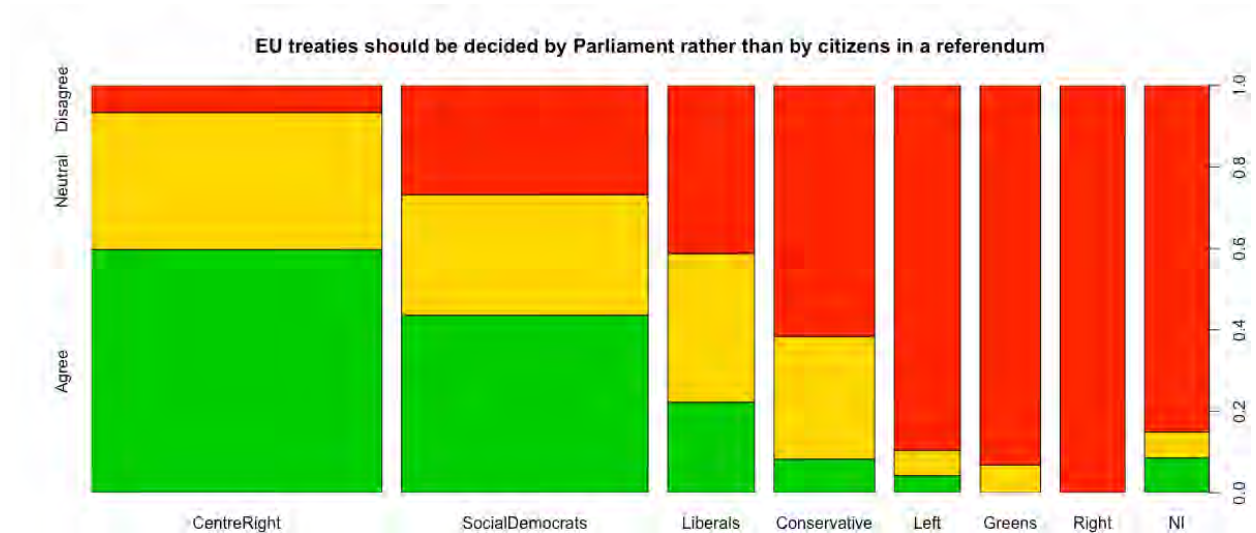
Source: EUvox party data

Figure 9: EP party positions on the Member State veto (grouped by ideology)

A single member state should be able to block a treaty change, even if all the other members states agree to it
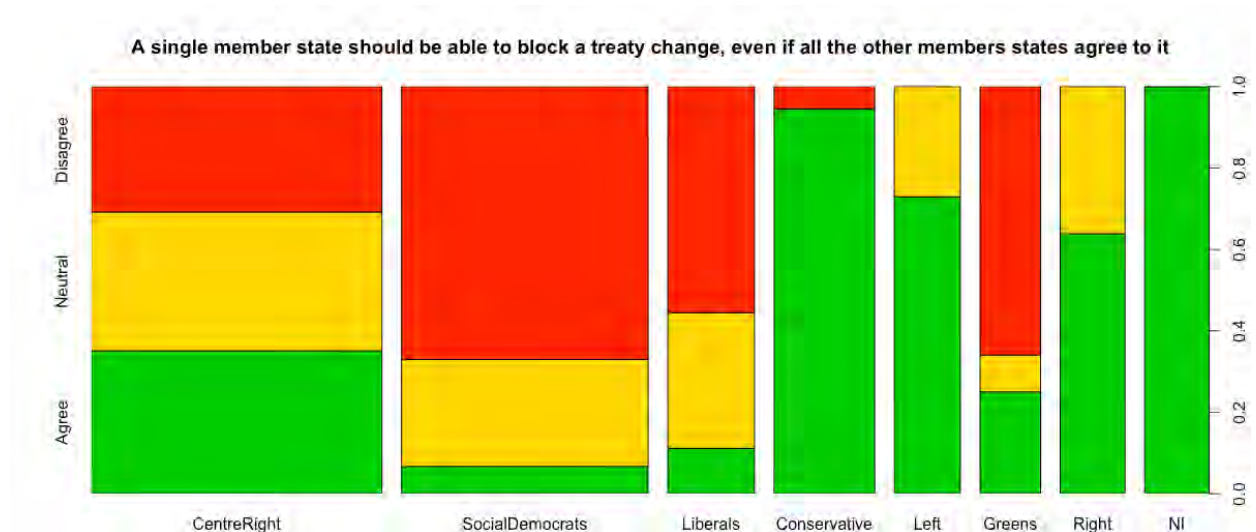
Source: EUvox party data

We now look at an additional, but related question, regarding the maintenance of the Member State veto even when all other Member States have agreed on a treaty change. The patterns in Figure 9 for the distribution of party positions present a more nuanced picture. Ideological families of the left, as well as the more centrist liberals, tend to be in favour of overcoming the Member State veto. This does not apply to the Left (GUE/NGL) party family however, which overwhelmingly wants to preserve the veto unlike its Green counterpart. Not surprisingly, party families of the right are the most defensive of maintaining the veto. The most interesting distribution is within the largest party family, the centre right EPP. It is the most divided on the question of the Member State veto, with almost an equal split among the three policy positions.

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Figure 10: Cross-tabulation of the two policy questions
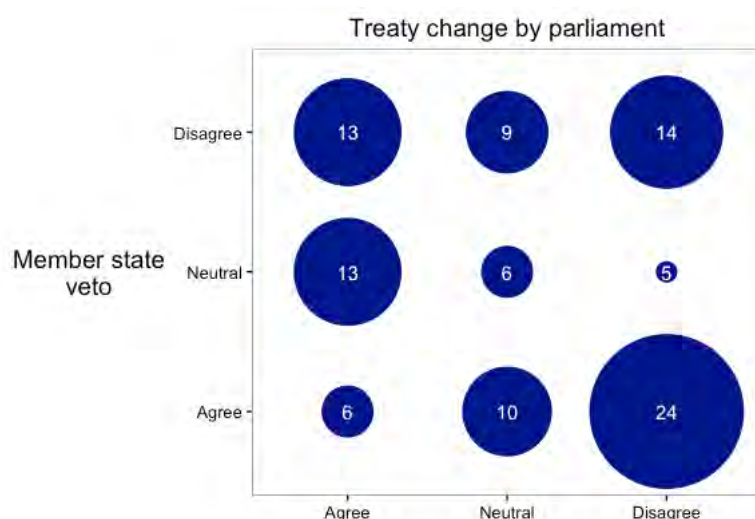
Source: EUvox party data

In Figure 10 we can see the relationship between the two questions. The treaty change by parliament is on the horizontal axis and the veto question is on the vertical axis. The bubbles represent the relative size of the distribution for the various combinations of policy positions. As represented by the size of the bubbles, there are four policy combinations that are distinctly popular. The most popular combination, accounting for almost one quarter of the coded European Parliament chamber, is the policy of deciding treaty change by referendum rather than parliament while preserving the Member State veto. If we were to zoom into that bubble marked with the 24 percent value in the lower right quadrant, we would find that over two thirds of its composition is accounted for by parties of the right (including the EPP and the NIs). By contrast the second most popular position, the bubble representing 14 percent of the distribution, which is to decide by referendum while overcoming the veto, has a completely different composition. Here we find that this group is mostly composed of the centre Left, Liberals and Greens with the Centre Right accounting for the rest. None of the ideological extremes, neither of the left nor the right, occupy this ground. Lastly, the two remaining positions, parties that have been coded as preferring to decide treaty change by parliament and overcoming the veto or being neutral about the latter have very similar compositions. In both cases, over 90 percent are from the centre governing parties (including the Liberals).
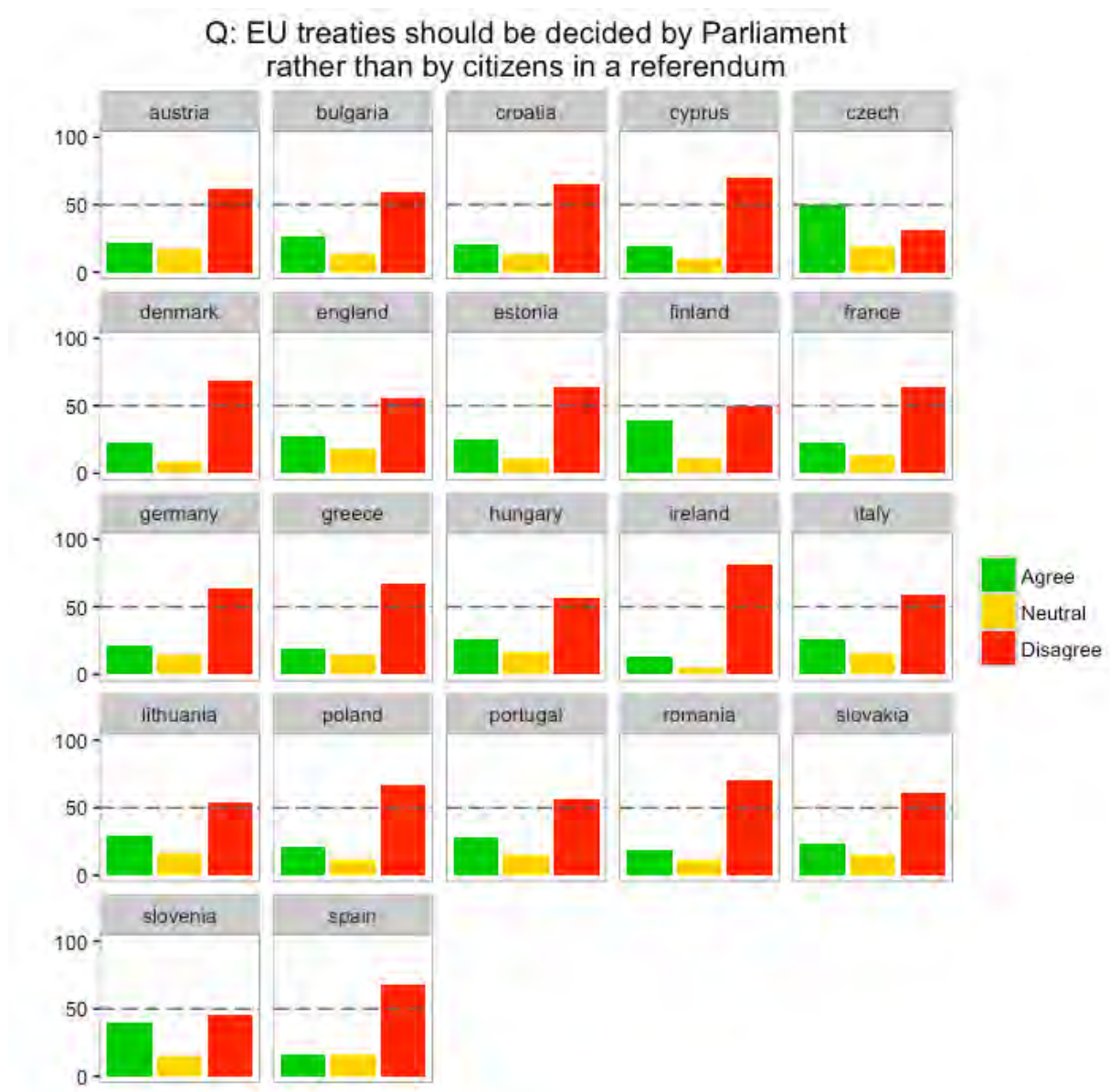
3.2.2.   The EU citizenry

Having mapped the elite level in terms of party positions on the two questions, we can now take a look at the citizens' level. The EUvox data amply covered 22 of the 28 EU Member States, which generated sufficiently large datasets for creating balanced samples of respondents that were representative on various socio-demographics and voting intention variables for each country. This is important since, as with most online surveys, it is the young and the more politically interested that generally complete such questionnaires. By balancing the raw data, it is possible to create more representative samples. To that end, small countries that generated datasets smaller than 2,000 respondents were dropped (the latter included small countries such as Malta and Luxembourg as well as larger ones such as Belgium and The Netherlands that did not meet the threshold for resampling the datasets according to socio-demographic and political criteria).

Figure 11 looks at the question on treaty change decided by parliament rather than by citizens in a referendum. The patterns among the EU-22 are very consistent with majorities

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disagreeing with the statement and therefore being in favour of referendums on treaty change. There are of course some nuances, with Ireland, the country that has the greatest experience with treaty revision referendums also being the country most overwhelmingly in favour of retaining this particular type of referendum. It is closely followed by Denmark –the other champion in holding EU treaty revision referendums. Surprisingly, only one Member State appears to have bucked the trend and that is the Czech Republic, where there is a majority for letting parliament decide on treaty revision. Notwithstanding this latter case, the picture is overwhelmingly unambiguous on the demand for referendums on treaty revision by EU citizens.

Figure 11: EU-22 respondents' position on treaty change by Parliament
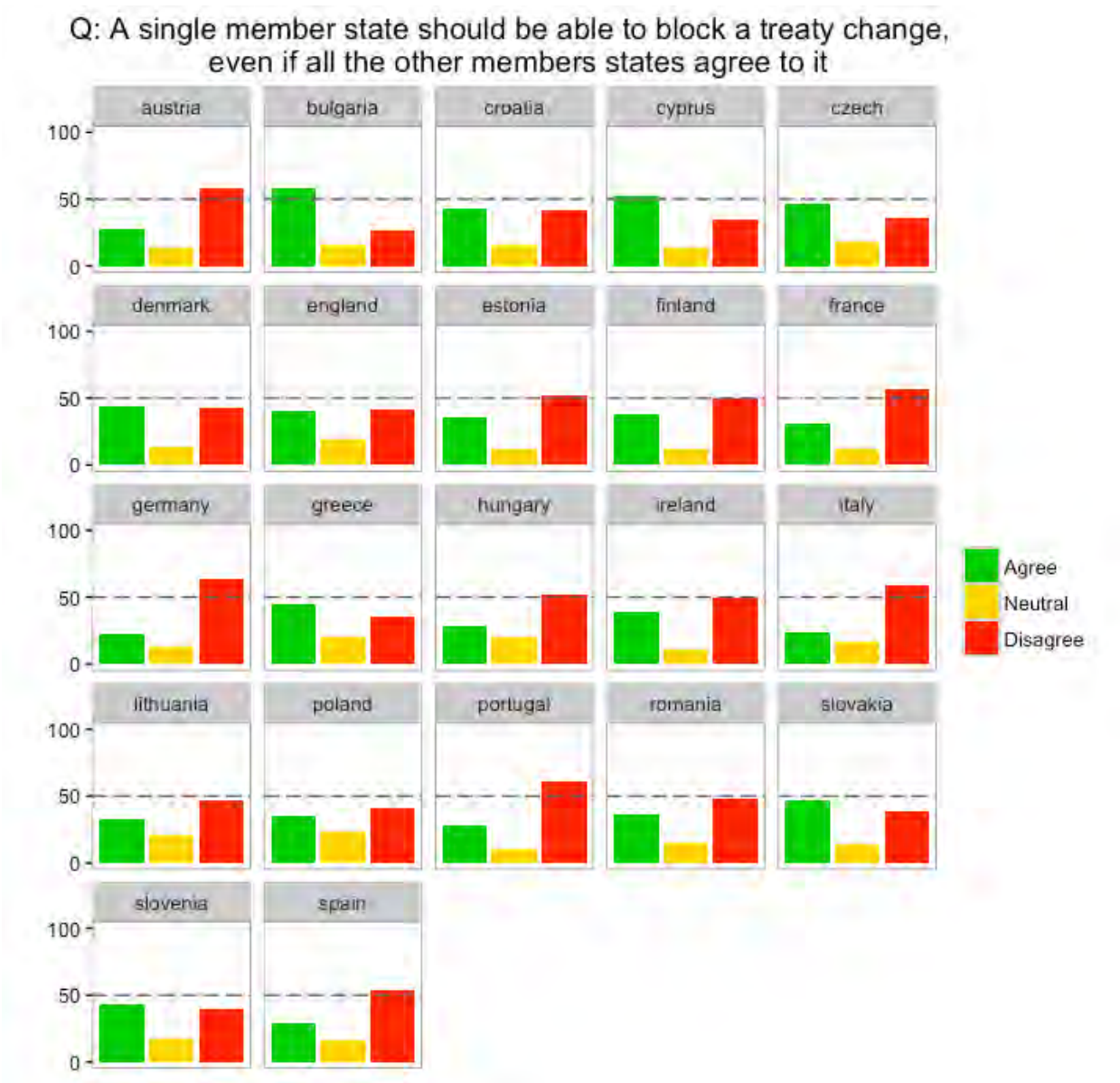
Source: EUvox respondent data

Turning now to Figure 12 on the question of preserving the Member State veto on treaty change even if all other Member States have agreed, a more mixed picture emerges. Some states, typically smaller ones such as Bulgaria, Croatia, Cyprus, Slovakia and Slovenia, are in favour of retaining the Member State veto on treaty change. While larger ones such as Germany, France, Italy and Spain have majorities in favour of overcoming the veto. It is

necessary to take some caution into account when interpreting the distributions related to this question. It may be the case that the question is interpreted quite differently depending on whether the respondent comes from a large or small country. Respondents from large countries, for instance, might be more inclined to view this in terms of not allowing small countries to block treaty change but –and this is the crucial element- are not necessarily willing to sacrifice their own state's veto right. However, to investigate such relations would require including a host of additional variables and multi-variate analyses that is beyond the scope of this study. Notwithstanding the previous disclaimer and despite the more mixed results on this policy statement, a slim majority appears to question the wisdom of the Member State veto on treaty change.

Figure 12: EU-22 respondents' position on the Member State veto by country

Source: EUvox respondent data

We now look at the relationship between the two questions among the citizenry at the aggregate level. What is immediately clear from the bubble plot in Figure 13 is that there are two policy combinations that account for over 50 percent (represented by the two bubbles containing 25 and 26 percent of the sample). While overwhelmingly supporting referendums

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on treaty revision (this third column in Figure 13), EU citizens are then equally split on whether to retain the Member State veto or not.

Figure 13: Cross-tabulation of the two policy questions (percentages)
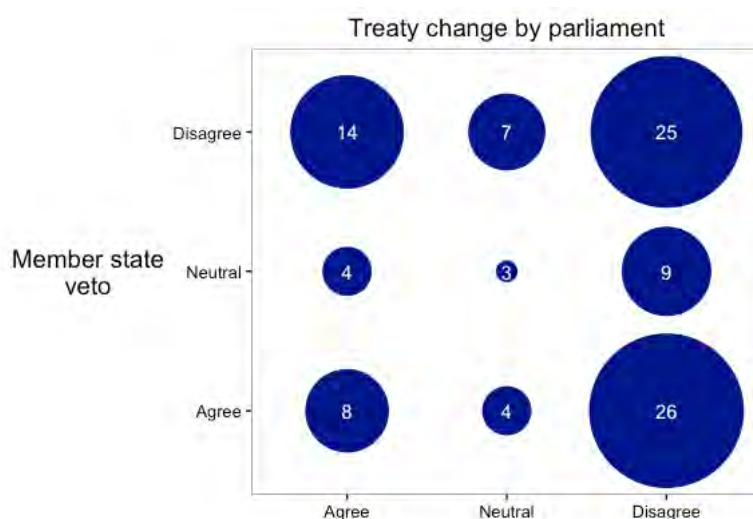
Source: EUvox respondent data

How are substantive policy positions on the two questions associated with preferences over the speed of European integration? To look at this, we take an additional item from the EUvox questionnaire that measures preferences over the speed of European integration. Respondents placed themselves on a continuum with a range of 0-10, where '0' means less EU (reversing European integration) and '10' means more EU (further European integration). The variable was then recoded into three categories with regard to the speed of European integration: less, same and more.

In the three columns of Figure 14 we can visualize how the three distinct preferences over the pace of European integration are related to the two policy questions. The policy questions are on separate plots. We already know that most respondents prefer the referendum route (that is they disagree with the policy statement on treaty change decided by parliament). We can now see in the first plot of Figure 14 that this is largely unaffected by preferences over the speed of integration (the size of the bubbles are more or less similar independently of respondents' European integration preferences). On the other hand, those that prefer to let parliament decide on treaty change are more likely to prefer further European integration than not (bubble with the value 14.6).

Looking at the second plot in Figure 14 we can see that the most popular position among those that prefer more integration is to overcome the Member State veto (they disagree with the policy statement). Conversely, those that want less European integration are more likely to want to maintain the veto. This is a fairly intuitive finding. Looking at those happy with the current pace of integration (the middle column in the two plots) although they are more or less equally likely to be on both sides of the veto question (either in favour or against), when it comes to the referendum question they are disproportionately likely to prefer the referendum route to treaty change.

Figure 14: Preferences over the speed of integration and the two policy questions (percentages)

Preferences on speed of European Integration

Treaty decided by Parliament:
- Disagree — Less: 18, Same: 17.6, More: 20.6
- Neutral — Less: 3, Same: 5, More: 7.8
- Agree — Less: 5.1, Same: 8.3, More: 14.6

Member state veto:
- Disagree — Less: 8, Same: 13.6, More: 25.8
- Neutral — Less: 4.1, Same: 6.1, More: 7
- Agree — Less: 13.9, Same: 11.2, More: 10.2
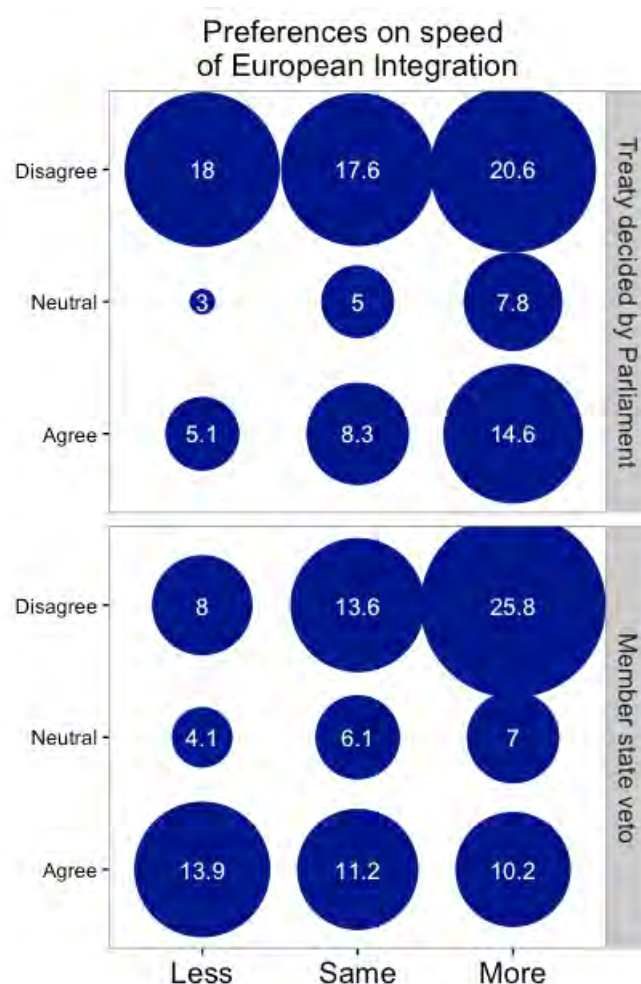
Source: EUvox respondent data

3.2.3. Levels of policy congruence

We now compare the two levels, the political supply-side based on the policy positions' of parties and the political demand-side based on citizens' policy preferences . To what extent is there policy congruence between the two levels? Figure 15 displays the aggregated summaries for the two questions. Beginning with the policy statement of deciding treaty change by parliament rather than by referendum, there is indeed policy congruence between elites and citizens. In both cases, there is a majority in favour of referendums. The relative importance for the two levels differs, however. There are much higher levels of intensity in favour of referendums among the EU citizenry than the parties represented in the European Parliament. Also, noticeable is the greater ambivalence among the elites as coded by academic party experts compared to the much less popular 'neutral' positions in the self-reporting of respondents on the referendum question.

While there is evidence of policy congruence on the referendum issue, this is less the case with regard to the veto question. Here there is a difference with regard to the coded positions of party groups represented in the European Parliament. There is a slim majority in favour of the Member State veto at the level of European Parliamentary groups. Among the EU-22

citizenry, however, a majority emerges in favour of overcoming the veto – though it is a much less intense majority than that in favour of the referendum.

Figure 15: Summaries of policy positions of the EP and EU-22 by question
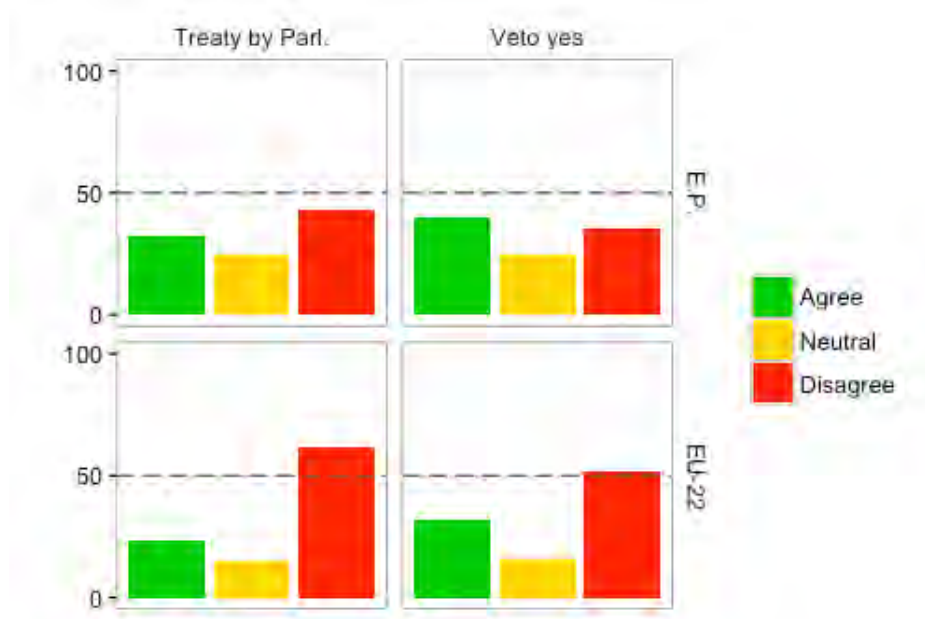
Source: EUvox respondent data

With regard to the policy preferences over referendums on treaty change, one of the conclusions of Mendez et al (2014) drawing on 2009 data was that there was a very clear disjuncture between the supply of referendums and popular demand for EU referendums (specifically those on treaty change). The EU-wide data were unambiguous on this front: citizens by and large were overwhelmingly in favour of deciding on treaty revision via referendums. At the elite level a rather different picture crystallised. Political parties that formed part of the centrist governing elite were on the whole against referendums on treaty revision. This is not surprising since it is these parties that have been responsible for the construction of the EU and it is precisely these parties that would prefer to be unconstrained by the referendum device. To a certain extent, using a new 2014 dataset, we find a continuation of this trend with respect to citizen preferences. The party data, on the other hand, suggest that the referendum device is increasing its allure. As we move away from the ideological centre to the extreme – i.e. towards parties that have been generally excluded from the construction and governance of the EU – the referendum device becomes an alluring strategic device for achieving their political preferences, which are frequently to halt or reverse the integration process. It is also more popular among some of the centrist parties than in 2009. To that end, there is somewhat greater policy convergence on the issue than earlier. This suggests that if a large-scale treaty revision, of the kind that characterised European integration between the SEA and Lisbon, were imminent then it would be highly unlikely that the referendum approval route could be avoided for a number of Member States. On the other hand, as we suggest further in Chapter 5, overcoming the unilateral Member State veto is most unlikely despite a possible openness on the part of the EU citizenry as well as a surprising degree of endorsement in terms of the coded party positions in the European Parliament.

4. ANALYTICAL REVIEW

KEY FINDINGS

- The politicisation of the EU, and therefore the context in which referendums are held, is mediated by very different national settings. It is useful to distinguish between at least four regional clusters (Northern European non-Eurozone; Northern European Eurozone; Southern European and Central European). The case study reports in the Annex cover at least one country from each grouping and show how different these national contexts can be.

- Despite variation in domestic national settings certain commonalities exist across the referendum types in the contemporary setting. On the whole, the case studies show that the "second order" debate is not so relevant to understanding referendum voting. It is EU attitudes and issue positions that tend to drive voting behaviour, especially outside of the treaty revision referendums.

- Some of the case studies also identify the emotional bases (anger and anxiety) to recent EU-related referendums; this was especially brought out in relation to Brexit, the Greek referendum, and the Irish referendum on the Fiscal Compact.

- The case study reports also identify a tendency of asymmetric issue voting: generally eurosceptic voters need less persuasion and are more decided than the more pragmatic pro-Europeans who tend to weigh up the pros and cons and have more unstable preferences.

Our main aim in this Chapter is to look at some of the latest developments in the political and legal setting in which EU-related referendums play out. In order to do this, we first survey the current climate of public opinion across the EU. This provides the essential background context to the subsequent analysis where we look at developments in terms of our referendum typology. In presenting the analysis of this Chapter we will also draw on material that is included in a series of annex reports.[5]

4.1.   The Great Recession and its impact on EU public opinion

We begin with Figure 16 which provides a snapshot of the image of the EU over the last decade that includes the period before the onset of the Great Recession right up until the most recent data point in the spring of 2016. It is very clear from Figure 16 that there has been a downward trend in positive views of the EU from a high of over 50 percent just before the onset of the Great Recession in 2007, to a low of 34 percent in 2016. At the same time, in 2007, those that had negative views of the EU barely crossed the 10 percent threshold while by 2016 this figure had increased nearly three-fold to almost 30 percent. Indeed, at one point between 2012 and 2013, which coincided with the peak of the Eurozone crisis, the two views virtually converged. Since the Draghi speech to do "whatever it takes to save the Euro" in July 2012 one can see the positive view of the EU moving back towards their trend line. Figure 16 also shows that this positive trend has been most recently interrupted by the migration crisis in 2015, heralding a renewed downward trend in positive views of the EU. The impact of the Great Recession has been devastating on the image of the EU and it has barely recovered from its worse point at the height of the Eurozone crisis between 2012 and 2013. The image of the EU is one thing, but how have the contemporary crises afflicting the EU affected related issues, such as support for the EU as a polity and its policies?

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[5] The annexes are commissioned case study reports dealing with special issues and/or recent referendum cases since the onset of the Great Recession.

Figure 16: Image of the EU trend line
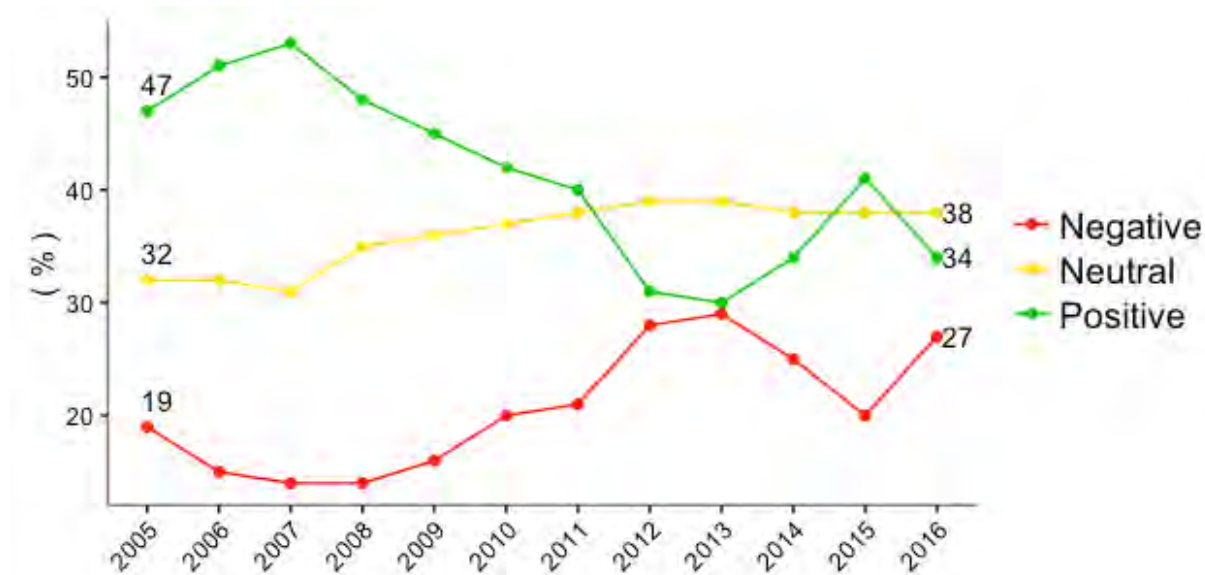
Question: In general, does the EU conjure up for you a very positive, fairly positive, neutral, fairly negative or very negative image? (% - EU)
Source: Eurobarometer 85 (2016)

The politics of EU integration today are very different to earlier phases of even a decade or two ago. Absent are the days where EU elites could pursue integration with scant regard to public opinion, a period commonly referred to as the permissive consensus that is associated with the pre-Maastricht era. Scholars now talk of a "constraining dissensus", a political climate in which the EU is much more hotly contested and where the scope for policy action is severely constrained (Hooghe and Marks 1999). In measuring public support for the EU scholars are increasingly making the case for the need to distinguish between different types of support. One dimension is support for the regime, which is typically measured in terms of support for EU membership. Taken for granted in most Member States, support for the polity as such is crucial for the well-functioning of any political system, and especially for the EU. Another dimension of public attitudes to the EU is support for policy integration, which can be measured by the percentage of people who prefer policy integration to speed up rather than halt.

In addition to distinguishing between these two different dimensions of public support for the EU –the polity and its policies– there is one other critical aspect: how the politicization of the EU is mediated by very different national settings. In analysing the differential impact of the Great Recession on European political spaces, Kriesi (2016) has identified three clusters of regions that share some similarities in terms of how their national political setting can filter both European integration and responses to the Great Recession. The regions are the Northwest, the South and the East of Europe. Hobolt and de Vries (2016) have further disaggregated the Northwest cluster to distinguish between North Eurozone and North non-Eurozone members. We look at some of the evidence that emerges from their four-fold regional categorisation.

In Figure 17 Hobolt and de Vries (2016) depict some of the latest trends in EU regime (top plot) and policy support (bottom plot). When looking at regime support there is a notable decline in the South and among the new Member States of the East (first plot in Figure 17). The Northern countries of the Eurozone have a quite stable trend line since 2000, as do the Northern non-Eurozone countries. However, when looking at support for speeding up integration the inverse picture emerges (second plot in Figure 17). As Hobolt and de Vries (2016) point out, although since the start of the Eurozone crisis in 2010 support for further

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integration has increased throughout the Union, general policy support is much higher among the South and the East compared to both Northern groups.

Figure 17: Regime support for the EU (first plot) and support for speeding up integration (second plot)
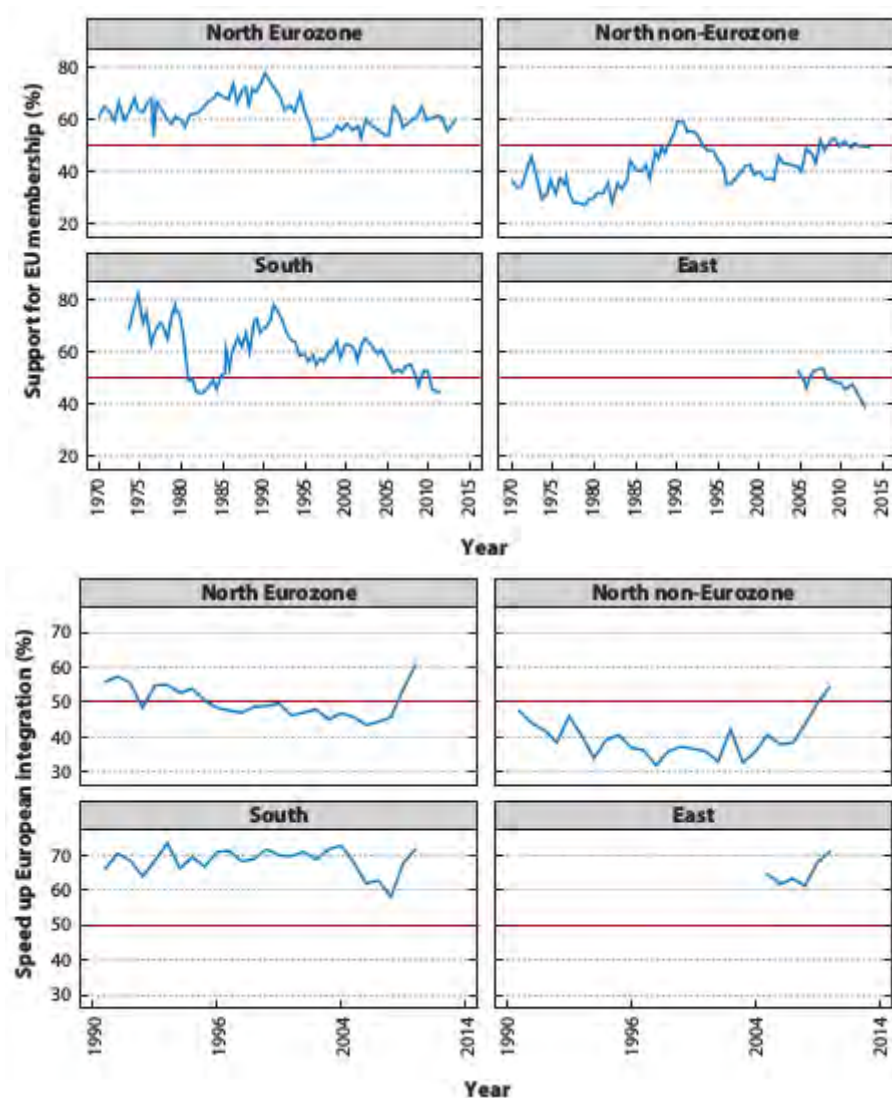
Source: Hobolt and de Vries (2016)

It turns out that high levels of regime support, do not necessarily translate into preferences for further policy integration in Europe (e.g. in the Northern regions). At the same time, lower levels of regime support can co-exist with preferences for greater policy integration (e.g. in the South and the East). This disjunction is no doubt accounted for by a desire for greater economic redistribution amongst the South and the East regions that have been hardest hit by the financial crisis. Although much is made of the rise of euroscepticism, it is noteworthy that the figures provided by noted EU public opinion scholars, Hobolt and de Vries (2016), do not show any clear downward trend in support for the EU. This points to the need to have a more nuanced and multi-dimensional understanding of public support for the EU and for further integration, while also taking into account variation across national settings.

Ultimately, it is undeniable that political entrepreneurs opposed to European integration are on the rise in certain Member States across Europe, and that this is reducing scope for collective policy actions with regard to challenges confronting the EU. It may not show up in the dynamics of public support for the EU at the aggregate level but it is there, albeit at different levels of intensity, when zooming into the national arena. We know that levels of

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EU politicization vary in intensity over time and that this is filtered by the national setting (Kriesi 2016). We also know that politicization requires political entrepreneurs to mobilise on the EU issue. However, insofar as such mobilisation takes place, it is usually eurosceptics that are the key drivers of EU politicization rather than pro-Europeans who tend to prefer to dampen the issue. As the former gain electoral weight at the national level, their influence is increasingly felt at the EU intergovernmental level. To the extent that it may no longer be possible to keep eurosceptic partisans out of governing coalitions, this has two consequences as Kriesi (2016) points out. First, it introduces more national resistance to supranational governance and, second, it makes the conflicts between Member States at the intergovernmental level both more visible and more likely to feed back into the national political arena.

4.2. Latest developments in EU-related referendums since the onset of the Great Recession

In the short to medium term, the EU is confronted with a series challenges. These are of a threefold nature: first is the Eurozone crisis, which is far from being resolved; second are the twin challenges stemming from terrorism and the refugee crisis; and most recently a third crisis has erupted of an institutional nature, the UK's vote to leave the EU. How to deal with this triple policy challenge in a climate of growing euroscepticism (in some though not all EU Member States) is the dilemma facing the EU. It is compounded by the likelihood that any meaningful collective policy response will no doubt require some degree of further integration. However, it is precisely at such junctures that eurosceptic parties from across the EU will mobilize and where possible draw on the tools of direct democracy to try to halt the process -a dynamic that is already clearly detectable in some quarters. Given that the channels for contesting the direction of European integration are weak at the EU level, i.e. European Parliament elections, the national setting will remain the preeminent arena for the politicisation of the EU. Unlike European Parliament elections and to some extent national elections, the Member State referendum on EU matters offers a direct instrument for contesting Europe.

Thus, the EU's rich experience of being the object of referendum practice is destined to continue with significant implications for the EU as a polity. In the next sections, we return to the three referendum categories with a view to highlighting some of the latest developments in the politics of holding EU-related referendums as well as some of the upcoming challenges. These three types of referendums will help to shape the constitutional and political order of the EU since they define the boundaries of the polity, its constitutional evolution and how important EU policy matters may come to be decided upon. One of the take home messages from analysing the structure of current EU public opinion is how it is mediated by different national contexts. To that end, the case studies treated include states from the four different national groupings discussed above. Taking national context into account, as we shall do in the next section, is crucial to understanding how the politics of EU referendums is conditioned by these diverse institutional settings and some of the commonalities that exist across the referendum types despite such variation in domestic national settings.

4.2.1. Treaty revision referendums

The discussion on treaty revision referendums relates to the pre-2010 era for the simple reason that no major treaty revision has taken place since the full impact of the Great Recession was widely felt across the EU.[6] Ireland held the two most recent treaty revision referendums which coincided with the onset of the Great Recession and of what was later to

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[6] As contrasted with small scale treaty revisions, the most notable of which since Lisbon was the addition via the simplified revision procedure of two short sentences to Article 136 TFEU that authorised the creation by the eurozone states of a permanent stability mechanism to safeguard the euro area.

develop into a full-blown Eurozone crisis. The Irish case is covered in the contribution by Pow and Garry in the annex. While Ireland is a veteran, The Netherlands is a complete newcomer to the EU treaty revision referendum experience and held the third most recent treaty revision referendum, on the Constitutional Treaty. This referendum (as well as the more recent 2016 referendum on the EU-Ukraine Association agreement) is covered in the case study by van den Akker in the annex. Comparative insights can be drawn by highlighting similarities and differences in these two very different cases.

The Dutch Constitutional Treaty referendum was consultative. The coalition government was actually split on the issue, with the Prime Minister's party (the CDA) voting against the Parliamentary initiated proposal for a consultative referendum while the two other coalition partners voted in favour. As noted by Atikcan (2015) the government did not campaign strongly on the issue resulting in a lacklustre campaign that was also characterised by diverging strategies among the government ministries. As an example of what van den Akker calls 'learning by doing', one Ministry distributed the entire text of the Constitutional Treaty without an accompanying explanation. Following the criticism this generated, the government then sent out a short booklet to every household with a concise explanation. Despite receiving an estimated three times more media coverage, the "Yes" side's performance was assessed much more negatively. While the "Yes" campaigned on the case for deepening European integration and a stronger Europe, which justified the need for the Constitution, it was the "No" campaigns frames – the loss of sovereignty and contributing more money to the EU – that resonated with the public.

In the case of Ireland, the institutional setting was very different to the Dutch case given it is not only a champion in holding EU treaty revision referendums but has considerable experience more generally with referendums. And, in addition, the constitutionally mandatory nature of treaty revision referendums means that their results are binding. In the case of Ireland's most recent treaty revision referendums, the accumulated experience includes potential to learn from earlier failed referendums. That was the case with Nice, where contrary to earlier Irish experiences, the electorate delivered an unexpected No. As Pow and Garry note, the Nice campaign was widely interpreted as lethargic and characterised by a sense of complacency on the part of the government. The government of the time failed to outline the issues at stake in the Nice vote – namely enlargement – and this allowed the "No" campaign to take the initiative by raising issues (military neutrality, abortion laws, and losing money and influence) that struck a chord with the electorate during a low intensity campaign.

It may have been expected that given Ireland's experience with the failed Nice referendum, which required political elites in Ireland to go back to the people with a more energetic and high intensity campaign to deliver treaty ratification, lessons would have been learned. This was not the case for the Lisbon Treaty. Put quickly in place after the failed Constitutional Treaty, the stakes were high for the Irish government at the time of the Lisbon Treaty. Yet, again, we find that a degree of government complacency and a problem in articulating a clear, compelling narrative paved the way for Ireland's second treaty revision rejection. According to O'Brennan (2009) the absence of a serious effort by government to engage in a convincing information campaign and the consequent lack of knowledge among the portion of the electorate that bothered to turn out helped deliver the "No" vote. After securing various opt-outs and assurances on key issues the result was reversed with the Lisbon II referendum of 2009. However, this second referendum occurred against the backdrop of a recessionary economic context in which the vulnerabilities of the small nation were all too evident. This allowed the government, despite its plummeting support, and the "Yes" camp to campaign on the uncertainty and serious risks associated with a second "No" vote. The stakes could not have been higher.

We turn now to an issue that was mentioned in the first Chapter's survey of the scholarly literature. It relates to a debate that ultimately surrounds voter competence and is referred to, in relation to EU referendums, as the second order controversy. Second order dynamics are said to occur when voters' use an EU referendum as an opportunity to express their

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dissatisfaction with an incumbent government rather than reflect upon the EU issues at stake. There is little need to rehearse the nuances in the second order theoretical debate other than to underscore that, to the extent that second order voting is a problem, it is especially problematic in the case of treaty revision referendums. These referendums are the archetypal 'extraterritorial' referendum where the effects of a unilateral rejection are felt beyond the Member State holding the referendum. To what extent is there evidence of second order voting for the EU's three most recent treaty revision referendums?

Drawing on post-election survey data, the Irish case is analysed in detail in the Pow and Garry case study in the annex. Their conclusions are rather clear on the second order debate. Treaty revision referendum outcomes in Ireland are best understood in terms of voters' underlying attitudes towards European issues rather than protest votes against incumbent governments. This is not to say that second order effects are not present, even in cases such as Ireland. Clearly, for any given referendum event there is always likely to be a minority (or majority) of voters that will not be satisfied with a government's performance or will vote according to other criteria. However, if suspect knowledge or lack of voter competence were arguments for rejecting direct democracy then those arguments would apply in equal measure to popular participation in elections. Decades of survey research have established that voters are on the whole quite ignorant about the issues and party policy positions associated with elections, yet this is not an argument for dismantling representative democracy. The important question, therefore, is the extent to which second order effects matter not whether they exist.

For Ireland's treaty revision referendum cases, there is limited evidence of second order dynamics playing a significant role. Yet to the extent they are present and play a greater role, this is more likely to be the case under conditions of lower intensity campaigns. Drawing on Aarts and van der Kolk (2006), van den Akker explains how the 2005 Dutch Constitutional Treaty was about EU issues. Especially important was dissatisfaction with the Euro – note this was half a decade before the Eurozone crisis - and with enlargement, and the threats posed by European integration to conceptions of sovereignty. Not surprisingly, very few survey respondents (only 2.6 percent) that voted No, did so because of dissatisfaction with the incumbent government. This is further confirmed by the weak relationship between vote choice in the previous elections and voting patterns for the Constitutional Treaty -party supporters, in other words, did not follow their party's cues in the referendum (Aarts and Van der Kolk, 2006).

From the EU level perspective, rather than the Member State level, second order dynamics are mostly a problem in relation to extraterritorial referendums such as treaty revision. Yet to the extent that such effects will be present, they will be moderated by the national context. What has been shown however is how, in the context of what is usually a high level of elite consensus, lethargic campaigns and lack of engagement on the issues can result in unexpected referendum failures. What is more, elites have short memories – even in cases with more ample experience in treaty revision referendum campaigns. It would be difficult to anticipate how such dynamics would play out in countries with very limited referendum experience 'learning on the job'.

4.2.2.   Policy referendums

As pointed out in Chapter 3, the policy referendum is likely to rise in ascendancy in the course of the EU's future evolution. We therefore give it extended treatment in this Chapter. Unlike the two other types, treaty revision referendums and membership referendums, under the EU's current constitutional configuration there is rather little that can be done to neutralise its proliferation (but see Chapter 5 for proposals). Member States could refrain from pursuing new treaty revisions, and the Union could consolidate its territorial boundaries admitting less new states, lessening the impact of referendums on these matters. At the same time, the difficulties in the negotiations of the UK's exit may dampen the demand for any repeat withdrawal referendums.[7]

The rebirth of the policy referendum since the onset of the Great Recession is, in many respects, a return to the origins of the EU-related referendum first pioneered in France. That referendum was important because unlike all the policy referendums that were to follow until the Great Recession, it uniquely had a directly extraterritorial dimension. As we have shown in Chapter 3, this referendum has now become the most prevalent type of EU referendum since 2010. In surveying the contemporary policy referendum scene, it is possible to make a number of explicit comparisons. The first set involves two countries that have ample experience in holding EU-related referendums, Denmark and Ireland. This cluster of policy referendums was triggered due to constitutional factors. The three other cases – Greece, Hungary and The Netherlands – have a much more limited experience with referendums, and policy referendums in particular. The Greek and Hungarian policy referendums of 2015 and 2016 are examples of a potentially new type of referendum held for partisan motives. On the other hand, the Dutch 2016 referendum is the EU's first citizen-initiated referendum with a direct extraterritorial impact.

In the case of Denmark, two policy referendums have been held since the Great Recession. The first on the Unified Patent Court (UPC) and the second on the issue of opt-outs related to Justice and Home Affairs (JHA). For Denmark, this marks the continuation of a trend. Since 2000 all Danish EU-related referendums have been of the policy type (it has held no treaty revision referendum since the Amsterdam Treaty in 1998, managing to avoid them both on the Nice and Lisbon treaties). In fact, following its rejection of the Maastricht Treaty it secured a series of opt-outs, including for JHA issues. It was these JHA opt-outs that were the object of the 2015 referendum. On the other hand, for Ireland the Fiscal Compact Treaty in 2012 would be its first policy referendum. Although this distinction, between policy and treaty revision referendums, would have little resonance in Ireland there was one critical aspect that did mark a new context for Irish referendums. In contrast to Ireland's previous treaty revision referendum events, the Fiscal Compact Treaty was structured so as to neutralise the extraterritorial threat of the referendum. An Irish "No" vote would not derail the Fiscal Compact Treaty from entering into force. And worse still, in the context of deep recessionary macroeconomic context, a "No" vote would put at risk Ireland's access to funds under the European Stability Mechanism, which were made conditional on ratification of the Fiscal Compact.

The three referendum cases are dealt with in greater detail in the annexes. A major distinction to draw between the referendums was the saliency of the event. Both the Irish Fiscal Compact and the Danish JHA referendums were high intensity campaigns. This can be contrasted with the much lower saliency of the Danish vote on joining the UPC in 2015. Highlighting similarities and differences across these referendums can provide insights on the nexus between campaign intensity and second order dynamics. As Hobolt (2009) has argued second order effects are likely to be more prevalent during low salience referendums where voters are less likely to turn out, or if they do, are more likely to use the referendum as an opportunity to express their disapproval with incumbents.

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[7] Polling by the Institut français d'opinion publique (IFOP) shortly after Brexit is reported to have seen a marked increase in support for EU membership: http://uk.reuters.com/article/uk-britain-eu-poll-idUKKCN1002A0

Yet, as Beach shows in the annexed Danish case study report, this was not the case for the low salience vote on joining the UPC. In terms of the political campaign, the UPC issue received at best very limited coverage. However, there was a conditioning factor at play. The UPC referendum vote was bundled with the European Parliament elections vote of May 2014. While the UPC vote was of limited interest to Danish voters, the European Parliament election was of much greater interest to voters. Media attention was focussed more on EU issues related to the elections – in particular the welfare consequences of previous rounds of enlargement – than on the UPC issue. In terms of explaining vote outcomes in the 2014 UPC vote, Beach finds that the weakest effect was related to second order aspects. Underlying attitudes towards the EU and, in particular, party endorsements mattered most. This is perhaps not too surprising since there was, on the one hand, a high level of elite consensus on the UPC issue (most of the parties represented in the legislature were in favour of it) and, on the other hand, referendum voting patterns were conditioned by the voters' party choice for the European Parliament elections.

Contrary to the low saliency UPC vote, the JHA policy referendum held the following year related to a topic that was highly salient for Danish voters. In particular, the referendum vote was convened at the apex of the refugee crisis in the summer of 2015. Not surprisingly, therefore, as the campaign unfolded the referendum vote was linked to the wider issue of immigration and asylum. Similar crisis dynamics were at play during the Irish Fiscal Compact vote in 2012. Taking place at the height of the Eurozone crisis in 2012, and after the Irish had secured a controversial bailout in 2010, the background economic environment could hardly have been worse. The two referendum events produced diverging results. While the "No" camp on the Danish JHA referendum was able to exploit the EU's migration crisis to its advantage by linking the opting in to JHA with the risk of losing sovereignty over migration issues despite government assurances that this would not be the case, the "Yes" camp in Ireland were able to play on the political uncertainty and economic risk associated with a "No" vote.

To what extent were second order dynamics at play in these two votes? As suggested earlier, it would be extremely unlikely that 'other' considerations such as negative evaluations of government performance or partisan cues would not play a role in determining voting patterns for some voters. The question is the extent to which such considerations play a role and under what conditions. The two case study reports on Ireland and Denmark reveal that second order effects can be detected but underlying issue attitudes, rather than second order factors, are better at explaining referendum outcomes. At the same time both case study reports reveal important mechanisms and conditioning factors that may be at play. The Danish JHA case is the more straightforward in terms of second order elements. Voting behaviour was dominated by the issues at stake, rather than government satisfaction. To put this in context both age and gender were more important predictors of voting patterns than satisfaction with government performance. Similarly, for the Irish Fiscal Compact referendum the variable with the greatest explanatory power was issue related, namely the perception of the economic consequences of the referendum vote (Garry 2014: 246).

Going beyond the second order debate, Beach's case study reveals an important mechanism at play during the Danish JHA referendum that is generalizable to EU-related referendums more broadly. Simply put, voters with underlying eurosceptic attitudes need less information when deciding whether to vote "No" on an EU-related proposal. Furthermore, once their decision is made up they are less susceptible to persuasion. Eurosceptic voters are more likely to be mobilised by questions of identity and loss of sovereignty whereas those with more pro-European underlying attitudes are likely to be more pragmatic and utilitarian in weighing up the pros and cons of a particular referendum issue. The end result is what Beach, in the case study report, calls 'asymmetric issue voting'. A dynamic whereby voters with strongly held identity attitudes need less information when deciding to vote than pragmatic voters whose positions on an issue are more unstable.

Another dynamic at play revealed in the Irish case study by Pow and Garry, relates to the conditional impact of emotions on referendum voting. The 2012 Irish Fiscal Compact referendum reveals the interplay of anger and fear in explaining referendum voting patterns. Drawing on evidence presented in Garry (2014), the case study report explains how angry voters with a desire to blame and punish are more likely to be motivated by second order factors such as general dissatisfaction with government. On the other hand, anxious voters, who have a much lower tolerance of risk, are more likely to seek out information and vote after considering the issues at stake. In the case of the Irish 2012 Fiscal Compact vote, anxious voters outnumbered angry voters thereby reducing the impact of second order effects on referendum outcomes. These are topics to which we return below.

The calling of the Greek 2015 bailout package referendum and the Hungarian 2016 migrant quota referendum have a distinctive partisan origin. In Chapter 2, they are coded as belonging to the power-reinforcing type – that is constitutionally (and politically) unnecessary referendums called in order to strengthen the political power, or boost the popularity, of an incumbent leader. First referred to by Gordon Smith (1976) as 'pro-hegemonic' referendums that serve to strengthen the position of the state executives that call them, this is not an unfamiliar species of EU-related referendum. Indeed, as Chapter 3 has shown, historically almost one quarter of all EU-related referendums have been called for such nakedly partisan motives. The aim of the non-necessary referendum is usually to boost the popularity of a leader, as was the case with President Mitterrand in 1992 or Prime Minister Zapatero in 2005. In all such previous cases the referendum has been mostly directed at the domestic audience of the Member State. What is novel about both the Greek 2015 and the Hungarian 2016 policy referendums is that there was an important external dimension at play. As with most power-reinforcing cases, deploying the strategic referendum can serve to consolidate the power of a state executive within a party, an intra-party dynamic. And, by potentially rallying supporters as well as non-partisans around a popular cause, the referendum can also have an important inter-party competition effect. These two domestic elements were at play with the Greek 2015 and Hungarian 2016 referendums. In addition, and following a two-level game logic (Hodson and Maher 2014), both these referendums also had an international signalling dimension. The referendums were directly targeted at the Eurogroup and Troika in the case of Greece. And, in the case of Hungary, the EU institutions and decision-making process that led to the adoption of the emergency relocation mechanism for refugees, which had been spearheaded by the efforts of the German Chancellor.

In both cases the background context to the referendum issue was one of crisis. The specific background conditions, as well as the details surrounding these unprecedented referendums, are covered in the case study reports by Manavopoulos and Triga for the Greek referendum and by Pállinger for the Hungarian case. The Hungarian referendum was triggered in response to a real crisis, the refugee crisis that exploded in the summer of 2015, in which Hungary was one of the key routes for migrants trying to reach northern Europe. The saliency of the issue in Hungarian politics should not be underestimated even if, as was the case, by the time Prime Minister Orban had called the referendum in February 2016 the numbers had trickled. In the case of Greece, the 2015 referendum was called in the context of the deepest recession the country had experienced in the post-war era, with negotiations with its Eurogroup partners on a third bailout package having collapsed, and with the imposition of capital controls following an unprecedented outflow of deposits from its banks. With the possible exception of the Irish Fiscal Compact referendum in 2012, where the economic stakes were of a lower magnitude, no referendum related to EU matters has been held against such a catastrophic backdrop. It is hard to overestimate how dire the economic and political conditions were at the time of the Greek 2015 referendum.

Whereas Greece had no previous EU-related referendum experience and virtually no experience of direct democracy, apart from a 1975 referendum during its democratic transition, Hungary did have some limited referendum exposure since its own democratic transition and had held a membership referendum on accession to the EU. Perhaps more importantly, it had experience in the strategic use of referendums. In fact, the strategic

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deployment of the referendum had been used as a mobilisation channel to bring Orban's Fidesz party and its coalition ally to power in 2010. Having won those elections by a landslide while acquiring a two-thirds majority, the government proceeded to enact a new constitution that among other things re-instated a quorum threshold for valid referendums of 50 percent turnout. As Pállinger notes in the case study report, that threshold had been relaxed to 25 percent in order to secure a valid result for the 2003 EU accession referendum (as well as an earlier 1997 referendum on NATO accession).

Referendums on the twin topics of the Eurozone bailout for Greece and the migrant/refugee issue in Hungary had been 'in the air' before. At one of the peaks of the Eurozone crisis in 2011, the then Greek Prime Minister, Papandreou, announced a referendum would take place on the terms of the bailout package that was being negotiated with Eurozone partners. Within days of that announcement he was forced to abandon the referendum pledge and resign from office as a result of intra-party dynamics and severe criticism from EU Member States. In the Hungarian case, with migration issues topping the political agenda, Jobbik – a far-right party – called for a referendum in May 2015 should the ideas being floated by the Commission on relocation be implemented (this was many months before the policy was approved). Furthermore, the party started collecting signatures for a citizen-initiated referendum as well as proposing a parliamentary bill. Not to be outdone, the governing party Fidesz also started a signature gathering process that continued after Prime Minister Orban had announced his referendum pledge in February 2016.

In terms of the political campaign narratives, there was one important similarity across the "No" camp in the two referendums. In case there was any ambiguity as to whom the Hungarian referendum was directed at, the "No" camp's pamphlet produced by the government could be concisely condensed to a single phrase: 'Let's send a message to Brussels, which they can understand' (see Pállinger's case study report). As with the Hungarian narrative, in the Greek case there were denunciations of the misguided approach emanating from Brussels. Indeed, in their argumentation analysis of the Greek referendum campaign, Manavopoulos and Triga, show that this particular discursive frame – what they term as the 'transgressions' resulting from misguided policy of the Troika argument – accounts for nearly half of all argumentation lines for the "No" campaign.

Across the "Yes" camp there was also a striking commonality that is not unsurprising given the nature of the referendum. One important argumentation line in the "Yes" camp in Greece and in Hungary relates to the legitimacy of the referendum. In both cases, there was an attempt to delegitimize the referendum choice as a completely unnecessary and legally dubious option that was both risky for the population at large and only served to further the partisan interests of the governing party. In quantifying the relative weight of this line of argumentation, Manavopoulos and Triga in their case study report, find that it was the most popular argumentation line for the "Yes" camp. In the Hungarian 2016 referendum campaign the delegitimization of the referendum narrative was key to the "Boycott" camp.

While one of the smaller liberal parties did openly campaign for a "Yes" vote, the main opposition parties in Hungary pursued a campaign strategy that was intimately connected to the institutional features of how the referendum is regulated in Hungary. The existence of a 50 percent voter participation quorum affected the dynamics of the referendum campaign. Thus, rather than advocate a "Yes" vote, which was known to be less popular among the electorate, those parties opposed to the government recommended a boycott of the referendum. In doing so, the delegitimization of the referendum as an expensive, legally dubious event wielded solely for partisan gain struck a chord with a sizeable portion of the electorate and proved to be a successful campaigning strategy. The participation quorum also affected the government's campaign strategy for a "No" vote. As Pállinger notes, it is widely known that the government spent an inordinate amount of ultimately public money – on some estimates more than five times what it had spent on its previous national election campaign – resulting in an unprecedentedly asymmetric campaign between the two sides in terms of funding.

The 2015 Greek campaign by comparison was a much more balanced affair in terms of the overall political campaign dynamics. Evidently, the government, having called the referendum, had an important agenda structuring role in setting a campaign that was to last less than 10 days between the announcement of the referendum and the vote. Insofar as the referendum literature is concerned, this was by any historical or comparative standard a strikingly short campaign. It had the effect of catching the political opposition off-guard and in disarray – a sizeable part of the political opposition actually wasted the first half of the campaign in an unsuccessful effort to constitutionally challenge the referendum decision. Although balanced compared to the Hungarian vote, there was a definite skew in the media campaign. The mainstream Greek media endorsed the opposition's "Yes" position while alternative, online media mostly backed the "No" camp. This, as Manavopoulos and Triga point out, was reflected in the campaign strategy pursued by the two camps. Whereas the "Yes" vote undertook a more traditional 'political' campaign based on reasoned lines of argumentation, the "No" campaign – building on Syriza's historical evolution as a protest party – adopted a strategy reminiscent of a protest movement. Using the Garry (2014) emotions based framework for referendum voting, the "Yes" side tried to elicit anxiety by focussing on the risks and uncertainty associated with a "No" vote. The "No" side, on the other hand, tried to invoke anger by underscoring the grievances and transgressions suffered by the Greek population on the part of the Troika. These opposing strategies structured the dominant controversy surrounding the referendum, which was the question of what 'issue' was at stake in the vote. For the "Yes" vote, it was quite simply the future of Greece's membership of the Eurozone while for the "No" camp it was an expression of protest against the bailout programme while strengthening the hand of the government in negotiating a new deal.

Turning now to the last of the policy referendums in the comparative analysis, the focus is on the innovation (or threat) represented by the Dutch referendum on the EU's Ukraine Association Agreement. The most distinctive feature of this referendum is that it constitutes the first directly citizen-initiated referendum on EU matters, a very different instrument to the agenda initiative whose direct effect is mediated by government or the legislature that decides on whether to follow up a proposal either in the form of legislation or by seeking endorsement via a popular vote. For many analysts of direct democracy, the citizen-initiated referendum is the purest form of direct democracy given that, assuming the procedural requirements related to the topic and signature gathering are met, the referendum is automatically triggered (Altman 2011). This is how almost half of the third-country EU-related referendums undertaken by Switzerland were initiated. As of 2016 an EU Member State has now joined the Swiss in using this particular instrument of bottom-up direct democracy vis-à-vis the EU. It is worth contrasting the constitutionality dimension of the Dutch Association Agreement referendum with the Danish and Irish policy referendums discussed above. In the two latter cases, there is ultimately some elite level mediation in deciding whether a particular issue falls within a transfer of competences clause to trigger a referendum. This is not the case for citizen-initiated referendums such as the Dutch 2016 referendum. On the other hand, unlike the Danish and Irish policy referendums, the Dutch citizen-initiated referendum is consultative rather than binding –if not politically at least de jure.

What is more interesting in the context of the changing shape of EU public opinion since the onset of the Great Recession, is the initiators of the Dutch Association Agreement referendum. With the introduction of this new instrument of direct democracy at the national level, it was eurosceptic groups that immediately hit upon the idea of using the new tool as a strategic weapon to express their eurosceptic political preferences. As documented by van den Akker in his case study report, it was less the Ukraine issue *per se* than the fact that the latter was the first EU-related issue that fell within the scope of the new instrument. Aided by online web-based strategies, including social media and a specially designed website for endorsing the proposal, the eurosceptic group were able to comfortably cross the relevant thresholds for the two phases of signature gathering. In addition, the downing of a flight

crossing Ukraine with mostly Dutch passengers did much to keep the issue of Ukraine and Russian relations in the Dutch media.

The Dutch Association Agreement vote took place in April 2016 in a difficult geo-political context, with sanctions on Russia extended and the continued outbreak of civil war in eastern parts of Ukraine as well as Syria – not to mention a rising internal security threat following a terrorist bomb in neighbouring Belgium two weeks before the vote. Given such a climate, the "No" camp tried to frame the agreement as one that would lead to an influx of Ukrainian migrant workers and ultimately a first step towards Ukrainian membership. The "Yes" side stressed the moral duty to help Ukraine and promote democracy there while also benefitting the Dutch economy as the second largest foreign investor in the country. As van den Akker notes, the government was caught off-guard by the success of the initiative. The former was busy with preparations for the Dutch Presidency and ultimately did not strongly campaign in favour of the Association Agreement. Indeed, the "Yes" side was partly consumed with an argument about whether supporters should bother to turn out on the day, with several politicians recommending not voting. As opinion polls suggested the 30 percent participation quorum might be reached to make the vote valid, the government and the main parties hastily called for a "Yes" vote.

As seen in the Hungarian 2016 vote, the quorum rule illustrates how participation thresholds can alter the campaign dynamics. It is known in the theoretical and empirical literature that participation quorums can change the incentives some electors face leading to reduced voter turnout and favour more strongly opinionated minorities. (Aguiar-Conraria & Magalhães, 2010a and 2010b; Zwart 2010). In the Dutch 2016 referendum the "Yes" camp was unable to convince its voters (many voted contrary to their party's cues) or mobilise them to participate (many abstained). On the contrary, the "No" camp (which formed a parliamentary minority) mobilised their voters who overwhelmingly voted in line with their party's position.

Results from survey data mentioned in van den Akker's case study report find little evidence of second order voting. By and large, voting patterns in the Dutch 2016 referendum are explained much better by underlying attitudes towards the EU than by dissatisfaction with government performance. This suggests a dynamic identified by Beach in relation to the Danish referendums – asymmetric issue voting – may be at play. Eurosceptic voters need much less information for deciding, whereas those voters with more pragmatic views of the EU, who tend to weigh up the pros and the cons, have more unstable issue positions and need much more persuading. In addition to this, there appears to be in the Dutch case an asymmetric mobilisation effect that was compounded by quorum participation thresholds between the two types of voters – with pragmatic EU voters more likely to abstain than eurosceptics.

4.2.3.   Membership referendums

The UK's 2016 Brexit referendum, as it has become commonly referred to, was the second membership referendum to be held by the UK. When it joined the EEC in 1973, it was the only country of the four candidate states that did not put accession to a popular vote (the others being Denmark, Ireland and Norway). However, within one year of accession to the EEC the British people were already being promised a referendum on their continued membership in the manifesto of the Labour Party. The referendum pledge was made to resolve internal party conflicts within the Labour Party. Following some concessions to the UK, though none involving treaty change, the referendum was duly held in 1975 delivering a 67 percent majority (on a a 64 percent turnout) in favour of staying in the EC.

Having been a proponent of continued membership while in opposition in 1975, and having ratified the Single European Act while in government in the mid-eighties, it was the Conservative Party that would henceforth become increasingly divided on the European issue. The state of conflict within the party grew in intensity roughly from the Maastricht Treaty in the early 1990s through to the Brexit referendum of 2016. Yet, although the Conservative

Party was consumed by the issue, it did not provide for referendums while in office between 1979 and 1997. Neither did its Labour opponents deliver the UK electorate a referendum on treaty revision while in government between 1997 and 2010 (though they had promised one on the Constitutional Treaty). The Labour government refused to hold a referendum on the Lisbon Treaty, rejecting opposition attempts in both houses to insert a referendum requirement into the bill authorising ratification, and survived unsuccessful challenges in the Courts (see Mendez et al 2014, chapt. 2).

It is against this background that when it regained power in 2010, albeit in coalition with a pro-European party, the Conservative Party implemented a legal requirement for referendums on any treaty transferring powers to the EU (the so-called "referendum locks"), drawing expressly on a comparative constitutional analogy with Ireland. Yet the legislation instituting the referendum locks went far beyond anything present in the Irish context or envisaged in the Conservative Party manifesto before. Following our typology, the referendum locks that were enshrined in the European Union Act 2011 covered two core categories: treaty revision referendum locks and policy referendum locks. Long-standing Conservative Party policy supporting enlargement, at the time, meant that in principle enlargement would be excluded from the referendum locks (see briefly Murkens 2012).

Given the levels of euroscepticism among the UK population the treaty revision referendum locks would serve as major discouragement to pursuing treaty changes of all but the most indispensable and limited variety that might evade the referendum locks. Legally, the proposed treaty revision of 2011 to enshrine fiscal discipline and bolster EU oversight over Member States' economic policy might have evaded the referendum locks since it was primarily targeted at Eurozone governance. Politically, however, the referendum locks would have placed David Cameron under additional pressure from his party to hold a referendum. Thus the European Union Act 2011 is likely to have contributed to Cameron's decision in December 2011 to veto the proposed treaty (Gordon and Dougan 2012: 30). While Cameron's veto was applauded back home, especially by the Eurosceptic wing of the party, the EU pursued its policy goals via a separate international agreement (the Fiscal Compact Treaty) that nonetheless makes use of EU institutions.

Notwithstanding Cameron's treaty veto, the EU issue continued to consume the party. Not only was there an intra-party division but the inter-party competition stakes were being raised by a rising political force that was mobilising precisely on the issue of granting the people a say on the continued EU membership -the United Kingdom Independence Party (UKIP). In January 2013 with local elections looming, and European Parliament elections the following year, Cameron pledged a renegotiation of the UK's relations with the EU and an 'in or out' referendum by the end of 2017 if re-elected. Though the tactic was sufficient to gain time it hardly quelled some of the more vociferous anti-EU voices within the party or the rise of UKIP that went on to gain the highest vote share for the European Parliament elections in 2014.

When, against all opinion polling predictions, the Conservative Party gained an overall majority in the 2015 elections and therefore did not need to rely on the pro-European Liberal Democrats to form a coalition, the countdown for the Brexit referendum commenced. It was now a question of 'when' the referendum would take place rather than 'if'. By any account of EU politics, what proceeded was bizarre: Cameron was to negotiate a new relationship with the EU that would then be put to the British people. The strategy was destined to fail since he could never deliver any renegotiated UK status within the EU that would remotely satisfy his eurosceptic critics. To do so, would have ultimately entailed treaty change. And the rest of the EU was neither favourably disposed to pursuing a treaty change to satisfy the Conservative Party, nor in any event would this have been deliverable within the time frame for Cameron's promised referendum. Even more so, whatever package was negotiated could be rejected in a referendum by the very people that had instigated it. Not surprisingly, as the political campaign got under full swing the renegotiated agreement mattered little for the referendum campaign. The 'Remain' side was ultimately defending the status quo, while the

limited nature of the renegotiation was used as an illustrative example of Brussels' suppression of domestic sovereignty by the 'Leave' side.

The Brexit referendum is already shaping up to be, in all likelihood, the most studied EU-related referendum to date (indeed a short book has already emerged, Glencross 2016, and another book with this referendum as a key dimension is on its way, Armstrong 2017). Extended analyses of the Brexit referendum can be found in the annex, in two case study reports by Manavopoulos on the political campaign and by Rose on voting patterns and the consequences of the vote. Here our aim is to underscore some of the themes that have emerged from the comparative analysis of EU referendums since the Great Recession. The first is the rarity of the referendum on continued membership. Only one Member State (as contrasted with a constituent part of a Member State) has held them, the UK having previously held one in 1975. In terms of the reasons for calling referendums there was nothing especially unique – Brexit offers a textbook example of a partisan-motivated referendum called to resolve internal party.

In terms of broader campaign dynamics and voting patterns, there are potentially some valuable lessons to be derived. Given the issues at stake, the Brexit referendum was always going to be a high saliency event with an intense and polarized campaign. Initial advantages it seemed were stacked in favour of the "Remain" side. They could count on the support of the administration, the Prime Minister, many high profile civil society organisation such as trade unions and elite economic organisations, as well as international actors. Furthermore, in terms of parties represented in the Parliament only two parties with a very small number of seats (UKIP and the DUP combined had a mere 9 seats) openly supported leaving the EU. The main governing party, the Conservatives, were split and as a consequence the latter remained officially neutral during the campaign. The leave side could, however, count on one important ally: the print media. For the best part of three decades the latter has been on the whole notoriously eurosceptic, especially the highest circulation newspapers. Indeed, as Manavopoulos notes, the 'leave' side newspapers' enjoyed a 1.7 million higher circulation than the "remain" side. Coincidentally, this difference in circulation was somewhat higher than the winning vote margin of the leave vote.

In focussing on how the political campaign was framed, some obvious parallels can be made with some of the cases discussed above. Put simply, the "remain" side concentrated on the economic arguments related to the benefits of EU membership. In doing so they stressed the uncertainties and risks associated with leaving the EU, a strategy that was intended to evoke fear and anxiety, which is known to lead to more risk averse voting and preferences for the safer status quo. The message was backed up by every major elite level economic organisation in the country and internationally. By contrast, the Leave side articulated on the one hand a frame of hope by positing a return to its past glory as a global free trading nation unencumbered by the regulatory overreach of Brussels. On the other hand, it also provoked anger at the UK's loss of control and sovereignty over key pillars of statehood, including the country's borders and its internal security apparatus while being a net contributor to the budget and having to accept the supremacy of laws emanating from the EU.

In the end, the anger of EU meddling in domestic affairs juxtaposed with the hope of a new, post-EU rosy horizon of the Leave campaign narrative trumped the anxiety promoting campaign of the "Remain" side, which was predicated on a cold utilitarian calculus of weighing up the risks and uncertainties of leaving the EU. This was not a new dynamic; it had worked in Greece's policy referendum the previous year -though not Ireland's in 2012. Insofar as any second order voting was at play, it was highly unlikely to have been significant in determining outcomes given the intensity and saliency of the campaign. As Rose points out in his country study report, it was precisely those interdependencies, between the national and the European that were at stake in the referendum. The topic of continued and exaggerated claims by the popular press, the British voter was intimately aware of the linkages between the national level and European level.

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The domestic consequences of the Brexit vote are still very uncertain both in terms of the UK's future relationship with the EU and its own territorial integrity if Scotland is forced to withdraw from the EU against its democratic will (having voted overwhelmingly (62%) in favour of remaining in the EU). One thing remains certain, however. Whatever new arrangement is found for the UK, the issue of relations with the EU will not go away. Contestation over the UK's relationship with the EU will continue to be a major source of domestic political conflict –this is one comparative lesson that can be drawn from countries such as Switzerland and Norway that are formally outside the EU but remain wedded to its economic and political orbit.

5. POLICY RECOMMENDATIONS: A MAPPING OF THE FIELD AND SOME 'MODEST' PROPOSALS

KEY FINDINGS

- A survey of the literature on proposals and recommendations in relation to the EU and referendums identifies a number of argument clusters, which include:

- Legally and politically unpersuasive suggestions that EU treaty revision and enlargement referendums could be challenged using EU law machinery; as contrasted with the legally tenable arguments for using this machinery to challenge the deployment of certain referendum locks (e.g. in the UK) and referendums challenging binding EU decision-making (i.e. the Hungarian refugee relocation referendum).

- Presently politically unrealistic, but powerful, arguments for replacing the double unanimity lock to counter the single Member State popular veto point, which would alter the vote structure for any Member State treaty revision referendum that is held.

- The presently politically unrealistic, and un-compelling, argument for EU-wide referendums on treaty revision while not surmounting the unanimity requirement; a change which would further compound the excessive rigidity of the EU's amendment rules.

- Theoretically attractive arguments for EU-wide referendums on treaty revision that require high double majorities; these are politically unrealistic because not only do they require the double unanimity lock to be overcome but also stipulate, and potentially regulate, the domestic ratification procedure.

- Theoretically attractive arguments for introducing citizen-initiated referendums on EU matters but which only appear politically realizable in the context of a major treaty revision, which thus renders them presently unrealistic.

In this Chapter, we evaluate a range of proposals and recommendations that either have been, or could be, put forth in relation to the EU and referendums. In many respects this can be considered as a mapping of key proposals made in the literature. In mapping the rather limited terrain of proposals, we shall also take into acccount the political and legal feasibility of a given proposal.

5.1. Proscribing EU Treaty Revision & Enlargement Referendums

With the increasing scholarly attention paid to referendums it might be thought that they are an unexceptional tool in the democratic toolkit for all constitutions. But this is not the case, both the creation of constitutions for democratic states and their future change need not, and often is not, the subject of popular approval. The US and Germany are two well-known federal examples where the constitution did not provide for the use of the referendum in either the foundational moment or for its future amendments. A constitutional amendment would be necessary in both those established federal democracies to introduce the referendum device in the amendment process. And in the US the Supreme Court has been deployed to preclude constituent units from using binding referendums on federal-level constitutional amendments (see Mendez et al 2014: 154-55). One can, to an extent by analogy, run arguments against the use of referendums on the EU's equivalent, the treaty revision process. In the EU, referendum practice related to treaty revisions can be viewed

as having been deployed in a dysfunctional and anti-democratic way (Cheneval 2007). The democratic credentials of a single-member state popular veto on treaty revision or enlargement are certainly contestable.[8]

One constitutional law scholar (Auer 2007; 2016) has developed a proscription line of argumentation based on the fundamental unaccountability of the people as a state organ. For him where a decision only affects a Member State, using a referendum, as contrasted with exclusively legislative or executive approval, can be strongly defended because of the high degree of legitimacy attached to a decision of the people. By contrast a treaty revision referendum affects every Member State and the EU as a whole and thus its primary effect is in this sense supranational. For Auer, the people are deploying a power exceeding the limits within which their unaccountability can be justified. This might be best understood when compared to representative democracy's mechanisms of accountability. The people can ultimately hold a government or coalition accountable for its actions. But with regard to extraterritorial referendums, such as treaty revision, there is no accountability mechanism for decisions taken by the 'people' in one Member State that affects all others. Indeed, Auer (2007; 2016) intimates that member-state constitutional provisions providing for mandatory treaty revision referendums can be viewed as contrary to EU polity-wide democracy and thus even contrary to EU law as expressed in Article 2 TEU.[9] This creative reliance on the treaty text language of democracy faces the major obstacle of the cross reference in both the ordinary treaty revision procedure and the first simplified revision procedure (Article 48(2) & (6)) to respectively ratification or approval by Member States in accord with their constitutional requirements. There would accordingly seem no viable EU law means of contesting the introduction, and use, of treaty revision referendum locks.

Another legal scholar has sought to construct an argument against the use of treaty revision referendums based on the duty of loyal cooperation (Kellermann 2001, 2008). Although recognizing that constitutional lawyers argue that this duty only applies to treaties that have entered into force, it was suggested that it could be interpreted teleologically by the ECJ and could provide a source of inspiration for national governments to adapt national constitutions to avoid a ratification crisis and to this end even replace referendum requirements with parliamentary mechanisms. Kellermann did not, however, go as far as to suggest that the duty of loyal cooperation could provide the basis for infringement proceedings against a Member State introducing or using referendum requirements. A further reason why this would be legally untenable today is the new treaty clause (Art 4(2) TEU) on the EU respecting Member States national identities inherent in their fundamental political and constitutional structures.

In sum, in contrast to US constitutional law, under current EU law there appears no tenable legal argument to contest the use of at least a constitutionally required referendum in the treaty revision process, even in the most unlikely event that such a challenge was ever viewed as politically desirable. Unsurprisingly we are unaware of any radical suggestion that the EU treaty should, by analogy with for example the set-up in the United States, be revised to seek to preclude binding referendums in the treaty revision process (e.g. by implementing an exclusively parliamentary approval requirement).

As with the treaty revision referendum, there also does not appear to be anything that can legally be done to preclude the possibility of a future enlargement facing a Member State

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[8] One scholar memorably employed the phrase "tyranny of the minority" (Peters 2005).
[9] The current CJEU President has also previously questioned the conformity of the treaty-revision procedure with democracy in that it allows a small minority of European citizens to block the approval of treaty revisions: (Lenaerts and Desomer 2002: 1232).

referendum, as was the case with the very first wave of accession. One scholar has drawn on the duty of loyal cooperation in Article 4(3) TEU to suggest that as enlargement is one of the EU's objectives enforcement proceedings could be legally feasible where a state introduces constitutional requirements to make it virtually impossible for it to ratify an Accession Treaty (Hillion 2010).[10] It is not clear whether, for example, a referendum requirement on Turkish accession would count as making it virtually impossible or whether the author had in mind even more rigorous requirements such as a referendum and quorums and parliamentary supermajorities, but in any event the argument faces obvious legal difficulties. Article 49 TEU expressly stipulates that the accession agreement shall be ratified by all the contracting states in accordance with their respective constitutional requirements thus seemingly according them complete discretion as to what those requirements will be. This argument can be bolstered by the new national identity clause in Article 4(2) TEU. Given the favourable treaty text wording, it would be politically damaging for the EU if a Commission-led legal challenge to a future enlargement referendum were seriously contemplated. As with the treaty revision process itself, we are unaware of any suggestions that the accession procedure should be changed so that Member States could not use the referendum device.

5.2.   Replacing the Double Unanimity Lock

One way to accommodate the growing challenge that referendums have been posing for EU constitutional change is to move away from the double unanimity lock for treaty change – unanimity at the EU level followed by unanimous ratification by all Member States under their domestic constitutional procedures – that has hitherto characterised the EU. Not requiring unanimous ratification of a treaty revision would alter the incentive structure in treaty revision referendums. The people of any given state would no longer be voting under the assumption that they constitute a veto point. One of the earliest proposals for moving away from the double-unanimity lock actually predates the emergence of the EU treaty revision referendum. The Spinelli Draft European Union Treaty approved by the European Parliament in 1984 proposed its entry into force if ratified by a majority of states representing two-thirds of the EU population.[11] However it did not surmount the unanimous ratification requirement for future treaty revisions (Art. 84), thus marking a clear distinction between entry into force of a foundational constitutional document and its subsequent revision.[12] The Spinelli Draft however emerged in the so-called permissive consensus era when there were a mere ten EU Member States.

As the difficulty of ensuring unanimous ratification became increasingly obvious following the first popular veto on Maastricht, and most recently following the Constitutional Treaty debacle and the difficulties engendered in ratifying the Lisbon Treaty, we have increasingly seen calls to dispense with the unanimous ratification hurdle. Today it is easy to put together a list of distinguished scholars of the European integration project from different disciplinary perspectives who have called for a relaxation of the unanimity criterion (e.g. Closa 2013; de Búrca 2010; Dehousse 2007; de Witte 2012; Quermonne 2010; Schmidt 2009; Trechsel 2005; Tsoukalis 2016), as well as think-tanks (Notre Europe 2009), MEP's (Duff 2012; the

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[10] Auer (2007) had previously run an argument against enlargement referendums, as with treaty revision referendums, on the basis of the treaty reference to democracy in Art 2 TEU.
[11] See OJ 1984 C 77/52, Art. 82.
[12] It surmounted the first unanimity hurdle as the amendment procedure operating at EU-level was subject to majority voting. It also proposed liberal use of organic laws for a range of matters that would otherwise be in the treaty text which was also a mechanism to overcome the rigidity of the treaty revision process.

Spinelli Group's Fundamental Law 2013),[13] Foreign Ministers of EU Member States (Future of Europe Group 2012), a then Director General of the Council Legal Service (Piris/Lipsius 1995), EU commissioned reports (e.g. EUI 2000) as well as the Commission's famous draft Constitution (European Commission 2002) and its proposal to the Constitutional Treaty IGC (COM (2003) 548 final).

The arguments invoked in support of moving away from the double unanimity hurdle are varied but they have often involved underscoring that both federal systems and many other international organisations, even in a regional setting, are not wedded to a unanimity hurdle for constitutional change.[14] The fact that overcoming the unanimity lock is also the hallmark of larger international organisations is significant because often the argument for moving away from the unanimous ratification hurdle is rejected without serious consideration as simply a manifestation of an inappropriate federal leap. However, compelling arguments can be advanced against retention of the double unanimity lock.

A starting point is to draw on a key lesson from comparative institutional design both of constitutions at the state level and those of international organisations, namely that rigid amendment procedures increase recourse to alternative mechanisms of constitutional change.[15] The greater transparency and solemnity of the formal amendment procedure can thus give ways to tools of lesser constitutional legitimacy such as change via the judicial arena. And the EU is arguably the constitutional system with the most rigid formal rules of constitutional change that currently exists. Political scientists and legal scholars have conducted various types of analyses to determine the difficulty of constitutional amendment in states using a range of different criteria (Albert 2015; Lijphart 2012; Lorenz 2005; Lutz 2006). Had the EU been included in these analyses it would surely have been recognised as containing the most rigid rules. EU enlargement has resulted in a vast multiplication of veto points both for the first stage of generating unanimity at EU level and at the second stage of ratification by all Member States. We have seen sub-national units being given veto points to treaty revision as in Belgium, super-majority thresholds for approval being added as in Germany and most recently Finland, and, of course, the mandatory referendum veto point in Ireland and the UK and its potential applicability elsewhere (e.g. Denmark) (see Mendez et al 2014, chapt. 2).

The rigidity problem takes on a particularly acute form in the EU by virtue of two interrelated issues that much of the literature overlooks. What is in effect the constitutional text of the EU is from a comparative perspective both *overinclusive* and *underinclusive*. It is overinclusive because the majority of the text is simply not worthy of constitutional rank. Notwithstanding a wholly inflexible amendment procedure - or perhaps precisely because of this - Member States have seen fit at each new major treaty revision to insert more and more detailed text relating to amongst other things policy areas and institutional procedures. Such subject matter, as with the rest of the treaty, thus becomes firmly locked away from meaningful democratic contestation. This explains why earlier proposals at reform and simplification of the treaties came up with mechanisms to reduce this growing surfeit of treaty text (such as via the use of organic laws as first proposed in the Spinelli draft treaty). In fact recent research has identified an escalating trend in the drafting of democratic constitutions towards specificity, including of the policy variety, but crucially the

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[13] The Herman Draft Constitution (A3-0064/94), appended to an EP resolution on 10 February 1994 but not expressly approved, also overcame the double unanimity lock.
[14] A large list including the Council of Europe, the International Labour Organisation, the International Monetary Fund, and the United Nations Organisation is outlined in appendix 1 of Closa (2011).
[15] For the state level, see Elkins et al (2009) and Dixon (2011). For international organisations, see briefly Klabbers (2015: 78-79).

counterbalance to this has been a move towards less rigidity in the amendment procedure (Versteeg and Zackin 2016). In contrast, the EU's constitutional text has gone in precisely the opposite direction. It has become increasingly long with added policy and institutional specificity at each round of revision. At the same time, it has become more rigid with each enlargement multiplying the number of veto points and with more taxing ratification hurdles, such as referendums and super-majorities in parliament, emerging at Member State level.

The EU's constitutional text is also *underinclusive* in that it is unfinished business. This has been powerfully demonstrated with the Eurozone crisis. Its underinclusiveness is certainly not without good reason, for the EU is not a state but a constitutional system which has developed most visibly via a gradual allocation of new competences as the collective political aspirations of its Member States have expanded. However, precisely because of the increasingly detailed and circumscribed articulation of competences, it can find itself without the appropriate tools to respond to a crisis. A potent reminder of this continues to be provided by the Eurozone crisis, as many of the proposed responses are not available policy options in the absence of treaty revision, or employing options outside the EU constitutional order such as extra-EU treaties. As with the overinclusiveness of the text, it is not the underinclusiveness itself that is the problem, rather the problem stems from these two distinctive traits existing in a constitutional system with an exceedingly rigid amendment procedure.

It is important to underscore – a point surprisingly overlooked in many contributions calling for change – that overcoming the unanimous ratification hurdle (and potentially unanimity in the first instance at EU level) need not apply to all of the constitutional text. A varied amendment procedure for different parts of the text is actually a common tool in constitutional design both for nation states and international organisations. A well-known report had called for a progressive relaxation of the double unanimity hurdle in favour of double super-majority thresholds (EUI 2000). One part of the text for which a case could be made to move away from the double-unanimity lock, which has very rarely occurred in the literature (but see Mendez et al 2014, chapt. 5, and Quermonne 2010) is enlargement. This is governed by a separate provision (Art. 49 TEU) from the general treaty revision clause albeit one resulting in treaty revision and requiring ratification by all existing Member States in accordance with their respective constitutional requirements. There is now at least one referendum lock on future enlargement in France, the new Dutch bottom-up initiative is also applicable to enlargement and we have seen other calls for Member States to hold enlargement referendums. In the current climate, it would seem unlikely that any future enlargement would take place without at least one EU Member State holding a popular vote.

There is arguably something intuitively unattractive about allowing enlargement to be held hostage to the direct popular veto point of a single Member State (see also Auer 2007, 2016). If such a popular veto were to occur, recourse to the strategy employed for previous popular vetoes on treaty revision, namely, the second referendum option, would seem hard to justify as the European Council would have little to offer. And the repackaging option employed as a response to the popular rejection of the Constitutional Treaty would also not be feasible. After all, how does one repackage the accession of one or more countries in a more palatable fashion?[16] It is noteworthy that classic federations do not permit single state veto points for admission of new constituent units and prominent international organisations can contain super-majority approval, or even lower thresholds, for accession (see Mendez et al, chapters 5 & 6).

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[16] Increased transitional measures for the acceding country is admittedly one possibility.

Were it seriously considered, a move away from the double unanimity lock should also be combined with democratic improvements to the treaty revision procedure that could make such a move more palatable. One obvious democratic innovation could include allowing citizens to place treaty revision, or at least some types of treaty revision, on the agenda. Another would be to give the European Parliament a more prominent role in the process including requiring its approval, perhaps via super-majority,[17] for treaty revision. This would reddress a striking anomaly particularly as the European Parliament's approval has been required for enlargement since the SEA). And of course, a greater role for national parliaments can also be considered.[18]

The fact that a rational case can be advanced for moving away from the double unanimity lock for at least some parts of the constitutional text,[19] does not mean that any such option would be politically realisable even if, as noted in Chapter 4, popular opinion might be receptive to the idea. Thus, the Commission's call at the Constitutional Treaty IGC to use a double majority procedure for what became Part III of the TFEU proved unsuccessful.[20] We can emphasise all manner of mechanisms to protect States including unprecedentedly high double super-majorities (e.g. four-fifths or nine-tenths with high population thresholds); institutionalising a second referendum requirement following renegotiations where a first has been unsuccessful and likewise with a second parliamentary vote; the use of opt-outs; no obligation, as contrasted with the general amendment procedure in federal systems, to continue as a member where ratification cannot be delivered. The bottom line, however, is that it is difficult to conceive of circumstances in which all Member States, or for some even any Member State,[21] would relinquish the veto that the unanimous domestic ratification procedure offers. For this reason, the many proposals premised on a refounding that surmounts the unanimous ratification requirement face what appears to be a politically, and accordingly also legally, insurmountable hurdle.

An under and overinclusive constitutional text wedded to a double unanimity lock that permits single state popular vetoes is surely not what would be designed today if we were starting from scratch, but the problem is precisely that we are not starting from scratch. As concerns specifically enlargement we could expect Member States to be especially loath to giving up their veto particularly as immigration, and its intimate relationship with EU enlargement, has become a toxic issue in a range of Member States, as witnessed powerfully in the UK's withdrawal referendum. It is also arguably telling that even the Commission's extremely adventurous Penelope project (European Commission 2002) was unwilling to cross this threshold as the accession procedure (Art. 102) it outlined retained the unanimous domestic ratification requirement.[22] In sum, although a powerful argument can be constructed for a move away from the double unanimity lock it ultimately is faced with a hostile political reality.

5.3. Instituting EU-wide Referendums

One way to accommodate EU-related referendums would be to embrace them and integrate them directly as a part of the EU's constitutional system. Proposals for Europe wide referendums on the European integration project have a long pedigree with de Gaulle himself having famously suggested its use for a founding document as early as 1949 (Auer 1997).

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[17] As also proposed by the Spinelli Group Fundamental Law (2013, Article 135(5)).
[18] Consistently with the growing body of literature emphasizing greater national parliamentary empowerment e.g. Nicolaïdis and Youngs (2014); Bellamy and Castiglione (2013).
[19] And/or deconstitutionalising text so that it is not subject to the double unanimity requirement.
[20] COM (2003) 548 final.
[21] See Piris (2012: 59), who had previously proposed a move away (Piris/Lipsius 1995).
[22] As has the Fundamental Law produced by the Spinelli group (2013) (Art 136(3)).

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The well-known federalist Altiero Spinelli also called for a Europe-wide referendum for a new federal constitution in the early-1960s (Hobolt 2009), but no remnants of this bold proposal were left in the famous draft treaty on European Union of 1984 with which he is so closely associated.

Proposals for EU-wide referendums began to re-emerge following the end to the permissive consensus that was signified by the Maastricht Treaty ratification saga and the growing concern with the EU's so-called democratic deficit. Such calls were to proliferate as subsequent major treaty revisions were placed on the agenda. Amongst the bourgeoning list of those who have called for EU-wide referendums we find eminent scholars in various fields including sociology (Habermas 2001, 2012; Opp 1994); law (Auer 1997; Pernice 2006); international relations (Zurn 2000); political philosophy (Pogge 1997; Cheneval 2007); political science (Bogdanor 2007; Grande 2000; McKay 2001; Papadopoulos 2005; Rose 2013; Schmitter 2000); political sociology (Abromeit 1998); public choice economists (Frey 1996; Schneider 1996; Feld and Kirchgässner 2004; Kirchgässner 2016); as well as non-governmental organisations (e.g. Mehr Demokratie) other groups (Spinelli Group 2013), and the European Parliament.[23] Given the range of contributions there is unsurprisingly enormous variation in what has been proposed and the extent of considered engagement with the relevant issues. Broadly we can distinguish between calls for EU-wide referendums to be held on either i) a specific treaty; ii) treaty revisions in general; iii) certain types of treaty revision (including enlargement); and iv) legislative matters. At root, all the proposals are premised to a greater or lesser extent on the democratic and legitimacy gains that flow from the use of mechanisms of direct democracy. We will briefly evaluate some of the treaty revision specific referendum proposals before turning to those on legislative matters.

5.3.1. Evaluating treaty revision referendum proposals

5.3.1.1 EU-wide referendum on a specific treaty

A European Parliament resolution in 1995 had called for revisions in the next IGC, which became the Treaty of Amsterdam, to give consideration to holding a Union-wide referendum to ratify any Treaty provisions, on the grounds that a collective decision affecting the whole of Europe was at stake (EP 1995).[24] This proposal was not however given serious consideration. And although numerous calls for an EU-wide referendum emerged during the drafting of the Constitutional Treaty, most significantly in the form of a proposal supported by some 97 members of the Convention, the European Parliament did not place its collective weight behind any such proposal. This widely supported Convention proposal for a novel ratification procedure did not extend to any future revisions of the Constitutional Treaty. Rather it had a one-off founding moment logic to it, which also appeared to be the case for those suggesting an EU-wide referendum on a revised constitution as a possible solution to the constitutional impasse triggered by the Dutch and French votes against ratification (see Mendez et al 2014: 195).

One obvious criticism of any proposal for an EU-wide referendum used exclusively for a founding moment is that it is difficult to put the referendum genie back into the bottle once it has been unleashed in this fashion.[25] There is a potentially unsustainable tension between

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[23] In addition, two initiatives under the ECI that failed to surmount the admissibility hurdle were about establishing EU level referendums (see Mendez & Mendez 2016).
[24] Proposals for EU-wide referendums first emerged in the European Parliament in the late 1980s (see Auer 1997).
[25] To use a federal analogy, Australia which had a popularly approved founding moment in all its constituent units, also requires a referendum for its constitutional amendment procedure.

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requiring an EU-wide referendum exclusively for such a founding moment while making no explicit provision for EU-wide referendums for future changes. Moreover, although considerable legitimacy gains would flow from a popularly approved re-founding of the EU,[26] where such proposals require popular approval in all Member States they impose an increasingly unrealistic ratification hurdle. It is perhaps telling that the European Parliament has been reluctant to repeat the calls for an EU-wide referendum that it advanced for the then EU15 in the mid-1990s,[27] this is no doubt testament to the realisation that this would only exacerbate the difficulty of a treaty entering into force in the much enlarged EU. Indeed, many of the EU-wide referendum proposals for a new founding emerged when the EU had nearly half its current number of Member States and it is likely that some of these advocates might not be so favourably disposed to EU-wide referendums for this much enlarged EU with a growing current of euroscepticism in some states. From a federal analogy perspective,[28] even Switzerland's founding in 1848 did not require popular approval in all its constituent units nor controversially was it obtained even in all those that did require it. And, while Australia with only six constituent units did manage to see popular approve of its federal constitution, it did so with considerable difficulty and only after a second vote (Mendez et al 2014, chapter 5).

5.3.1.2.   EU-wide treaty revision referendums wedded to unanimous ratification

The aforementioned EU-wide referendum proposals used exclusively for a founding moment can be contrasted with those advanced by two scholars a decade apart calling for EU-wide referendums to be used for the treaty revision process (Abromeit (1998), Cheneval (2007)). What is striking about their proposals is that they retained the unanimous ratification constraint with popular approval required in each Member State. In Cheneval's case, unlike Abromeit, these proposals came following the Central and Eastern European enlargements and in full recognition of the growing climate of popular discontent with the EU in certain Member States. The same criticism can be advanced here as in relation to the use of an EU-wide referendum exclusively for a founding moment, namely this considerably exacerbates the difficulty of treaty revision in a constitutional system that as previously noted is subject to what are probably the most rigid rules of amendment currently in existence. From a federal analogy perspective, no federal system gives all its constituent units a veto point on the general constitutional revision procedure. These proposals become all the more problematic when we reiterate both the *underinclusive* and *overinclusive* nature of the EU's constitutional text and the negative ramifications that flow from this as discussed above. Crucially the *overinclusive* nature is a point that proposals for EU-wide treaty change referendums have very rarely acknowledged.

Ultimately an EU-wide popular veto point would only further exacerbate the rigidity of the EU's rules of change. Although Cheneval (2007) advances a compelling critique of the dysfunctional nature in which referendums have been haphazardly deployed at Member State level in the treaty revision process, later accentuated by the ratification saga of the Lisbon Treaty in which less than 1 per cent of the EU's population in a single Member State was popularly consulted, it does not follow that a well-intentioned requirement for EU-wide popular approval is the solution. Indeed, although prima facie compelling legitimacy and democracy enhancing qualities can be attributed to this proposed mode of treaty revision, it

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[26] Certainly, as compared to using EU-wide parliamentary approval and popular approval in perhaps one or some Member States.
[27] An exception is a European Parliament resolution (A5-0289/2000) that called for a referendum on a new constitution to be held on the same day in all Member States.
[28] An international organisation analogy being inappropriate given that none have ever stipulated required domestic ratification procedures for entry into force, much less imposed a referendum requirement.

could have the opposite effect precisely because it makes the EU's rules of change even more rigid. Making future treaty change theoretically democratic but practically unattainable, would be an undemocratic move as whatever the extant text is becomes sealed away from meaningful democratic contestation. This is especially problematic with an overly-inclusive policy laden text which heightens pressure on other less democratic means of constitutional adaptation.

5.3.1.3.   EU-wide treaty revision referendums that overcome unanimous ratification

The overwhelming majority of proposals for use of EU-wide treaty revision referendums have argued for some form of double majority often one considerably higher than any examples in extant constitutional texts, whether that be four-fifths of the states or nine-tenths, and occasionally with a popular super-majority also being required, whether that be two-thirds of the EU's population or more.[29] Such proposals aspire to both unleash the purported benefits for the EU of popular voting, including contributing to a European public sphere, while avoiding the intolerable rigidity generated by a single state popular veto point.[30] These are all theoretically attractive models. All the more so when they propose that treaty revision can be placed on the agenda by the citizens themselves given the well-known criticism of exclusively top-down activation of referendums, often pejoratively labelled as plebiscitary, as contrasted with the purer bottom-up activated referendum (see e.g. Altman 2011).

Despite the initial theoretical attractiveness of EU-wide referendums there are obvious problems which have often either been overlooked or minimised. Unlike the proposals above on surmounting the double unanimity lock while allowing freedom in choice of ratification route, the proposals here impose a harmonised ratification requirement. This is considerably more intrusive in a way that federal regimes, unlike international organisations, often are and this would generate increased resistance. A problem that also flows from this is that it requires a device to be deployed that is either impermissible at the national level in existing EU Member States, most obviously Germany and Belgium (Mendez et al 2014: 33), or impermissible in relation to treaties (e.g. Italy).[31] This is not per se an insurmountable obstacle, constitutions can be amended and in various Member States they have had to be for EU treaty revisions to come into force. However, unlike for example Italy that already uses the referendum device at the national level, to require its use nationally for states where the device is constitutionally impermissible, or simply not used, is an altogether different matter with broader implications. Most obviously, why should the referendum device be confined to this one issue? Put another way, if the device is introduced pressure is likely to emerge for its use to become more widespread on a broader range of topics.

Another problem is that such proposals usually ignore the nature of the EU's treaty text.[32] Its overinclusive nature in particular should lead one to caution against EU-wide referendums as the standard amendment procedure. Thus the recent post-Lisbon treaty revision to transitionally accommodate a greater number of MEPs, because the Lisbon Treaty provisions providing for this only entered into force after the 2009 European Parliament elections, would hardly be of sufficient constitutional import to warrant an EU-wide referendum. In the absence of a radical de-constitutionalisation, that is converting subject matter from the treaty text into secondary forms of EU law that would thus not be subject to the proposed EU-wide

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[29] Cheneval (2007) is not averse to such proposals but believes that they would need to be popularly approved in all the Member States.
[30] For a useful overview of the potential benefits of such proposals, see Hobolt (2009: 242-248), for a valuable critique of some assumptions behind early proposals see Hug (2002: 101-113).
[31] As stipulated in Article 75 of the Italian Constitution (1947).
[32] A relatively early exception is Feld and Kirschgassner (2004).

referendum procedure, we would need to envisage a mechanism for determining which treaty revisions warrant an EU-wide referendum. This could be pre-determined by the EU treaty text itself and could be modelled on the new treaty revision rules under the Lisbon Treaty whereby the EU convention route to treaty revision need not occur if the European Council determines, with European Parliament consent, as it did for the MEP revision noted above, that it is not justified by the extent of the proposed amendments (Art 48(2) TEU). One issue that could be suited to an EU-wide referendum is enlargement.[33] Enlargement is of immense constitutional importance, with considerable ramifications for the EU and its Member States. Furthermore, it is on a single, clear issue, which overcomes the critique advanced of referendums when they bundle many different issues.

An additional problem with EU-wide treaty revision referendum proposals is the lack of specificity in relation to campaign regulation beyond the occasional emphasis on the need for the referendum to be held on the same day in all Member States.[34] Even within the EU's Member States that use referendums there are considerably diverse regulatory regimes on questions that include, amongst others, the extent of public and private financing, constraints on broadcast (both public and private) and print media, regulation of information campaigns and civil society groups, as well as the role, if any, of independent electoral bodies (see e.g. Reidy and Suiter 2015). To use just one example from the EU, France and Denmark do not have campaign spending limits, whilst the UK tightly regulates and constrains this (Qvortrup 2016). To draw insights from Switzerland, the federal system with the greatest direct democracy experience, it is worth noting that it has comparatively lax regulation –especially with regard to finance. However, one fundamental principle is that the federal administration must remain neutral. The Parliament issues a 'recommendation' while the federal administration provides an information booklet on the arguments in favour and against a specific federal level referendum. The federal institutions, however, cannot campaign, unlike the political parties that are free to campaign as vigorously as they wish. The neutrality of the federal administration is a point EU institutions ought to consider. As some of the case study reports illustrate, interventions from EU officials –especially in the Commission– were likely to have a negative impact.

The literature proposing EU-wide referendums has not yet begun to engage with the sheer heterogeneity of referendum campaign practices across the EU. Nor has it suggested a regulatory model for the EU should such a referendum be introduced at EU level. One could propose the least intrusive mode whereby, with perhaps the exception of the day for the holding of the referendum, matters are left to the domestic constitutional system, through to the most intrusive model whereby some of the key aforementioned issues are regulated at EU level. The latter suggestion is of course the more unrealistic from the perspective of political feasibility. This leads us precisely to the final and most significant problem with EU-wide referendum proposals on treaty revision that overcome the unanimous ratification requirement. As we have argued above, it is difficult to conceive of circumstances in the short term in which the political will to expressly surmount the double unanimity lock can be found, much less doing so while seeking to stipulate, and potentially regulate, the approval procedure necessary (that is via a popular vote).

5.3.2. Evaluating proposals for citizen-initiated legislative referendums

Scholars have long argued for citizen-initiated referendums on legislative matters (e.g. Weiler 1997; Epiney 1997; Nentwich 1998; Schmitter 2000; Papadopoulos 2005). Switzerland is

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[33] Early suggestions in this respect came from Auer (1997) and Zurn (2000).
[34] Cheneval (2007) makes a powerful case for why the referendums should indeed be held on the same day.

often deployed as a comparative reference point for cataloguing democratic advantages that could flow from such an instrument for the EU, given its considerable experience with such instruments and that like the EU it too is a consensus rather than majoritarian oriented democracy (see especially Papadopoulos 2005). It should be noted that two types of instruments are relevant here: the legislative initiating type and the legislative abrogative type. The former collects signatures to implement a policy, the abrogative (sometimes referred to as the facultative or the optional referendum) type collects signature to veto a piece of legislation. Such instruments can play a powerful role in ensuring greater congruence between voter preferences and policy outcomes. This is not merely because of their actual use but also because the shadow of the citizens' initiative helps to shape legislative choices in a fashion that is more sensitive to the citizenry.

Papadopoulos (2005) expresses a preference for a combination of the two in the EU setting. Citizen-initiated referendums of this nature are "demos enhancing institutions" that have, if appropriately designed,[35] much potential to ensure greater legitimacy for the EU. However, one could make the case for greater relevance of the facultative type as a potential improvement and contrast this with the current preoccupation with national parliaments using the Lisbon Treaty's early warning mechanism. In general, the benefits mentioned with regard to citizen-initiated referendums in the EU setting of both types is that they can contribute to a European public sphere that encourages a European consciousness and European public deliberation. One should be careful not to exaggerate the potential of such a device. The distances between the average citizen and EU institutions is of a different order of magnitude to even the largest EU Member States.

One very obvious concern with experimentation with such devices is that they lead to the introduction of an alien tool into the constitutions of Member States. It would inevitably also be a major constitutional step requiring revision of the treaties, which as we suggest below remains a hazardous, and even politically unrealistic, task. However, in the event that a major treaty revision were being pursued as many continue to advocate, and it is difficult to conceive of citizens' initiated legislative referendums as a single issue proposal outside a major treaty revision, this would be a way to truly bring Europe much closer to its citizens.

5.4.   Operating within the current treaty revision rules

Having considered some of the proposals for altering the EU's treaty revision rules and underscored their implausibility under present political circumstances we must accordingly operate on the basis of remaining wedded to the current rules of change. The potential deployment of the treaty revision referendum had rendered this route to constitutional change increasingly hazardous and unattractive. A major stumbling block to the entry into force of any major treaty revision will in future not be present if the UK withdraws from the EU, as the referendum locks that were introduced in 2011 in what has been one of the EU's most eurosceptic nations will no longer apply. However, the EU will now also have to face the bottom-up referendum mechanism that The Netherlands has introduced and such bottom-up direct democratic mechanisms might spread elsewhere. Mimetic effects are far from being unknown with regard to EU-related referendums. When initially proposing the UK's referendum locks, David Cameron, for instance, expressly drew on the Irish example.

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[35] For example by using attainable thresholds for triggering referendums and by requiring appropriate double majorities for their passage.

Academics, politicians and think tanks have nonetheless continued to call for major treaty revisions.[36] However, given the current climate of popular opinion it would be ill-advised to become embroiled in a major treaty revision project with the odds ultimately stacked against successful ratification because of the capacity for recourse to national referendums, to say nothing of the popular disenchantment that emerges where a popular vote is not accorded. The 'second referendum phenomenon', whereby the people vote again following a negative vote on a treaty revision, has been used to allow three of the last five major treaty revisions to enter into force. But this is also a controversial practice that fuels euroscepticism (see de Búrca 2010, Tierney 2012). It has given rise to the damaging myth that Brussels simply does not take "no" for an answer in popular votes. This is most obviously incorrect in not distinguishing between different types of EU referendums (thus, for example, Norway has not been forced to join the EU, nor was Greenland forced to remain, nor were Denmark or Sweden forced to adopt the Euro).

Rather than focus on major treaty revisions, a more advisable track is to only pursue treaty revision where indispensable, of the more incremental variety. This can even be via the simplified revision procedure or simply much smaller scale revisions via the ordinary revision procedure that are less likely to trigger mandatory referendums or significant bottom-up pressure for them to be held. Another advantage of this approach is that in any referendums that are held on narrower treaty revisions, voters are more likely to focus on the very issue at stake rather than the myriad of issues which face them with a grand treaty that is by definition more multi-dimensional in nature (Mendez et al 2014: 191). Avoiding the treaty revision route might be thought an inappropriate lesson to draw from the popular discontent in Europe. So it is worth reiterating that the suggestion is to avoid where possible but where treaty revision is essential, to adopt the incremental strategy rather than the major revision strategy.

The functional equivalent of a treaty revision in other constitutional systems is the constitutional amendment. And in comparative terms, constitutions formally change most frequently via small-scale amendments rather than more wholesale changes of the type that characterized the European integration project between the SEA and Lisbon. For the EU to seek to do likewise is in a sense also recognition that the backdrop is not one of a permissive consensus, which is not wholly dissimilar to the average democratic constitutional polity in which the constitutional amendment procedure can also be constrained by an unfavourable political backdrop. Furthermore, a basic lesson from comparative constitutional design and practice is that where it is de facto or de jure difficult to employ a constitutional amendment procedure other routes to constitutional adaptation are pursued (e.g. Dixon 2011). This includes using courts, legislation and political practices. These are all valuable and legitimate tools in the armoury of constitutional evolution. The US Constitution, one where federal level referendums are not even permissible, is very rarely amended and when it is they are very small scale changes as is the case with the mere six amendments in the post-World War II period. The Australian Constitution's amendment procedure triggers a mandatory referendum requiring a double majority of the people and the states and only eight amendments have succeeded, most recently in 1977, since it was created in 1900. And the Japanese Constitution of 1947 has never even been amended. Aside from the obvious fact that the EU is not a state, there is an important distinction which is the EU's especially overinclusive text as compared to the aforementioned nation-state examples which all have very succinct constitutional texts that place less pressure on the need for constitutional amendments.

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[36] There is a draft motion for a European Parliament Resolution before the Committee on Constitutional Affairs precisely calling for this (2014/2248(INI), 5.7.2016) and for dispensing with the unanimous ratification requirement.

Avoiding the top-down grand treaty revision route that characterised the period from the SEA to the Lisbon Treaty is not to ignore the difficult circumstances in which the EU now finds itself with a range of different crises to deal with. To the contrary, this is to acknowledge the difficulties the EU faces and that rather than focus on risky grand bargains that have a high likelihood of backfiring because of referendum veto points, the EU should be redoubling its efforts to use the instruments already at its disposal to address the concerns of its citizens. Crucially this also includes greater attempts to bring Europe closer to its citizens. There is an enormous amount that can be done and explored without the need for even using the arduous treaty revision procedure.

Existing tools for further evolution that are already being explored include the use of enhanced cooperation, inter-institutional agreements, political practices and extra-EU Agreements. The latter have famously been deployed in the Eurozone crisis in a manner that overcomes the double unanimity lock and the ECJ has sanctioned their use.[37] These extra-EU Agreements have rightly generated controversy not least in terms of the side-lining of the European Parliament (Dimopoulos 2014). However, this side-lining is not an inevitable by-product of recourse to extra-EU Agreements but rather a political choice. It is a choice that should be more carefully considered given that the European Parliament remains the only directly elected institution at EU level.

Finally, in relation to enlargement, this can only be achieved via the accession procedure (subject to the debate on internal enlargement noted in Chapter 2) which means that it can be subject to a popular veto point. More than a decade ago Shaw (2005) noted that although enlargement is a constitutional question it has never been treated as such, with no effective public debate taking place on recent enlargements until firm commitments to candidate states had already been made. She presciently observed that this was profoundly problematic and the type of constitutional subterfuge on the part of politicians which can give rise to resentment. If what has undoubtedly been one of the EU's most successful policies, enlargement, is to continue then the EU and its Member States will have to do much more than they have hitherto to persuade their citizens of its benefits.

5.5.   Additional suggestions operating within the current treaty revision rules

5.5.1.   Democratic improvements

Although trite and a dominant strand in discourse at EU level in the post-Maastricht period, there must nevertheless be a redoubling of efforts to reduce the democratic disconnect between the EU and its citizens. This has the potential to contribute to more positive outcomes in all types of EU referendums. Given the focus on this report has been on direct democracy, we focus briefly here on the scope for improving the ECI. This is one of the few treaty-based democratic innovations introduced in the last major treaty revision (Lisbon). However, the expectations placed on it as a mechanism to redress democratic ills of the EU are also much greater than its capacity to deliver given its design limitations (e.g. it is not binding, it cannot be used for treaty revision, etc.) and what we know about comparative use of agenda initiatives (see Chapter 1). The considerable level of activity it has generated in a few short years is nevertheless promising in comparative terms. However, the Commission's gatekeeper role in registering proposals has meant that a significant percentage – over 35

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[37] Case C-370/12 Pringle, ECLI:EU:C:2012:756

percent through to January 2016 have failed the initial admissibility test (Mendez & Mendez 2016). Whilst there may not be anything legally amiss with the Commission's application of the admissibility test, and there is pending litigation before the CJEU on this question, this can contribute to a sense of the ECI actually bolstering further democratic disconnect rather than ameliorating it. The Commission's limited follow-up to the three registered initiatives that met the required 1 million signature threshold can be viewed as strengthening this disconnect. It is true that a richer measure of the success of an ECI beyond it resulting in legislative action is needed (Bouza Garcia and Greenwood 2016). Nevertheless, this treaty-enshrined instrument (a cause of its limitations) can have its potential further unleashed by easing regulatory and practical limitations on its use. To this end, there is value in pursuing a number of the suggestions and calls for action by the European Parliament in relation to the implementation and revision of the ECI Regulation[38] which include: the possibility of registering only part of an initiative; improving software for collection of on-line data; reconsidering the automatic link between registration of an ECI and commencement of the 12 month period to collect expressions of support; standardising the nature of data collected in Member States; lowering the age for participating in the ECI; providing financial support for ECI's; publicity and promotion campaigns to give the ECI a higher profile in the media and with the public.

Two obvious additional democratic improvements that have been circulating and are of considerable value include:

- The European Parliament's proposal for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage. This includes a range of valuable measures (e.g. on enhancing the visibility of European political parties, the "spitzenkandidaten" process, electronic and postal voting) seeking to promote the democratic and transnational dimension of European Parliament elections. Although this change does require Member State approval in accordance with their respective constitutional requirements (Article 223(1) TFEU), it would not be caught by the UK's referendum lock, and it would not seem to fall within the Irish referendum lock, and would certainly not fall within the Danish transfer of powers provisions which even the Lisbon Treaty escaped.
- The Andrew Duff Proposal for a transnational party list for 25 MEPs. With Brexit meaning a nearly 10% reduction in the number of MEPs this may well provide an excellent opportunity to reinvigorate this proposal. As with the change identified in the preceding bullet point, it would require domestic ratification hurdles to be surmounted. However, in line with the earlier recommendations about avoiding large scale treaty revisions, this could be pursued in the context of a smaller scale, and thus less multi-dimensional, treaty revision.

5.5.2.   Challenging certain EU referendums

The fact that we have suggested above that EU level legal proceedings could not in principle be deployed to challenge treaty revision and enlargement referendums, does not mean this would not be possible to preclude certain EU policy referendums, notably those instituted in the UK's EU Act 2011 and the recently deployed Hungarian referendum on mandatory refugee relocation. In the case of Hungary's referendum it was clear early on from a response to a

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[38] European Parliament resolution of 28 October 2015 on the European Citizens' Initiative (2014/2257(INI)), http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0382+0+DOC+XML+V0//EN

question by one Hungarian MEP that the Commission was monitoring the situation.[39] It was never in doubt that this referendum would not agree with granting the EU refugee relocation power, which is precisely why Prime Minister Orban called it. Furthermore, the government then proceeded to channel unprecedented sums of money in favour of its preferred outcome. If, as a result, Hungary were to not have given full effect to the mandatory relocation quota then this would have breached EU law.[40] It would then be either for infringement proceedings to be brought by the Commission (as the guardian of the treaties) and/or for direct legal challenges to be brought in Hungarian courts for non-compliance with EU law.

The more controversial issue in the Hungarian 2016 referendum is whether the Commission should have acted in advance of any such referendum being held on the basis that to pursue it breaches the Article 4(3) TEU duty of sincere cooperation. It can be viewed as doing the opposite of "ensuring fulfillment of the obligations arising out of the Treaties" and refraining "from any measure which could jeopardise the attainment of the Union's objectives." Given the political circumstances in Hungary it seems most unlikely that Commission intervention would have halted the referendum. In the time frame for the referendum to be held since it was announced it would have been impossible for the ECJ to rule. All the more so given that in a scenario like this it would be advisable for the Commission to let domestic constitutional challenges run their course, and ideally prevent such a referendum from occurring, prior to beginning the pre-litigation stage. Nevertheless, there is an argument for taking the opportunity to establish that a Member State would be breaching Art 4(3) TEU where it holds, or seeks to hold, a referendum on a measure that has already been adopted and is binding on it as a matter of EU law. That precedent could help dissuade other Member States from embarking on a collision course with the EU legal order posed by Member State referendums on EU decision-making by which they are already bound. This is to be contrasted with invoking infringement proceedings to challenge any non-compliance with EU obligations that only flows from a government or parliamentary response to a negative referendum on binding EU decision-making. That outcome would permit this particular type of referendum to continue to occur and spread, something which eurosceptic parties across the EU would be keen to pursue. This cannot but bolster euroscepticism and the legitimacy crisis that the EU faces. The use of infringement proceedings would obviously also bolster euroscepticism and concerns with the EU's legitimacy, but this may be a price worth paying to try to avoid the use of ex post referendums on binding EU decision-making.

The legally contestable UK policy referendum locks are those applicable to areas where there is no treaty stipulation of the need for adoption in accordance with Member States respective constitutional requirements. This principally concerns the "passerelle clauses" which allow the EU to move from more to less onerous decision making requirements without having to use the ordinary treaty revision procedure. The EU Act 2011 introduces a referendum lock in relation to the general passerelle clause, otherwise known as the second simplified revision procedure (Article 48(7) TEU).[41] In stark contrast to both the ordinary revision procedure and the first simplified revision procedure there is no reference to the need for Member State approval in accordance with their domestic constitutional requirements. Rather, it is expressly stated that the European Council may adopt such decisions, if a national Parliament does not make known its opposition within six months of being notified of a European Council

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[39] The Commission's response was to recall "that every Member State is under an obligation to comply with EC law adopted following a procedure foreseen in the EU Treaties. The Commission is closely monitoring the situation, including the proceedings before the Hungary's Supreme Court (Kúria) which has been seised on this matter". (See E-001991/2016 12 May 2016)

[40] Assuming nothing comes of the Slovakian and Hungarian challenge to the decision before the ECJ (Case C-647/15 Hungary v Council and Case C-643/15 Slovakia v Council).

[41] Not every potential use of the clause but a nonetheless very expansive list outlined in schedule 1 to the EU Act 2011.

initiative under this procedure.

The referendum locks also apply to the individual passerelle provisions none of which reference a potential veto role for national parliaments, as does the general passerelle clause, much less a reference to surmounting domestic constitutional approval hurdles.[42] To apply referendum locks to the general or individual passerelle provisions is arguably contrary to EU law as suggested by one distinguished EU law scholar and the former Director General of the Council Legal Service (Craig 2011; House of Commons 2011).[43] Indeed for Piris there was also a potential tension with the bona fide performance obligation in international law (House of Commons 2011, para 59). The logical grounds for action would be a breach of the duty of sincere cooperation. Inserting referendum requirements where the treaty itself has not expressly required EU decisions to surmount domestic constitutional requirements is the contrary of facilitating the achievement of the Union's tasks and refraining from measures which could jeopardise the attainment of the Union's objectives, and accordingly contrary to Article 4(3) TEU. It is not just the ordinary and first simplified revision procedures that expressly refer to the need to surmount domestic constitutional requirements, but a range of other EU decisions as well.[44] The fact that this requirement has been expressly included in various parts of the treaty text bolsters the argument that where the treaty text has imposed no such requirement it would breach EU law to require referendums (see Craig 2011: 1928).

The UK government when introducing the locks responded briefly to the duty of sincere cooperation point by arguing that any requirements the UK put in place before a minister can vote or otherwise support certain decisions is a matter for national law not EU law and the ECJ would have no jurisdiction (Craig 2011:1929). Craig (2011:1930) however has suggested that the ECJ's jurisdiction to interpret the Treaty must "surely include interpretation as to whether the general conditions that a Member State sets before expressing its consent are legally consistent with the Treaty." A Member State might also invoke the new clause (Art 4(2) TEU) on the EU respecting Member States national identities inherent in their fundamental political and constitutional structures. One might however distinguish between a Member State that included additional domestic hurdles for EU decision-making in the process of ratifying a treaty, as did the UK when authorizing ratification of the Lisbon Treaty or when Germany did following the decision of its Constitutional Court that Parliamentary approval mechanisms would be required prior to approval of a range of EU decisions, and simply unilaterally deciding post-ratification to add such additional constraints to EU decision-making. The aforementioned UK and German examples with respect to Lisbon introduced requirements to enable the relevant treaty to be ratified in the first place, in contrast the UK's referendum locks were more akin to a hostile act vis-a-vis EU decision-making. Indeed, the government expressly rejected attempts by Parliamentarians during the legislative process to render its proposed referendum locks less hostile to EU developments, including rejecting turnout requirements, as well as reducing the number of areas to which the referendum locks would apply. The effect is that referendum locks could be deployed so that the UK would require the Council to put matters on hold while it held a referendum which could take more than six months to organise and lead to a negative vote on a tiny turnout thus preventing the EU decision from being taken.[45] This is all the more reason why these types of referendum locks are in tension with the duty of

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[42] Article 31(3) TEU, and Articles 153(2), 192(2), 312(2) and 333 TFEU.
[43] Another EU law scholar viewed the general passerelle clause as "expressly excluding national referendums" (Schütze 2012:46).
[44] Including Articles 25, 223(1), 262 and 311 TFEU.
[45] A yes vote could be delivered but by the time the matter returned to the Council other Member States could have changed their mind, a not so unlikely outcome given the possibility of parliamentary elections and changes in government.

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sincere cooperation.

It might be thought that considering legal avenues to challenge such referendum locks is no longer necessary given that the UK has voted to leave the EU. We should not however ignore the possibility that other States could seek to emulate these types of referendum locks which is far from an unrealistic scenario given the rising tide of euroscepticism and increasing willingness of political parties to exploit this. To be sure, this might be a reason to think it politically unacceptable to hold a state to account before the ECJ for, as Gordon and Dougan (2012) put it, "having somehow too much democracy". Using EU law to this end would surely fuel euroscepticism. However, infringement proceedings work in such a way that the vast majority of matters are resolved well before legal rulings. Moreover, the Commission could encourage a Member State to avoid such extensive referendum locks in the first place. The paralysis in EU decision-making that could flow from permitting unilateral referendum locks at Member State level to flourish is also most unlikely to help address rising euroscepticism. In sum, there is a serious argument for contemplating use of EU law to discourage the creation of referendum locks where not confined to EU revisions or decisions that expressly cross-refer to national constitutional requirements, and, if necessary, for the referendum locks to be challenged if actually adopted in any given system.

5.5.3.   European Political Party funding of EU referendum campaigns

AFCO had at least once proposed allowing European Political Parties to finance referendum campaigns on EU matters. This would require an amendment to Regulation (EU, Euratom) No 1141/2014 which currently prohibits this (Article 22(3)) (as did the predecessor Regulation 2004/2003). One valuable study has given attention to the possibility that such funding could influence referendum outcomes depending on how much was allocated to the relevant European political party for this purpose and how much was being spent overall in the specific referendum (Van Klingeren et al 2015). Further consideration could be given to AFCO's original proposal, but we should also be cautious about any proposals to lift this ban given that it would have unpredictable consequences including the capacity to fuel the eurosceptic vote in a referendum. Previous use of EU expenditure to intervene in EU referendums in the Member States has certainly not gone uncontested (see Tierney 2012:695-696).

5.5.4.   Avoiding referendums on EU Agreements

It seems unlikely that the Netherlands will be the only Member State to hold referendums on future mixed EU Agreements given the increasing popular discontent with the new era of trade agreements. Certainly some controversial mixed trade agreements, eg. TTIP if it were ever concluded, look unlikely to emerge unscathed from direct democracy instruments deployed by EU Member States. One lesson from the new Dutch instrument, which currently looks likely to be deployed on CETA, is that there is now an additional incentive to avoid the mixed agreement route,[46] given the complications that national direct democracy can pose for ratification. This added incentive for the EU to strive to conclude trade agreements alone, bolstered also by the experience with the Wallonian parliament having temporarily wielded a veto over CETA, will become all the more pronounced if the Dutch device spreads to other Member States. To this end, the EU might consider discouraging Member States that do implement bottom-up direct democracy from applying it to international agreements given the complications that this can pose for the EU's foreign policy. Apparently, the option of not

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[46] As Kuijper noted (2008: 11) most mixed agreements are actually examples of voluntary mixity, because that is what the Member States wanted, rather than necessary mixity because a part of the agreement falls under their exclusive competence.

allowing the bottom-up instrument to be used vis-a-vis treaties was not even discussed when the Dutch parliament introduced its new measure, which is surprising given that the implications for foreign policy can be significant and is precisely why some other constitutional systems – e.g. Italy and Estonia – expressly exclude treaties from the remit of direct democracy. Member States are under an obligation to support the EU's "external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity" (Art 24(3) TEU). And indeed, this provision, along with the general duty of sincere cooperation (Art 4(2) TEU), might be invoked to encourage the governments in Member States where such referendums are held to actively support the yes vote, the lacklustre nature of the Dutch government's campaign with the Ukraine Agreement having rightly come in for criticism. [47]

5.6.   Recommendations

In this last, short, section we enumerate some relatively 'modest' recommendations based on the preceding lines of argumentation. The most important point to note is that we commence by restricting ourselves to what are considered realisable strategies within the current decision rules framework and climate of political opinion. In other words, proposals that do not envisage major treaty revisions of the kind that characterised European integration in the treaty revision rounds commencing with the Single European Act and culminating with Lisbon (we conclude, however, with a brief recommendation relating to incorporating bolder mechanisms of direct democracy into the EU framework if a major refounding were to take place).

- In the shorter term, calls for major treaty revisions should be resisted given the significant risk of ratification failure due to the current state of public opinion in the EU and the difficulties with winning referendums even in the more Europhile Member States.

- In the short term, smaller scale treaty revisions can certainly be contemplated as they are less likely to need to be subjected to referendums and are thus more likely to be able to surmount the extremely rigid ratification hurdles of the EU. Moreover the consequences of a rejection, are much less profound than they would be with a major treay revision.

- The European Commission should certainly consider challenging policy referendums that are in directly tension with the duty of sincere cooperation (as first deployed in Hungary in effect on legally binding EU measures) and potentially also referendum locks like those implemented in the UK that apply to EU decision-making that is not wedded to the need to satisfy domestic constitutional requirements.

- The EU & its Member States will also need to redouble their efforts to promote the benefits of EU enlargement that will assist in winning any future Member State referendums on enlargement –the latter type of referendum being likely to emerge if another accession treaty emerges.

- Where legally possible, mixity should be avoided, given that – as has long been pointed out – most mixed agreements have tended to be of voluntary mixity and as

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[47] Compliance with the principles in Article 24(3) are to be ensured by the Council and the High Representative, but as Eeckhout points out (2011: 492) "the High Representative has no legal means to ensure Member State compliance with the CFSP".

the example of The Netherlands illustrates, mixed agreements can be subject to a single state popular veto point.

- EU institutions should strive to remain, and be perceived as 'neutral,' in national referendum campaigns on EU matters. This applies in particular to the European Commission and its spokespersons. Depending on the type of referendum, the European Parliament could issue its recommendation. Given its assent is required for an application for membership to proceed (Article 49 TEU), it could be considered logical for the European Parliament to issue such a recommendation for an accession referendum. There is however, strikingly, no such assent requirement in the context of treaty revision although there is arguably more of a case for the European Parliament to express its preference on this matter, than on an enlargement, where the country applying to join will have already needed to surmount the hurdle of European Parliament approval. In principle, however, overt political interventions from EU institutions should be avoided as they can generate adverse reactions in highly polarised campaigns.

- While EU institutions should be perceived as neutral, this does not apply to political parties. Reconsideration should be given to allowing European Political Parties to fund referendum campaigns on EU matters as previously suggested by AFCO and thus requiring an amendment to Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations

- There should be a redoubling of efforts to reduce the democratic disconnect between the EU and its citizens which could help contribute to more positive outcomes in all types of EU referendums. Things that could be done, many of which have or are being considered include:

  Adopting the European Parliament's proposal for a Council Decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage. This includes a range of valuable measures (e.g. on enhancing the visibility of European political parties, the "spitzenkandidaten" process, electronic and postal voting) seeking to promote the democratic and transnational dimension of EP elections.

  Reconsideration of the Andrew Duff Proposal for a transnational party list.

  Implementation of the proposed suggestions and calls for action by the European Parliament[48] in relation to the implementation and revision of the European Citizens' Initiative Regulation.

All of the relatively 'modest' recommendations mentioned above assume no major institutional reconfiguration. However, the EU direct democratic challenge is so great that if a major reshaping of the EU were to be envisaged then fully incorporating mechanisms of direct democracy, in our view, should be part of the institutional package. In such a scenario, serious consideration should be given to overcoming the present double unanimity lock for at least some significant parts of the treaty text and also to incorporating bolder direct

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[48] European Parliament resolution of 28 October 2015 on the European Citizens' Initiative (2014/2257(INI)), http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0382+0+DOC+XML+V0//EN

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democracy mechanisms into the EU's constitutional order. Two such forms of direct democracy would be:

(1) a pan-EU referendum for at least some significant types of treaty change (which would only be feasible if high double supermajority rules – i.e., of the Member States and the EU electorate – were to apply)

(2) a polity-wide facultative referendum. Operating under a similar (or much tighter thresholds than the current ECI) it would allow citizens to challenge EU laws. If the signature gathering process were successful, a pan-EU referendum would be triggered requiring a double supermajority for the law to be rejected.

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ANNEXES

A. THE UNITED KINGDOM
The 2016 "In or Out" referendum

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1.   The 2016 referendum: A campaign analysis

The British 2016 EU-membership referendum was an advisory, non-binding (consultative) referendum held on the 23rd of June, 2016, deciding the continuation of the United Kingdom's European Union membership. The electorate decided to discontinue membership by a narrow margin of 51.9% to 48.1%, a difference translating into one and a quarter million votes. The result, beyond surprising to international stakeholders and the economic and political elites both domestically and internationally, further stressed the geopolitical divides within the UK, being driven for the most part by English territories which provided 15 of the total 17 million "Leave" votes and secondarily by Wales, although the two respective capitals overwhelmingly voted "Remain" (59.9% for London and 60% for Cardiff). Voters in Scotland and Northern Ireland on the other hand largely voted to remain within the EU (62% and 55.8% respectively).

1.1.   The referendum decision

The referendum had been an explicit pledge by the Prime Minister (PM) of the Conservatives and Liberal Democrats coalition government David Cameron in January 23rd, 2013 prior to and aiming at the May 2013 local elections. Cameron promised that the Conservative party's platform for the 2015 national elections would include a pledge to renegotiate Britain's EU membership, with any agreement reached to be put to a vote in an "straight, in or out referendum" by the end of 2017 (Conservative Party Manifesto 2015; p.32).

This decision needs to be viewed in the context of domestic cleavages both within the Conservative governing party and without, aiming to prevent defections to the UKIP party, with which the former was contesting similar political spaces. Although initially it was the Labour rather than the Conservative party that was less at ease with European integration, the parties switched positions during the 1990s, most notably following the deposition of M. Thatcher from power. Euroscepticism would from that point onward be both invoked to mobilise voters, as well as to form a politically influential bloc of Members of Parliament (MPs) within the party (Lynch, 2016).

Simultaneously, growing euroscepticism was organising around the Right-wing United Kingdom Independence Party (UKIP) (Goodwin & Milazzo, 2015), a long standing but marginal actor in national politics operating almost uniquely in opposition to EU membership. By the 2014 European Parliament elections, UKIP combining anti-political establishment rhetoric, nationalist appeals and anti-immigration sentiment achieved notable electoral success gathering 27.5% of the vote share gaining most votes among UK parties, leaving the Conservative party in third place (though one should note the very low turnout rate of 34.1%). Designed to serve as an attempt at rapprochement with disenfranchised Conservative voters, through the pledge for a referendum the Conservative party hoped to

both heal divisions within the party and to stop "the most popular political insurgency since the 1980s" (Ford & Goodwin, 2014; p.225). In short, the decision to hold the referendum was primarily made to accommodate domestic political purposes and internal party politics (see Prosser 2016). The Conservative party, indeed, won a surprisingly clear victory in the 2015 national elections gaining a majority of 330 seats in the House of Commons, although the issue of EU-membership renegotiations was secondary to the party's economic platform. While possibly preventing further defections, the ploy did not manage to re-attract Right-wing votes from UKIP which largely retained the surprising number of votes from the 2014 EP elections, although in the context of the country's majoritarian electoral system only translated to a single parliamentary seat.

1.2.   The negotiations with the EU

In November, 2015 the British PM initiated the re-negotiation of the UK-EU relationship, promising his international partners to campaign for remaining in the EU, if a set of conditions were met[49]. However, the room for further extending the UK's "special relationship" was limited (Emerson, 2016), since a number of accommodations were already in effect (non-participation in the Eurozone, the Schengen treaty, budget rebates etc.). As such, the British government's requests were to a large extent either nominal (e.g. "any changes the Eurozone decides to make, such as the creation of a banking union, must be voluntary for non-Euro countries, never compulsory") or a matter of allowing flexibility in interpretation (e.g. "end Britain's obligation to work towards an ever closer union"). The most substantial issue, the UK's demand for control over immigration from EU-members was not negotiable and the compromise reached did not violate the "free movement of persons" clause but rather allowed the UK to limit social benefit payments to EU immigrants after they had been employed for 4 years (although this would only apply to new immigrants).

The re-negotiation process, then, proved a marginal affair and an agreement[50] was announced a mere two months later, in February, 2016. On February 27th, after obtaining the formal support of his cabinet, with the exception of 6 members, including M. Gove the would-be co-organiser of the "Leave" campaign, D. Cameron announced that the "in or out" referendum would take place in the upcoming June. The PM's address foreshadowed the "Remain" campaign's discourse aptly, while simultaneously drawing attention to one of its main problems; the most notable defender of remaining within the EU was not overly enthusiastic with the Union: "I do not love Brussels. I love Britain. I am the first to say there are many ways the EU needs to improve [...] I will never say our country could not survive outside Europe [...] that is not the question. The question is will we be safer, stronger and better off working together in a reformed Europe or out on our own".

Andrew Glencross (2016) notes the interesting parallel in holding a referendum at the heels of a re-negotiated agreement between 2016 and 1975. Then Labour PM Wilson managed to successfully conclude the referendum on the basis of the "largely cosmetic" Britain's New Deal in Europe. If indeed this had been the calculation, it misfired and D. Cameron unsuccessfully championed the new agreement and the subsequent "Remain" campaign avoided the issue. On the contrary, the "Leave" campaign used the government's failure to procure control over immigration from EU member-states as an indicative of the UK's weakened and inconsequential position within the Union's decision making apparatus.

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[49] http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475679/Donald_Tusk_letter.pdf
[50] Available at : http://www.consilium.europa.eu/en/press/press-releases/2016/02/19-euco-conclusions/

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2. The referendum campaign

2.1.   Campaign actors

2.1.1.   The political party system

The different political parties were quick to announce their official positions with the notable exception of the governing Conservative party which remained officially neutral, although the PM was to be the public face of the "Remain" campaign. The majority of conservative MPs followed suit, although a large number of them (133 – 40%) officially endorsed the "Leave" side, including the aforementioned six cabinet members. The Labour, Liberal Democrat and Greens parties all declared unqualified support for remaining in the EU, although the Labour party did suffer minor defections among its MPs, with 10 of the overall 232 endorsing "Leave". The list of "Remain" supporters also included the three PMs who had held office since 1990, including John Major for the Conservatives and Tony Blair and Gordon Brown for Labour.

While clearly establishing where the vast majority of the political elite stands, as partisan positions serve as "the quintessential shortcut in direct democratic votes" (Kriesi, 2005; p. 139), especially in EU-related matters (Hobolt, 2007; see also Lupia, 1992), where the electorate is generally less knowledgeable. From a formal politics perspective then, the "Leave" side seemed in an impossible position; of the parties holding MP seats across the UK, only UKIP and DUP in Northern Ireland unequivocally supported withdrawing from the EU. As an illustration, given the 2015 national election results, generously assigning three quarters of the 2015 Conservative voters and assuming that all UKIP supporters voted "Leave", the actual tally for "Remain" would outnumber them by 5 million votes. Upon the referendum's announcement then, the parties of the "Leave" side knew that it would not be sufficient to mobilise their electoral base and shore as much support as possible among Conservative voters. Rather they would have to either mobilise politically inactive individuals or obtain support from the electoral base of ideologically very different parties.

On the other hand, coalitions as heterogenous as the "Remain" side, crossing established ideological lines can also prove counterproductive, as they can increase ambiguity among the electorate if the different partners offer competing interpretations of the issue at hand or publicly disagree over what precisely a supportive vote means (e.g. a party in power may try to usurp the vote to increase its legitimation). Moreover, such coalitions are more likely to eventually produce visible cleavages between their members, which often makes the alternative (voting "Leave") appear a legitimate choice (Zaller, 1992) and generally increase the volatility of the outcome (LeDuc, 2002). Indeed, following the results, the Labour leadership has been criticised for its choice to only provide cautious and hedged support for the Conservative dominated official "Remain" campaign and D. Cameron, detractors further pointing to Labour leader, J. Corbyn's history of soft euroscepticism (Vasilopoulou, 2016).

One might assume that similar arguments can be made for the "Leave" side, since its more powerful supporter, the Conservative party had temporarily split over the issue of EU-membership. However, this is not the case, as the party had consistently been making electoral headway on Euroscepticism for 25 years (see Semetko & De Vreese, 2004; p.9), including the Cameron administration which vetoed an expansion of the Union's oversight capacity over domestic economic policies. As such, it was easier to conceive of the "Leave" Conservatives side as the ideologically consistent one. In fact, the strong presence of Conservative party members on both sides may have paradoxically functioned to limit the "Remain" side's ability to reach diverse audiences, as this "Tory-on-Tory" affair drew the

attention of the media which systematically broadcast the voices of Conservatives (70% of the time, compared to 13% for Labout – Levy, Aslan & Bironzo, 2016).

Finally, broadly speaking, over-reliance on establishment and government figures risks turning a referendum into a second order election (Hobolt, 2016) where the electorate votes to express disapproval of an incumbent administration or anti-establishment sentiment against the "corrupt elite" in general (Mudde, 2007), which has been shown to produce unlikely results in EU-related referendums which failed despite broad consensus among political parties, the econonomic elite and experts (see Hobolt 2009). However, it is quite unlikely that this process affected the result to a significant extent given the salience and importance of the referendum question, although it did facilitate the "Leave" campaign's claim to be the populist side. Moreover, Goodwin, Hix and Pickup (2015), attributing various relevant to the referendum arguments to different political actors, report that the direct and active involvement of David Cameron seems to have increased the probability of "Remain" votes, especially among older demographics.

All the aforementioned peculiarities notwithstanding, it is hard to argue that on the basis of electoral calculus alone that the "Remain" side was not the prima facie overwhelming favourite; not only was the side addressing a more numerous electoral base, broad enough to cover the breadth of the British ideological spectrum but it additionally has access to the mobilization mechanisms, established communication avenues and organizational experience of the parties involved, while the "Leave" campaign would have to create them de novo.

2.1.2.   Economic elites and institutions

While both sides frequently cited business leaders and other elite economic elements as supporters for their cause, explicitly dedicating portions of their websites to list them by name, the "Leave" side lacked the organised support that the "Remain" side received. Briefly, the British Bankers' Association[51] and the majority of the EEF manufacturing association members[52] endorsed a "Remain" vote, as did a large number of individuals from notable companies in a public letter to the Times[53], while indirect support was offered by reports of surveys by the British Chamber of Commerce and the Confederation of British Industry. This broad support is hardly surprising given forecasts predicting a reduction in trade ranging from 1.4% to 2.9% (e.g. Dhingra et al., 2012) and estimates of GDP loss of 3.3% for the short-term, only to further deteriorate in the long term (Crafts, 2016), should the "Leave" side win. Finally, although some individual workers' and trade unions officially endorse the "Leave" campaign, most notably UNISON, the second largest trade union in the UK, quantitatively more support was forthcoming for "Remain", endorsed by the Trades Union Congress and the general unions UNITE and GMB.

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[51] Rosenberg, G. (2016, May 8). Bankers start to warn on UK's EU referendum. *Financial Times*, Retrieved from http://www.ft.com/fastft
[52] Parker, G., Cadman, E., Plimmer, G. (2016, February 22). Cameron outlines business case. *Financial Times*. p. 3
[53] Williams-Grut, O. (2016, February 23) Almost 200 top business leaders signed a letter calling for Britain to stay in the EU. *Business Insider UK,* Retrieved from http://uk.businessinsider.com/ftse-bosses-business-leaders-pro-eu-letter-times-brexit-2016-2

2.1.3.   Other elite elements

Although a number of notable individuals endorsed "Leave", including, e.g. Tariq Ali and Ringo Starr, organised and mass support was again notable only for the "Remain" side, publicly endorsed through co-signed letters by healthcare professionals, the Royal Society, Universities, the creative industries, lawyers and historians, the Friends of the earth, the Church of Scotland, the church of Wales, the WWF, the football teams of the Premier League, the Museums Association, Universities UK etc.

2.1.4.   International actors

Beyond the expected support for "Remain" from European Union officials, it received support from a large number of foreign dignitaries and representatives, including the heads of the EU Member States, the leadership of the US, the PMs of Canada, Japan, the WTO, the World Bank, the IMF and NATO. Also unsurprisingly, the "Leave" side was endorsed by Eurosceptic party leaders across Europe (e.g. G. Wilders and M. Le Pen), the Australian PM John Howard and future Republican nominee Donald Trump.

While impossible to attribute specific effects on the vote with any certainty, it is not unlikely that endorsement by international actors have the potential to produce the opposite of the desired effect for large enough segments of the electorate to be rendered counter-productive. In the case of the UK referendum in particular and perhaps EU-related referendums in general, the audiences more amenable to these voices are likely to be supportive, or at a minimum not hostile, to the "internationalist" outcome. Especially risky might be endorsements in the form of "costly signals", thinly veiled warnings of negative consequences (see Fearon, 1995), as they can be used by the opposing side, the notable example in this case being the U.S. president B. Obama announcing that the UK would be "at the back of the queue" for trade talks in case of an exit from the EU.

2.1.5.   Media organisations

Print media was the singular exception to the rule of elite support for "Remain", fully in line with the British Press', and tabloids' particularly, history of fermenting Eurosceptic sentiment (Daddow, 2016; Anderson, 1999) and likely an important factor for the outcome. The more "prestigious" members of the daily press, including the FT, the Times, the Guardian the Independent, as well as the Daily Mirror and the freely distributed London Evening Standard endorsed "Remain", while the Sun, Daily Mail, Daily Telegraph and Daily Express supported "Leave". Although numerically comparable, the "Leave" supporter's list circulated a bit over 1.7 million more newspapers around the period of the referendum (see Deacon et al., 2016). Moreover, "Leave" endorsing media organisations were more vocal and "tenacious" in their support in their editorials (Firmstone, 2016) and published articles in support of their position more often than the "Remain" supporting Press (Levy, Aslan & Baronzo, 2016), although both sides were more likely to broadcast news items in support of their position rather than against it (Deacon et al., 2016). Television channels on the other hand for the most part seem to have remained neutral, with Deacon and colleagues (2016) finding no clear bias in favour of one position or the other. Interestingly they also report that, as with the printed media, Conservative party voices were the second most frequent voices in TV broadcasts, following citizens' views (*ibid.*).

2.1.6. Digital Media

A number of researchers have suggested an important role for digital and social media for mobilisation, fundraising and message dissemination (see the dedicated section in Jackson, Thorsen & Wring [Eds.], 2016). The two official campaigns certainly seemed to have believed so, dedicating significant resources in this communication avenue, with the Labour party alone spending over £1 million for Facebook advertising and "Vote Leave" developing an application that would allow the campaign access to their supporters' personal networks, allowing their more dedicated supporters to serve as multipliers of the campaign's reach at little cost to their supporters. The UKIP-associated "Leave.EU" campaign similarly used social media and their highly motivated supporters to disseminate content, an opportunity rarely afforded to them by mainstream media.

Importantly, preliminary research suggests that the two major "Leave" campaigns made earlier, more extensive and more professional use of these new technologies, while their supporters also were more active and engaged in acting as transmitters for supportive material (Polonski, 2016; Llewelly & Cram, 2016). While it is hard to gauge the effectiveness of this type cheap and fast communication avenues for the campaigns or the effortless volunteering by their supporters, Polonski (2016) makes the interesting argument that on the digital plane, the "Leave" side managed to create the sense of wide-ranging support, a perception unavailable through the elite dominated Mass Media and contra to the possibly demoralising prediction by the polls leading up to June, 2016. A less obvious but likely with more tangible outcomes use of new technologies is described by Mullen (2016), who summarises the use of data mining and analytics techniques online, in order to identify potential voters for their side, through their internet and social media habits developing more local and targeted advertising campaigns in lieu of blanket message distribution.

2.2. Campaign dynamics

The official campaigning period was designated, by the electoral commission to be between April 15th and June 23rd. One group was designated as official for each side: "Britain stronger in Europe" ("BSE") and "Vote Leave". "Vote Leave" was chaired by Labour MP Gisela Stuart and co-organised by Michael Gove, Lord Chancellor and Secretary of State for Justice. Its most prominent public figure was mayor of London, Boris Johnson. The "BSE" was led by Lord Stuart Rose, most known for business acumen, its most notable supporter being obviously David Cameron. This official campaign groups, in addition to being provided with one page in the government's referendum voting guide to make their case, had significant economic advantages over any other campaigning group, as they were allowed to spend up to £7 million for campaigning, while other groups registered with the electoral commission were limited to £700 thousand and unregistered groups limited to £10 thousand. While this placed the designated groups in an obvious position of power, a number of smaller groups campaigned in parallel.

From a campaigns dynamics perspective, the most notable element is the presence of a second influential "Leave" campaign, the UKIP-backed "Leave.EU". While there was an initial effort to merge the two main groups, it failed and significant in-fighting between the two was reported, with "Leave.EU" protesting the designation of "Vote Leave" as the sole official campaign. Generally, "Vote Leave" tried to distance itself from "Leave.EU" following instances of sensationalistic behaviours, whose apex was likely the attempt to make a point on Muslim

immigration following the Orlando, U.S.A. shooting incident that left 49 people dead[54] and the unsavouriness following the murder of pro-"Remain" MP Jo Cox[55] by a "Leave" supporter, both in late June. Other secondary actors could also be seen campaigning (e.g. "Brexit Express") in a non-targeted manner, in cases representing political parties (e.g. "Green Leaves", "Labour Leave"), although these groups were generally underfunded and had limited reach (except "Grassroots OUT[56]").

The "Remain" side on the other hand involved a single main actor and a large number of secondary groups that were either organised by political parties (e.g. "Conservatives IN"), were targeting specific populations or issues (e.g. "Academics for Europe" and "Environmentalists for Europe" respectively) or were geographically localised. This type of de-centralised organising has the drawback of splitting resources among different actors who might or might not be able to cooperate and organize action. Given the specifics of the UK referendum context, with the official campaign with Conservatives being the more prominent voices for the opposing campaigns, allowing secondary groups to act independently may be optimal since it frees e.g. labour Union organisers or Environmentalists from having to defend pro-economic liberalisation arguments made by the official campaign. Moreover, overwhelmingly financial support was directed at "BSE", while the secondary groups, addressing smaller audiences could use small-scale campaigns and interpersonal networks to spread specifically targeted messages.

In terms of resources, the two campaigns reported receiving an equivalent size of donations of approximately £10 million (although only donations over £7 thousand pounds need be officially reported), a little less for "Vote Leave". However the "Leave" side also included the "Leave.EU" campaign with a reported £3.2 million in donations- though as mentioned previously they were only allowed to spend £700 thousand for purposes directly related to campaigning. By comparison, the second best funded group for "Remain" was "Conservatives IN" with £750 thousand in reported donations.

Studying official press releases by the two campaigns, Paula Keaveney (2016) notes that the "Vote Leave" campaign was more active, releasing larger volumes and more effective official communiques, making both better use of planned materials created for scheduled events (e.g. the announcement of unemployment figures) and taking advantage of emerging opportunities in a timely fashion.

2.3 The official campaigns' discourse

In order to provide an overview of the informational environment British voters were exposed to, we used argumentation analysis to examine the official websites for the two official campaigns "Vote Leave"[57] and "Britain Stronger in Europe"[58], in addition to 3 debates:

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[54] While the perpetrator was Muslim, he was an American citizen to our knowledge it is still unclear whether the motives were religious or social, but they certainly were unknown the morning after the attack.

[55] See e.g. Syal, R. (2016, June 20). Leave.EU donor defends polling on effect of Jo Cox killing. The Guardian. Retrieved from: http://www.theguardian.com/uk-news/2016/jun/20/leaveeu-donor-arron-banks-defends-polling-jo-cox-killing

[56] A group "organised in a bipartisan fashion with the aim not of campaigning but of coordinating other campaigns" – see http://grassrootsout.co.uk/who-we-are/. This was indeed a curious case of an overfunded group with ties to "Leave.EU" that was at some point removed by the electoral commission from its campaign registration list, meaning that they could not legally spend over 10 thousand pounds from a 2.3 million reported donations.

[57] http://www.voteleavetakecontrol.org/

[58] http://www.strongerin.co.uk/

a) The ITV debate on June 9th with Boris Johnson, Andrea Leadsom, and Gisela Stuart representing "Leave" debating Angela Eagle, Amber Rudd and Nicola Sturgeon representing the "Remain" side.
b) "EU Referendum: The Great Debate" held on June 21st with Boris Johnson, Andrea Leadsom, and Gisela Stuart for "Leave" and Sadiq Khan, Ruth Davidson and Frances O'Grady for "Remain"
c) "Europe: The Final Debate" on June 22nd between Boris Johnson and David Cameron

These two primary sources do not provide comparable data, since the former is created completely at the discretion of the two campaigns and is thus likely to, e.g. present arguments favouring their side in greater volume and downsizing themes that are not, while the latter were structured by independent agents. As such, the analysis presented below is, for the most part based on data from the websites; however, including the debates was important for validation purposes, especially relating to the opening and closing statements of the debates, which were left to the discretion of the participants and to rhetorical pivots which serve to indicate the policy themes or the other side's arguments that the respective campaigns wanted to avoid.

2.3.1.   Volume

The two campaigns differed as to the sheer volume of arguments employed. While the website of "Vote Leave" contained 426 distinct lines of argumentation, 234 of them original in terms of either theme or method of persuasion[59], the equivalent number for "BSE" was 254, 168 of them original. This is an obvious effect of the former employing repetition of the same line of argumentation with minor alterations to make it relevant for different domain (i.e. the same argument "increased ability to control policy will be economically beneficial for [...]" was applied to fisheries, the Steel industry, manufacturing etc.). Often enough, the same arguments were repeated within the same page, with the version appearing last supplemented with the campaign's mantra: "Vote Leave. Take back control".

2.3.2.   Website Structures

The two campaign websites employed to a large extent similar structures to ensure that the relevant information was transmitted. Each website had a main home-page containing promotional material (mostly videos or images that visitors could readily share with their social networks using embedded buttons) and suggestions as to ways users could become involved in the campaigns. However, the "Vote Leave" campaign opted for a more nested structure, with a second general-purpose page containing the main arguments for "Leave" leading to a hub that reiterated the main points by general theme (e.g. economy) directing to dedicated pages for different themes (e.g. trade, energy etc.). The flow for the "BSE" website on the other hand involved moving from its general-purpose homepage to four independent pages making the case for voting "Remain" on account of 3 themes: "Jobs", "Lower prices" and "Workers' rights" dedicating the fourth to strict appeals to authority ("What the experts say").

More interesting was the difference in structure within each of the pages containing most of the argumentation lines employed. The three "BSE" dedicated pages split the arguments they contained by themes under different headers followed by a summary of the main points of each theme using bullet points, followed by relevant sharable images. For "Vote Leave", each

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[59] For example, the arguments "We are sending £350m to Brussels" and "We are sending £350m to Brussels, we could use those funds for the NHS" were considered distinct, since one is stressing a negative aspect of remaining, while the other a positive aspect of withdrawing from the EU.

thematic page contained the main grievance as the overall header, followed by a brief summary of the arguments (each under the subheading "FACT") and then each main point was expanded into sentences below. Although we do not know whether conscious or not, the design choices for "Leave" had the effect that at any instance a user was engaged with the website they were exposed to the main relevant points in form of slogans and the campaign's main message of taking back control.

2.4   Argumentation themes for "Leave"

For the "Leave" campaign 6 themes, related to the content of the arguments could be detected: arguments regarding economic matters (32% overall), immigration (17% overall), national sovereignty (11.6% overall), arguments attacking the EU (32%) or the negotiated agreement between the Cameron government and the EU (6%) and domain-specific arguments (e.g. Science, security, NHS - 2%); the latter were a distinct minority even after collapsing into a single category and for the most part were repetitions of generic arguments adjusted to apply to the different fields.

The sheer volume however should not be considered the sole indicator of what the campaigns considered important; there were significant differences as to how the different arguments were positioned in the structure of the website and the order in which they appeared. Interestingly, arguments relating to the economy were given prominent position (e.g. in the homepage), in opening and closing arguments during the debates and were extensively covered in the campaign's promotional material. Along with arguments for national sovereignty they were more likely to be headers, while, e.g. attacks against the EU were far more likely to be embedded in-text ($x^2(24) = 48.7$, p<.001) thus might appear as secondary to a prospective voter visiting the website. On the other hand, no statistical significance was obtained when examining for differences in the order in which the different arguments appeared in the same page ($F(4,261) = 0.9$, p=.46), so there seems to have been no systematic placement of arguments in any particular order.

Four distinct subcategories emerged when considering economic arguments the first being benefits from withdrawing described in general terms (i.e. content-free). While generally following the traditional premise-conclusion structure, these "Leave" positions did not commonly detail in specific terms their premises, which were often enough nebulous assertions. Even if overly simplifying complicated economic realities while merely asserting positive outcomes however, they successfully conveyed an air of "common sense" (the example in Table 1.). The second sub-type, Industry-specific economic arguments were more detailed and policy oriented. More interesting were the last two subtypes which suggested that withdrawing from the Union would confer "Economic benefits for you – individual citizens" and "Economic benefits for us – the UK as a society". Although arguments in the first category singularly concerned the possibility of reductions in energy bills as the outcome of controlling the amount of VAT tax, these types were employed 7 times during the second debate and were repeated overall 14 times in the campaign's website.

It was the last subtype that the campaigned predominately focused concerning matters of the economy; these invariably took the form "EU costs us X amount, we could be using this money on priorities we set". It should be noted that throughout, no concrete policies or plans were described nor was the mechanism that would create the positive outcome detailed. Rather than connected in a premise-argument arrangement, the negative side of remaining in the EU, "membership fees", and the benefit that could be obtained had the described amount been invested in a particular field merely coexisted in the same sentence. These are

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frequently treated as logic-type arguments (see below) that are either sloppy or inaccurate. We content however that arguments in this subcategory were not drawing their persuasive power from the described benefit or public good, which was debatable (in this case merely false) but that they were conveying the message that UK citizens were carrying a burden for others, rather than solving domestic problems.

In other words, they were functioning to promote a sense of immorality in the current situation EU-membership. The "Remain" campaign and its supporters, for example, spent a significant amount of resources (mostly time) disputing the specific economic benefit in the notorious "We send the EU £350m a week. Let's fund our NHS instead" on the "Leave" campaign's bus. While important to criticise the factual error in the claim, the critique left out the nationalist undertones of the argument made; any nationalised healthcare system is by definition a system where the majority of the (healthy) population is paying for others unlike in private health insurance and any personal benefit accrued is paid for by others. The critical differentiation made by the "Leave" side is that within the UK, it is preferable that these "others" are British or its more defensible alternative that it is the British who should decide how this public good is to be distributed. In other words, arguments in this subcategory were successful, when they were, at least party, not because of an expectation that e.g. a hospital/school/university would actually be built every week but because they invoked a sense of unfairness in the voters.

Table 1: Economic arguments employed by the "Leave" campaign

Argumentation Type	Verbatim examples
Generic economic benefits	After we Vote Leave, British businesses will trade freely with the EU. Many countries around the world trade with the EU without accepting the supremacy of EU law.
Industry-specific economic benefits	Polls show that twice as many farmers want to Vote Leave than stay.
Economic benefits for the British society	Our EU contributions are enough to build a new, fully-staffed NHS hospital every week
Economic benefits for individuals	Since 1973, the Government has sent over £500 billion to the EU, three times the annual NHS budget

Source: Authors

2.4.1. Immigration-related arguments

The main bulk of argumentation employed by the "Leave" campaign was related to immigration expressing concerns that can be grouped into: absence of control, possible danger and strain on public goods. The last two subtypes are the type of arguments traditionally employed by political campaigns trying to make electoral gains based on concerns over immigration and often involved appeals to negative emotions. The first subtype on the other hand is more similar to the "economic benefits for society" described above. The issue postulated is that the British are not in control of a situation that, for the most part, concerns only the UK; there is no discussion as to why control at the national-level is preferable, its benefits assumed as given nor as to the degree to which the UK as a nation will actually be in control of its immigration politics following a "Brexit", given the complicated issue of negotiating access to the European single market nor as to the extent to which

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individual citizens are in control of national-level immigration policies in any case, or how that is desirable.

Table 2: Arguments related to immigration employed by the "Leave" campaign

Argumentation Type	Verbatim examples
Control-related	EU membership stops us controlling who comes into our country, on what terms, and who can be removed. The system is out of control.
Danger-related	We cannot stop criminals entering Britain from Europe while job creators from non-European countries are blocked.
Strain on public goods	There were 475,000 live births to mothers from other EU countries between 2005 and 2014, the equivalent of adding a city the size of Manchester to the population. The cost of providing NHS services to those families could be over £1.33bn. If we remain in the EU, the NHS will be put under more and more pressure and the A&E crisis will get even worse.

2.4.2.   National sovereignty-related arguments

Although the notions that national sovereignty has been lost through membership in the EU or that it is an important prerequisite for governance are present explicitly or implicitly throughout the "Leave" campaign's argumentation, this category contained arguments that are in essence little more than grievances over the loss of control, again with little explanation as to why the situation is regrettable or how it is connected to negative outcomes for the population. Rather, the preference of control of policies at the national level is presupposed rather than promoted by these arguments that specifically addressed Laws and regulations (for the most part economic) imposed to the country, control over the state's security apparatus and control over the nebulous concept of "borders", although it is unclear whether this is to be tied to immigration, international terrorism, economic transactions etc.

The frequent invocation of national sovereignty as a public good in and of itself in not uncommon in campaigns political campaigns related to EU matters, As it has been pointed out, globalisation (in any form) has creates cultural grievances and new rifts in Europe's political spaces (e.g. Kriesi et al 2006) and attitudes related to the sense of national identity are important predictors of support for EU integration (Kritzinger, 2003). These arguments, regardless of whether they are invoking national interests (Christin & Trechsel, 2002) or threats to cultural integrity (McLaren, 2002) operate in the same manner, creating hostility toward the EU or the relevant supra-national entity, as citizens (usually accurately) view the later as contributing to the changes that produce the threats.

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Table 3: Arguments related to national sovereignty employed by the "Leave" campaign

Argumentation Type	Verbatim examples
Laws & regulations	Numerous new silly EU regulations cost billions and harm small businesses, jobs, and safety every year
Borders	If we vote 'remain', we will lose more and more control of our borders to the EU and European Court.
Security apparatus	The European Courts have asserted control over how our intelligence services and armed forces operate

Source: Authors

2.4.3. Arguments attacking the EU

A number of arguments focused on attacking the EU as an institution, broadly on the basis of three characteristics: that it is nefarious, undemocratic, and over fraudulence or wastefulness either because of incompetence or inflexibility. Interestingly, the latter two subtypes, often addressing very real concerns were invoked rather infrequently constituting roughly 10% of the category each. The most amount of space was dedicated to postulating losses to the country or individuals stemming from bad intent, rather than mere incompetence or structural limitations of the EU. Most often the nefarious intent attributed concerned attempts by "the EU" to expand its power over its sovereign member-states.

Table 3: Arguments directly attacking EU employed by the "Leave" campaign

Argumentation Type	Verbatim examples
Democratic gap	EU law is supreme over UK law. This stops the British public from being able to vote out those who make our laws.
Fraud & Waste	The EU's failure to conclude just five trade agreements with the United States, Japan, ASEAN, India and Mercosur has, according to the European Commission's own figures, cost the UK 284,341 jobs.
Nefarious	We will also amend the European Communities Act 1972 immediately to end payouts to multinationals. The UK is paying billions to big business in tax refunds because of EU law. Losing control costs a fortune - if you vote 'remain' you'll be paying for euro bailouts

Source: Authors

2.4.4.   Attacking the UK-EU deal

The final and most minor frame concerned criticisms directed at the recently negotiated agreement between the Cameron cabinet and the EU on two counts: that it did not, in fact, address the grievances that it was supposed to, often explicitly referencing immigration policy and to a lesser extent and somewhat in contradiction, that the signed agreement was not legally binding, implying that any concessions made were due to fears over the (future) referendum outcome and would be revoked, should the "Remain" side prevail.

2.5.   Argumentation themes for "Remain"

The "Remain" side expanded on two major and two minor distinct thematic frames in its official campaign's website: Economic arguments, arguments related to the loss of specific but disparate benefits of EU membership, national security concerns and attacks directed at the "Leave" campaigns and advocates. While only the first two of these categories were substantial in volume of arguments contained, it would be fair to suggest that the "Remain" campaign was predominately occupied by economic concerns which constituted 54,5% of all arguments used. The obvious desired effect was to promote a cost-benefit calculation type voting behaviour (see Gabel & Palmer, 1995).

Notable in their absence are arguments relating to the recent renegotiated agreement with the EU, which ultimately mattered very little for the referendum (Hobolt, 2016), contra 1975. Although from its inception, the "Remain" campaign would have to deal with the fact that it was defending a status quo its most notable proponent PM Cameron had been criticising, this lack of promotion of the new negotiations allowed the "Leave" side (mostly the un-official campaigns) to use the PM's words against himself.

2.5.1.   Economic arguments

The economic argument for "Remain" was made on 5 plus 1 distinct axes: employment, economic benefits at the individual level), trade, foreign investment and macroeconomics (i.e. content-free economic benefits). The first five categories are clear examples of negative-valence arguments of the logos-type employed to increase uncertainty or raise the perceived risk associated with behaviour (voting "Leave") that was riskier than its alternative by definition (see Lerner and Keltner, 2001 for the effects of risk on decision making). The sixth type, on the other hand, consists of syntactically heavy combinations of the aforementioned five types (see Table 4 for an example) and it is hard to avoid the impression that the latter, rather than promoting rational calculation function to induce anxiety or fear of unknown, implied to be likely cataclysmic and catastrophic. Of these, trade-related and individual-level benefits were the most often used (27.8% and 22.5% of the category respectively), while foreign investment-related arguments were the least invoked (6%).

Table 4: Economy-related arguments employed by the "Remain" campaign

Argumentation Type	Verbatim examples
Employment	In the EU single market, UK businesses can trade for free, allowing them to grow and create jobs, giving you and your family more opportunities and financial security.
Benefits at the individual level	Being in the EU means cheaper prices, making it more affordable to put food on the table, or fuel in your car, giving you more money to put aside for a deposit on a home, starting a family or even a holiday.
Trade	Our government would have to negotiate new trade relationships with the EU and many other countries worldwide. European leaders have confirmed that they would not give the UK any special treatment on access to trade in the EU single market. British firms would have to pay tariffs to trade, a new cost for them that would mean less trade, fewer businesses and fewer jobs for you and your family.
Foreign investment	The UK economy benefits from investment worth £66 million from EU countries – every day (Source: Office of National Statistics).
Macroeconomics	There would be a period of instability during the 2-10 years of negotiations, and economic experts predict a dramatic devaluation in the pound
Catastrophism	Leaving the EU would devastate UK trade, businesses and economic growth, and put millions of people out of work. There would be less trade, less economic growth, less investment and fewer businesses meaning higher prices and fewer jobs and opportunities for you and your family now and in the future.

Source: Authors

One notable difference in how the two campaigns employed economic arguments was that "Leave" most often opted for describing benefits for the societal level (i.e. "for us"). On the other side, "Remain" most often employed a high level of abstraction, e.g. describing benefits in terms of GDP or Trade balances, which they tried to personalise (see Table 4) while dedicating a fifth of the space used for describing benefits at the individual level. Perhaps reflecting an understanding that EU integration is largely beneficial in the abstract but involves different costs and benefits for people of different socio-economic status (Gabel, 1998; p. 336) the "Remain" campaign tried to make the risks associated with withdrawal from the EU, at least nominally, relevant to the personal economic situation of its citizens.

2.5.2. Arguments describing the loss of specific benefits stemming from EU-membership

The second most populated category attempted a multilateral case for remaining in the Union on the basis of disparate benefits this confers. These ranged from the very specific and sometimes trivial to the very general and can be broadly subcategorised as relating to life-opportunities (e.g. travelling/studying/retiring abroad), climate change, protecting workers'

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rights and EU-financed schemes and programmes (e.g. funding for research). The most often described loss however, peculiarly concerned the loss of importance/power the country would suffer by withdrawing from the Union ("our place in the world"). Unlike the former three that described the benefits of EU-participation, the latter subcategory was negative in valence and its connection to everyday experience was hard to understand. Regardless, arguments of these subtypes generally functioned to counteract the "Leave" campaign's narrative of lack of reciprocity in the relationship between UK and EU.

2.5.3. Arguments related to national security

The first of the two minor frames is likely to have been designed to counteract the "Leave" campaign's claim that the country would be less safe by remaining in the EU. Only rarely however were the arguments made by the opposition addressed here, employing two subtypes of argumentation: greater opportunities for arresting criminals due to the interconnected EU security apparatus, often naming specific cases and less frequently (35.5% of the arguments in the category) the rather nebulous case that there was increased danger in leaving the EU, due to the risk of being isolated, although the mechanisms for this were never described.

2.5.4. Attacks directed against the "Leave" campaign

In the case of the "Leave" campaign, attacks against the "Remain" camp tended to be position specific and were thus categorised under their respective themes, while "Remain" was less restrained in directly accusing the opposition for wrongly assessing the risks of leaving (40% of the category), having no viable plan following a "Brexit" (20%) or straight-up lying to the electorate (40%). This difference in behaviour against the opponent is likely explained by two factors, first that the Conservatives-led "Leave" campaign was more reticent to attack "Remain", as it would involve directly attacking the also Conservative administration. The "Remain" side, on the other hand, had both a softer target available, the UKIP party and was attacking a faction within the Conservatives was risking delegitimising the party less than attacking the administration. Secondly, in attempting voters to abandon the safe status quo, it was the "Leave" campaign that more often resorted to "maximalist" claims, so attacking them was easier on a factual level.

2.6. Modes of persuasion

The arguments described above were further coded at the more abstract level as to the mode of persuasion they employed, that is, the means by which they were attempting to achieve influence over the voters. All arguments analysed were coded as to the following four categories:

a) Logos-type arguments: the typical form of argumentation with a set of premises followed by a conclusion. Note that the argument made need not be either true or necessarily following formal rules of logic to be coded in this category. For example, arguments with unproved premises or involving leaps in logic were coded in this category, provided that they employed the premise-conclusion structure, e.g. "We send the EU £350m a week. Let's fund our NHS instead". In fact, given that the (nearly) unprecedented character of withdrawing from the EU, for example, any Logos-type arguments concerning future developments would be largely speculative. However, we should note before proceeding a substantial difference between the two campaigns; "Remain" often offered concrete predictions over specific developments, frequently on the basis of expert forecasts. The "Leave" side, on the other

hand, refrained from describing specific outcomes or providing concrete policies for problems that would emerge (switching between arguments, for example, the trade relations model that would be used between the EEX-Norwegian, bilateral-Swiss and WTO models) and only nebulously speculating positive outcomes (e.g. "Many countries around the world trade with the EU without accepting the supremacy of EU law.").

b) Pathos-type arguments: arguments that mainly function by invoking an emotion, be it positive or negative. For inclusion in the category, the arguments must postulate an outcome for remaining in or withdrawing from the EU, without describing a mechanism through which the outcome would come about, regardless of the plausibility of the argument. For example: "Leaving the EU would devastate UK trade, businesses and economic growth, and put millions of people out of work".

c) Ethos-related arguments: Arguments that draw their persuasive power by making reference to the "moral" character or aspects of an actor or a decision[60]. For example: "EU membership stops us controlling who comes into our country, on what terms, and who can be removed".

d) Strict appeals to authority: This category was designed to only include appeals to authority which were not premises of a larger argument; only utterances of the form "X-person advocates for Y-decision", with no further explanation offered as to the authority's qualifications or reasoning, for example "Polls show that twice as many farmers want to Vote Leave than stay".

2.6. 1.   The "Leave" side

The "Leave" campaign's argumentation was most often of the Ethos-type (41.7% of all arguments employed), followed by Logos-type argumentation (28.1%), appeals to emotion (15.5%) and to authority (12.2%). Different modes of persuasion were used for different argumentation themes in a statistically significant manner ($x^2(16)= 122.5$, $p< .001$). Unsurprisingly, Logos-type argumentation largely reserved for the Economics domain and disconnected from arguments related to immigration and national sovereignty, while Pathos-type arguments were mostly employed for immigration-related arguments and Ethos-type for the national sovereignty and attacks against the EU themes. Crines (2016) making similar observations as to the qualities of the arguments used, suggested that the heavy reliance on ethos and pathos ultimately operated to construct a more sympathetic image for "Leave" advocates, closer to the voter's experience and concerns compared to the more disconnected and aloof image constructed through Logos-type arguments for the "Remain" campaign.

A sidenote concerning arguments related to immigration is warranted here. The results described above concern utterances; the "Leave" campaign however was notably good at inducing emotions of fear or anxiety through non-textual elements, that is, without explicit references. Consider the following image included in the campaigns promotional materials in the context of increased strain on the UK's social safety net. Textually, the campaign is attempting to promote anxiety regarding over-immigration. Simultaneously it makes use of the geographical opportunity to promote a sense of fear. Along with the countries "lined up to join", also coloured (and named for ease of reference) are Syria, currently involved in civil war and Iraq, where British troops had been embattled recently, both inflicted by the terrorist Islamic State, the most recent universal enemy. So that the matter is no longer an issue of

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[60] The use of the word "Ethos" may confuse readers familiar with the Aristotelian classification of arguments, where "Ethos arguments" refer only to utterances that persuade on the basis of the moral character of the speaker. Here, "ethos" is used in its literal sense, pertaining to the moral plane.

limiter resources but active danger, such invocations of the threat of "outsiders" long identified as contributing to anti-EU sentiment (De Vreese & Boomgaarden, 2005). Importantly, the group of source of immigration countries ("Others") is supplemented by two unrelated countries marred by violence ("dangerous Others"). Such techniques can increase the tendency for negative characteristics of a specific subgroup (Iraq, Syria) to "spread" to unrelated groups (Albania, Turkey etc.) since they were combined into a single group with no good reason, facilitating more generalised hostile sentiment toward everyone (Snidermann et al., 2002; p.62-68).

2.6.2. The "Remain" side

Although, as mentioned above, the "Remain" campaign was not above catastrophology, it most often relied on logos-type argumentation (35.7%), equally frequently to pathos and ethos (24.6 and 21.3% respectively) and often enough to straight appeals to authority (15.2%). While there was a statistically significant trend for the relationship between mode of persuasion and argumentation theme at an omnibus level ($x^2(6) = 29.1$, $p < .001$), the only statistically significant residuals that was observed was that the campaign refrained from making Ethos-type arguments for the economic domain.

It is important to further stress here the distinction between the different outcomes produced by negatively valenced arguments on the basis of the emotion they evoke. The "Remain" side by stressing the uncertainty of a post-EU reality for Britain could have evoked either fear/anxiety, which tends to facilitate pessimistic assessments and, thus, risk-averse voting or anger (e.g. at the mistrust to the UK capacity to survive without the EU), which tends to increase support for risky options (Druckman & McDermott, 2008). Moreover, Garry (2014) in his study of the 2012 Irish referendum on the Fiscal Compact treaty, notes that anxiety tended to promote issue-based voting, while anger led to a disregard of the issue and voting on the basis of government evaluation (i.e. second-order voting).

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3. The referendum results

As described above, the "Remain" side had significant structural factors operating in its favour; first, it was calling for support of a known situation associated with specific benefits against a move toward uncertainty associated with high risks, a dilemma that usually favours risk-averse behaviours (the "Status quo bias" see Samuelson & Zeckhauser, 1988). Secondly it had the support of influential economic and international figures, as well as, for the most part, of the domestic political parties. Beyond its electoral base, the latter offered access to established avenues for communication and mechanisms for mobilising voters. Furthermore, expert reports and forecasts invariably stressed the risks of withdrawing from the Union, so "Remain" could structure its campaign rhetoric, for the most part, around verifiable fears of negative outcomes of withdrawing and known benefits of remaining part of the EU. However, the official campaign's discourse did lack a central positive unifying theme to compete with the "Leave" campaign's "Take back control" narrative.

Still, in the early morning hours of June 24th it was announced that the "Leave" side had gathered 51.9% of the vote compared to 48.1% for "Remain", a difference of about 1.3 million votes, with 72.2% of the registered voters turning up to vote. The "Leave" campaign's message had won the day, despite one, or maybe two comparative advantages, a powerful mechanism for disseminating its message (the popular Press) and, possibly, the untested but potentially significant avenue offered by digital media combined with an enthusiastic and dedicated core supporters group.

One possible explanation is offered by second-order voting (Reif & Schmitt, 1988) whereby voters use the opportunity of the referendum or elections considered less important (e.g. local elections or the European Parliament elections) to express dissatisfaction with incumbent administrations. In these cases, voting behaviour has little to do with the issue at hand and more to do with the electorate's desire to punish the government by downvoting its position (e.g. Hug, 2002; Franklin et al., 1995). In the case at hand, it is not unlikely that broader political and ideological concerns, irrelevant the issue of EU membership, may have had a demobilising effect on voters dissatisfied with or ideologically against the Conservatives government (e.g. Labour or Greens supporters), since voting along their parties' lines could be perceived as support for the Cameron administration.

In this case however, a referendum vote against the Conservative government would be a vote in favour of more conservative elements of the political spectrum. In other words, while a possible explanation of limited participation among e.g. Labour voters, second-order voting is very unlikely to apply to, at a bare minimum 2.2 million "Leave" votes, since the combined electoral base of Conservatives and UKIP in the 2015 general elections was approximately 15.2 million votes (17.4 million for "Leave"). These, at a minimum two million "unexpected" "Leave" votes are inarguably more likely to represent individuals who either voted against party lines who did not vote in the 2015 general election at all, since the referendum turnout was higher than in the elections (72.2% and 66.4% respectively). A Lord Ashcroft poll[61] conducted on the day of the referendum suggests a larger role for the former, as about a third of previous Labour and Liberal Democrat voters voted for "Leave", as did a quarter of Greens voters. Moreover, we agree with Hobolt (2016) that the high salience of the issue, the high stakes involved and the high turnout suggest that second-order voting effects are likely to be secondary to effects produced by considerations directly related to the referendum question, UK membership in the EU.

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[61] See http://lordashcroftpolls.com/2016/06/how-the-united-kingdom-voted-and-why/

Excluding explanations on the basis of unforeseen events (e.g. a political scandal late in the campaign), which do not apply here, the explanation of the results should, to a large extent, be sought in the campaigning groups' rhetoric. That is, either a large number of "Leave" voters became persuaded to vote "Leave" or more likely that the "Leave" discourse represented concerns over aspects of EU membership that are not covered by the ideological divides in the British political space.

Although still early for definitive analyses, Susan Hobolt and Christopher Wratil asked prospective voters to summarise the main argument of the referendum. Analysing over 5000 open-ended responses, they organised the responses into the following categorisation scheme presented in Table 5. The clear parallels between Hobolt & Wratil's analyses of the electorate's understanding of the issue at hand and the discourse employed by the official campaigns presented here suggests that both campaigns were largely successful in providing an interpretation of the issue at hand in terms that were favourable to the outcome they desired. Prospective "Remain" voters considered the EU-membership as a question of comparing the known economic beneftis of retaining membership against the economic risks and uncertainty forecast to accompany a withdrawal. The understanding of the issue by "Leave" voters on the other hand was less monolithic, focusing on immigration and possible security concerns (likely to reflect the desire to control the country's borders), the perceived economic costs of continued membership and anti-political establishment sentiment.

Table 5: Economy-related arguments employed by the "Remain" campaign

Argument types in favour of "Leave"	Argument types in favour of "Remain"
Lack of information	Lack of information
Immigration control	Economic risk of Brexit
Mistrust toward the Prime Minister/Government	Economic stability in the EU
Cost of EU membership	Economic benefits from the EU
Security implications	
Lack of knowledge and trust	

Source: Hobolt & Wratil, 2016

A different route to explaining the results has been taken by Hobolt (2016) using quantitative data from the 7th wave of the British Election Study, conducted in April-May prior to the referendum. Differentiating between three conceptual frameworks that can lead to Euroscepticism: utilitarian, identity and cue-taking (see Hobolt and de Vries, 2016), she finds empirical support for all three. The utilitarian framework is related to the concept of "winners and losers of globalization" (Gabel, 1998), the fact that individuals with higher education and up-to-date occupational skills gain from economic globalization (e.g. open border policies) while others, e.g. older, less educated individuals from working class backgrounds do not, with previous work indeed finding that demographic and socioeconomic characteristics of individuals indeed were more predictive of attitudes concerning European integration and immigration (Kriesi et al., 2012; Hakhverdian et al., 2013). The identity framework explains Euroscepticism and generalized negativity toward outgroups in general (see De Vreese and

Boomgaarden, 2005) on the basis of the importance of the individual's sense of national identity. Finally, the cue-taking framework attempts to account for individuals who form attitudes toward Europe on the basis of cues provided by trusted others, more often than not employing the positions of political parties as a heuristic/proxy (Hobolt, 2007).

In relation to the 2016 referendum, Hobolt (2006) provided empirical data that offer support for the all three frameworks. Younger, better educated individuals with higher incomes were less likely to vote "Leave", for example, while individuals a strong sense of "English" or "British identity", the former producing an effect of twice the magnitude of the latter. Finally, increased partisanship on the part of the individual increased or decreased the probability of a "Leave" vote, obviously depending of the respondents' specific party preferences, e.g. Labour supporters tended to vote "Remain", while UKIP supporters were overwhelmingly more likely to vote "Leave"; more interestingly, Conservative supporters were also more likely to vote "Leave" though to a much lesser degree (12% increased likelihood compared to 88% for UKIP). Notable also was the reported finding that higher dissatisfaction with the political establishment in general increased the likelihood of a "Leave" vote, although increased disapproval of the Conservatives government did note predict either voting behaviour to a statistically significant degree.

Within 10 days from the referendum taking place, Bournemouth University, Loughborough University and the Political Studies Association published a report[62] containing 79 brief contributions from academics and experts from various fields, providing preliminary assessments of the research work they had undertaken in the preceding period (see Jackson, Thorsen & Wring, 2016 [Eds.]). Three recurring observations, relevant to the specificities of the 2016 UK referendum, should, we believe, be taken into account in any effort to explain the "Leave" side's somewhat unexpected[63] victory, parallels with previous cases also exist, most frequently in cases of deciding whether or not to block the common currency bloc.

a) The generally limited knowledge among the British electorate of EU history and policy making procedures (Daddow, 2016; see also the 2015 EB83.3 Eurobarometer results), combined with the unwillingness of the Mass Media to dedicate significant amounts of space to educate the electorate, at least compared to their counterparts in 1975 (Blumler, 2016).

b) The historical continuity of most of the "Leave" arguments within the Conservative party minimally for 25 years since the late Thatcher administration. The essence of the 2016 "Leave" arguments differed little from concerns brought to the fore and often used opportunistically for making electoral gains by the party of the same administration that was advocating for a "Remain" vote (see De Vries and Edwards 2009). It can indeed be difficult to switch position within the confines of a single six-month campaign period, when the party's previous position ranged from cautionary tolerance to oppression by the corrupt and anti-democratic Brussels regime rooted in the Conservative party's eurosceptic attitude (Berry, 2016; Daddow, 2016).

c) Finally, a number of contributors to the report (e.g. Starkey, 2016; Cushion & Lewis, 2016) bring up the more general problem of the philosophy behind the Mass Media's coverage of political matters. These authors make the case that the latter allowed exaggeration and misrepresentation of facts and projections of the referendum's outcomes by both sides (see also the report by the cross-party Commons Treasury Committee report). These complaints generally take three forms, firstly, an over-representation of campaign spokespeople or advocates at the expense of independent experts and secondly a lacklustre willingness to

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[62] Freely available at : http://www.referendumanalysis.eu/
[63] Although parallels with previous referendums exist, mostly in cases of deciding whether or not to join the common currency Eurozone bloc.

challenge claims made by the campaigns that were falsifiable (e.g. economic data and projections). Finally, these contributors point out as especially problematic the application of the "due impartiality" requirement for UK broadcasters by journalists and the Media; in cases where one side had strong and coherent arguments against weak counter-arguments on the other side, "due impartiality", simply interpreted as "equal time" with little interruption, can promote the impression that the two sides' arguments are equiprobable or of equal importance while also allowing the weaker side to pivot to more favourable aspects providing counterpoints that are irrelevant to the original issue raised, a frequent occurrence during the three debates analysed here, allow the weaker side to pivot to other more favourable issues than the one originally contested. In the other words, for the case of the 2016 UK referendum "objectivity was trumped by impartiality" (Cushion & Lewis, 2016).

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B.THE UNITED KINGDOM

A clear division about the UK's future in Europe

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A referendum differs fundamentally from a conventional parliamentary election: it offers a choice on a single issue rather than a choice between a multiplicity of parties, each offering a multiplicity of policies. In a parliamentary election, voters who do not agree completely with all policies of any party must balance conflicting views when deciding how to cast their ballot. In a referendum people can vote in accord with their views on a single issue.

1.   Mobilising a coalition of support

The referendum held in the UK on 23rd June offered a simple choice between remaining in or leaving the European Union. The wording was chosen following careful evaluation by an independent research institute of how wordings were viewed by focus groups. By contrast, public opinion polls about attitudes toward the European Union usually offer three or more choices. A standard Eurobarometer evaluation of the EU asks: "Do you think our country's membership of the European Union is a good thing, a bad thing, neither a good thing nor a bad thing, or don't know? When this question was asked Britons a few months before the 2015 general election, a plurality of 38 percent said that EU membership was a good thing as against 28 percent describing it as a bad thing. The median group, 34 percent of all Britons, were undecided or don't knows. The practice of British parliamentary elections converting a plurality of votes into a majority of seats in the House of Commons encourages politicians to think that finishing first is sufficient to achieve victory. However, this is not the case in a referendum.

The threshold for winning the referendum, an absolute majority of 50.1 percent, is abnormally high by the standards of British politics. No British party has won that big a share of the vote since 1935. A coalition of voters is necessary. Political science theories identify three ways in which support may be mobilized in a referendum campaign. Electors can cast a ballot in keeping with the position of their national party; they can follow a trusted leader; or they can vote on the issue on the referendum ballot.

The two major parties could not mobilize an absolute majority for remaining in the EU. The governing Conservative Party was split at all levels from the Cabinet through the ranks of Members of Parliament to its voters. In consequence, the Conservative Party organisation remained neutral during the campaign. According to Lord Ashcroft's election-day poll of 12,369 voters, 58 percent who had voted for a Conservative government a year earlier endorsed leaving the EU rather than following the recommendation of their party leader, D. Cameron. The Labour Party was consumed by internal quarrels. A majority of Labour MPs were pro-EU but they were against the parliamentary party leader, Jeremy Corbyn. While Corby gave lip service to the party line of endorsing a vote to remain in the EU, his lack of enthusiasm for the EU was evident and many of his hard core left-wing supporters were against the EU because of its promotion of austerity policies and free market rather than socialist policies. Nonetheless, 63 percent of Labour supporters voted to remain in the EU,

The two parties actively committed to a "remain" vote—the Liberal Democrats and the Scottish

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National Party—between them had only one-eighth of the total general election vote in 2015. The United Kingdom Independence Party (UKIP) enthusiastically campaigned to leave the EU. It had one-eighth of the vote at the last general election and was also the most united; 96 percent of UKIP supporters favoured leaving the EU. With only one Member of Parliament, the UKIP leader claimed the referendum outcome was a victory for the people against Parliament.

Both sides in the EU Referendum vote were coalitions of people who disagreed about which party was best for governing Britain. Two-fifths of the vote to leave the EU came from Conservatives and one-fifth from Labour voters. Britain's protest party, UKIP, contributed a quarter of the vote. The majority for leaving the EU thus owed more to supporters of established parties than to protest parties. Among the group voting to remain in the EU, two-fifths were Labour, almost a-third Conservatives and one-eighth were Liberal Democrats.

There was no way in which an absolute majority could be obtained by mobilizing support behind the personality of a popular leader. David Cameron, the leading advocate for remaining in the EU, had only attracted 37 percent of the vote for the Conservative Party at the 2015 British general election. The other attractive pro-remain leader, Nicola Sturgeon, represented the Scottish National Party, a party that finished fourth in total UK votes in 2015 because it only sought votes in Scotland. The Chancellor of the Exchequer, George Osborne, vigorously repeated economic warnings of the consequences of leaving, but his domestic promotion of austerity policies made him unattractive to Labour voters. The Leave side had two very striking advocates, Boris Johnson, a Conservative, and Nigel Farage, leader of the United Kingdom Independence Party (UKIP). When a BMG survey at the start of the campaign asked which of three groups of politicians was best suited to lead the country in the world today, a majority expressed no confidence in any of the alternatives. Only 22 percent chose David Cameron and George Osborne, 15 percent favoured the Conservative campaigners for leave and 11 percent believed the Labour leaders were best.

The lack of trusted leadership from parties and personalities has led to a fall in turnout at national elections in Britain. Turnout has been even lower in European Parliament elections, which the UK's major parties had treated as second-order ballots of no special consequence for themselves. The 2014 EP turnout of 35.6 percent was barely half that of the turnout at the 2010 and 2015 British general election. Instead of offering Britons a choice of how they wanted the EP to reflect their views, the 2016 referendum offered Britons a choice of whether they wanted to be represented in European institutions. This produced a turnout of 72 percent, double that for the preceding European Parliament election. It was also above the average turnout for continental referendums on EU affairs.

2.   National and European issues linked

The turnout was high because most British people are now aware that what happens in Brussels has an impact on what happens in Britain and the referendum ballot gave people a chance to say whether they thought the linkage was good or bad. It was not necessary to have any knowledge of how EU institutions operate. An awareness of interdependence is evident in the opening of Polish shops in Britain and in ease with which British people can travel to their holidays. The old distinction between first order national politics and second order European politics has been replaced by the two being combined in what might be called 1.5 order politics. Whereas continental leaders will vigorously defend the benefits of being involved in both levels, British leaders have at most been ambivalent about calling attention to the importance of second-order EU politics and its benefits. By contrast, the popular British

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press has recognised interdependence only to denounce it and argue for making first order politics the only politics that affects the governance of Britons.

The great majority of British people realise that even though Britain is an island, there is no drawbridge that can be pulled up to isolate the country from risks that arise beyond its shores. When asked about the biggest risks facing the country, an absolute majority of BMG respondents, 55 percent, thought terrorism was a big risk and 47 percent that immigration presented a big risk to British society. Only 22 percent saw globalisation as posing a big risk and only one in eight saw war as a big risk.

In response to risks, the government has two broad alternatives: to look after the country on its own or to work with allies. The former is the alternative endorsed by the United Kingdom Independence Party while working with allies is a major argument of European Union advocates. Britons are divided about whether self-reliance or alliances with others is better. The BMG survey offered three possible institutions to work with: the United Nations, the EU, and the United States--as well as the alternative of looking after ourselves. Two-thirds think that the best way to deal with the challenge of immigration is to have the British government decide what should be done. Less than one in five think that the European Union is best suited to help Britain deal with immigration. There is greater readiness to seek allies in dealing with terrorism. However, there is a division of opinion about where to turn for help. One-sixth see the globally oriented United Nations as most useful; he same proportion put Brussels first instead. Even though world trade requires partners, half think that problems in the global economy are best dealt with nationally. Only 19 percent believe the European Union is best suited to help Britain deal with the challenges that the global economy presents. The EU is seen as even less relevant to helping with military threats; the United Nations come first and the United States second as preferred associates. Only one in ten think the EU would be the best military ally.

The best way to deal with risks is that Britain must look after itself. This view appears to be less an expression of bulldog nationalism than of disagreement or uncertainty about whether there is any institution—the United Nations, the American government or the European Union—that can offer effective help. Less than one in five think that the European Union can best help Britain deal with the big risks that are seen in the world today.

Two-dimensional politics characterized the opposing sides in the referendum. Reflecting the motives that led Britain to join what was then the European Economic Community, the "Remain" campaign invoked the economic benefits of the EU and sought to stir up fear of losing these benefits if Britain withdrew from the EU. By contrast, the leave side emphasized cultural values, such as the supreme sovereignty of the British parliament and threats to national identity and security from open borders and immigration. A nationwide online survey of 1,518 people conducted by BMG Research at the start of the referendum campaign in March showed that single-minded concentration on the economy was unwise. When asked to identify the most important issue facing the country today, 36 percent put immigration and asylum first; only 9 percent named the national economy.

There was a big division between "remain" and "leave" voters in the issues that each group thought important. Among those who voted to leave the EU, Lord Ashcroft's Poll found that 49 percent justified their choice on grounds of political culture: they were for leaving the EU because they believed that decisions about the UK should be taken in the UK. The most important decision that they wanted to be in British hands was control over immigration and national borders. Third in importance was the risk of the EU further expanding its powers and membership. This was a reflection of the influx of immigrants from the EU's most recent Member States, such as Romania and Bulgaria. Only 6 percent cited benefits for the economy

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and trade as a reason to leave the EU.

Britons voting to remain in the EU thought along economic lines. A total of 43 percent were concerned leaving the EU would create risks for the economy, jobs and prices. Fewer than one in ten said that they had a strong attachment to the EU, its history, culture and traditions. Consistent with the UK's restricted engagement in EU affairs, more than three in ten favoured remaining because the country had the best of both worlds: it was in the single market but outside the Schengen area and the eurozone. Only nine percent who voted to remain said they were moved by a strong attachment to Europe, its history and culture.

During the campaign, each side emphasized views that it owned, that is, more voters agreed with the position taken by that side. According to Lord Ashcroft's poll, remaining in the EU was considered better for job security, the cost of living and the encouragement of foreign investment. The issue most strongly associated with leaving the EU was having control of all laws in British hands, especially those concerned with immigration and the control of borders. Leaving the EU was also expected to be better for social welfare, especially the National Health Service. A higher proportion endorse issues owned by the anti-EU campaign than issues emphasized by the "Remain" group.

The two sides in the referendum campaign were not so much debating a single issue as disagreeing about which issue should determine the choice of voters. The "Remain" side emphasized the risk of change that leaving would bring. Emphasizing risk was consistent with the theory of Nobel laureate Daniel Kahneman that most people are risk averse. Moreover, social science surveys find that when people are asked their views on European integration, the biggest group endorses remaining in the EU as it is. Less than one-third want to see greater integration, a process that has been continuing for decades.

The campaigners for remaining offered both hope and fear. The hope was that by leaving the European Union Britain could return to a past in which European institutions had no influence on British affairs, and immigration was a trickle. Voters were not so much nostalgic about a lost past as they were prepared to believe that this was a credible alternative. The "Remain" camp was hesitant about directly confronting this hope by arguing that you can't turn the clock back half a century to an era when the UK was content and not in the EU. Unwittingly, David Cameron had stoked their opposition by first promising to repatriate significant powers from Brussels in ignorance of the acquis communitaire, and then failing to do so in February.

To bolster their case, the "Remain" campaign called attention to future risks to national and household incomes of departure from the EU, without qualification of the inevitable margin of error in any forecast of the future. Nonetheless, the numbers were big enough to encourage risk-averse voters to stick with the EU. The leave campaign challenged the numbers, pointing out that they were not facts but forecasts, and the forecasting record of many economic experts left something to be desired. The Leave campaign eschewed numbers for rosy scenarios of how Britain, once free of EU economic regulations, could establish itself as a global economic force by strengthening links with China, India and the United States. The "Remain" campaign dismissed this as a unicorn vision, since no one had ever seen what was being promised, and the details of how the vision would be implemented were few. Leave voters were more hopeful that Britain could manage its future better than by having the EU as a partner.

3.   The outcome

The dichotomous nature of the referendum ballot produced a clear division of the vote. The vote for leaving the European Union, 51.9 percent, was a higher share than that won by any British governing party since 1931. The vote for leaving was very different from that found in parliamentary elections. It was more than four times that won by UKIP at the 2015 general election and almost half again as much as David Cameron's party gained in winning a majority in the House of Commons then. Although the outcome appeared close in percentage terms, the winning margin for leaving was more than 1.2 million votes. This was much greater than that required by the British standard of decision-making: a one vote margin is enough to win. The "Remain" campaign claimed 16.1mn votes, a very large number by general election standards, but a losing share in the referendum.

Public opinion poll questions about whether people ever think of themselves as Europeans often receive a positive, polite response. However, very few Britons see themselves as primarily European; it is a secondary identify. In the United Kingdom of Britain & Northern Ireland, primary identities have a geographical dimension. Among people who think of themselves as English, 79 percent voted to leave the European Union, while among those who think of themselves as British not English, a category that racial minorities, Scots and Welsh could embrace, 60 percent voted to remain in the EU.

Although London is the capital of the UK it is also the least British in its population. Less than half its residents are English-born. It has 40 percent of the flow of immigrants to the UK, more than three times London's share of the UK population. It is also a paradigm of prosperity based on a population that is culturally diverse and global in outlook, especially in the City of London. London rejected the leave campaign's appeal to repatriate control of immigration to Britain. Instead, 60% of Londoners voted to remain in the European Union. By contrast, outside London, more than four in seven voted to leave the EU.

The campaigning of the Scottish National Party for a vote to remain in the EU was successful; 62 percent voted in favour of remaining, a margin almost one-quarter greater than the support the SNP got in the Scottish Parliament election the month before. Paradoxically, most Scots voting to remain in the EU also favour withdrawing from the UK and becoming an independent state. This would be a necessary condition for the SNP to achieve its goal of Scotland being among the many small and prosperous countries in the European Union.

The highest share of votes for exit occurred in the old industrial regions of the East and the West Midlands, the North Est, and Yorkshire. These are regions that have had more New Commonwealth immigrants from the West Indies, India and Pakistan than from the European Union. They have also traditionally been Labour Party strongholds.

The age division in the referendum vote implies that Britons are becoming more accepting of Europe. Whereas 60 percent of the oldest bloc of voters were in favour of leaving the EU, 73 percent under the age of 25 favoured remaining. Older voters were on the winning side because they are more numerous than youths and more likely to turn out to vote. They favoured a return to a Britain closer, culturally though not geographically, to Australia and Canada than to France or Belgium. A majority of those who had lived all their lives while Britain was an EU Member State voted in favour of remaining. In theory, the turnover in the population due to births and deaths will gradually remove from the electorate older anti-EU voters. But by the time this occurs, younger people will be coming of age when Britain is no longer a Member State of the European Union.

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4.   Consequences

All sides in the referendum agreed that a one-vote rather than a super-majority was sufficient for victory. While the outcome was not a legally binding vote on an Act of Parliament, it was politically binding. The stark clarity of the alternatives of remaining of leaving the European Union left no room for compromise between the two sides. David Cameron, who had endorsed calling the referendum, resigned as prime minister within hours of the outcome being known. The leave campaign was full of statements about how ignorance of EU institutions is widespread within the British political class. All the leave campaign required was a catalogue of faults about what was wrong with the EU and the popular press offered an exaggerated supply of faults. It also proclaimed a faith that Britain's future place in the world would be better by exiting the European Union. To achieve this, it promised to seek stronger political and economic links with major countries on other continents. There was an assumption that Britain was sufficiently important to continental Member States that the EU would allow Britain to keep benefits of membership after withdrawal free of accepting EU conditions that would impose political and economic costs.

Theresa May became the new prime minister after assuring Conservative anti-Europeans that Brexit means Brexit, a tactically shrewd gnomic statement that left everything open about how this was to be achieved and what relations a post-Brexit Britain would have with EU Member States. Whitehall could not have a plan at hand for exit, since until the outcome was known the government's policy was to remain an EU member. While administrative constraints suggested caution, the politics of the Conservative Party dictated maintaining the momentum for leaving. Hence, the prime minister's initial cautious statement of officially notifying withdrawal at some point in 2017 was soon converted into a pledge to invoke Article 50 before the end of March.

The "Remain" camp has sought to mitigate the consequences of defeat by focusing on the possibility of retaining significant economic advantages of EU membership by retaining access to the single Europe market on terms similar to Norway and Switzerland. In principle, this is achievable, but it is politically irreconcilable with the UK government's pledge to regain UK control of immigration and economic regulation. A second reaction has been to seek another referendum on EU membership once the dire consequences it forecasts are evident. This is based on the belief that a fall in sterling, cuts in investment and businesses moving bankers'; jobs to the continent would produce a majority for "de-withdrawal" before the UK's withdrawal was completed in spring, 2019. Another theory is that once the UK's post-Brexit relations with the EU are negotiated with EU institutions, they will be sufficiently unpalatable for Parliament or a referendum to reject an agreement. Neither theory has any support within the Conservative government.

The lack of preparedness by both sides to deal with the consequences of an election outcome is not unique to referendums. It is often revealed when a parliamentary election gives control of government to a party long in opposition. In the case of the 2016 referendum, the Conservative government had been in office for six years and debating relations with the European Union for a quarter century. Winning the exit referendum has forced Conservative politicians to switch abruptly from talking about what Britain's place in the world ought to be to finding an attainable position that has eluded successive British prime ministers for half a century. A pro-European British intellectual described the country's entry into the European Economic Community in 1973 as a journey to an unknown destination. The 2016 referendum result has placed Britain on another such journey in the opposite direction.

C.GREECE

The Greek bailout referendum of 2015

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1. Referendums in Greece

Although the Greek constitution allows legally binding referendums in two cases: over "crucial national matters" (ante legem) or concerning Bills "regulating important social matters" (post legem) (Article 33, par. 2), the structure of the Greek political system renders referendums an unlikely event. The plebiscite initiative belongs to the executive that needs to bring the decision to a vote by the Parliament and in all but three brief periods since the re-establishment of the Greek democracy in 1974, single-party governments controlled the executive. Referendums, then, were unlikely since they constitute a case of "unnecessary" sharing of decision-making power with the people (see Margaritis, 2014) and only a single referendum had taken place prior to 2015, in 1974 requesting that the electorate decide whether to restore the monarchy or proclaim the country a republic.

So, unlike in other Member States, the public was never queried on EU-related decisions. In fact, the 1975 Constitution contained an express transfer of powers clause with a view to EC accession as well as a limitation of sovereignty clause that contained different procedural hurdles (three fifths supermajority and absolute majority respectively). Accession and all the major treaty revisions through to the Lisbon treaty with little contention among the political establishment. The Maastricht and Constitutional Treaties did lead some political parties to call for a referendum (Koliopoulos 1994: 118) but the government was against and the opposition in the Parliament could not gather the three-fifths majority votes in order to force the referendum. The Article 136 TFEU amendment, the ESM Treaty and the Fiscal Compact Treaty were all approved on the same day via the ordinary parliamentary procedure, albeit an urgent procedure.

2. Prologue

Hence, the Greek government's 2015 decision to consult the electorate on July, 5th regarding the acceptance an economic bailout plan offered by the country's creditors was surprising domestically, as well as internationally. The proposed agreement offered a re-financing of the Greek sovereign debt on the precondition of the continuation of austerity politics (spending cuts, privatizations and further liberalization of the labour market), enacted in the country since 2009. Called a mere 10 days earlier, on June 27th, by the Prime Minister A. Tsipras, the decision followed a six-month period of protracted and often acrimonious negotiations between the Greek side and the country's (almost) sole international creditors, commonly referred to as the "Troika" (the European Commission - EC, the European Central Bank – ECB and the International Monetary Fund - IMF).

In an unusual move the PM called on citizens to reject the agreement his government had negotiated. Widely criticized for not allowing sufficient time for deliberation over a voting decision concerning an international agreement described in 38 technical pages, the question

of the referendum was so ambiguous that campaigning largely concerned what the referendum was about. While the government claimed that a "No – Reject" vote would empower the Greek side in renegotiating a new agreement with the creditors, the domestic opposition and international partners contested that it was an "In or out of the Eurozone" referendum. Amidst an environment of impending state default and imposition on capital controls and despite political and economic elite opposition and the population's strong attachment to the Euro currency, the electorate resoundingly rejected the proposed agreement (61.3% voted "No" to the proposed agreement, 38.7% voted "Yes").

3. Historical context: the Greek sovereign debt crisis

3.1. The 2009–2015 period

In yet another early election in the country's history on October, 2009, the Panhellenic Socialist Movement (PASOK) party returned to power after 5 years of New Democracy government, winning an overwhelming 43.9% of the popular vote; this was to complete the fifth exchange of power between the two parties, who had, with a single exception, been cumulative gathering over 75% of the popular vote since the reinstatement of democracy in 1974. Shortly afterwards however, the PM, G. Papandreou announced that the country's budget deficit was 12%-13% of GDP, rather than 6%-8%, for a projected debt-to-GDP ratio of 115%. In clear violation of the demand for "sustainable government budgetary position without debt that is excessive" of the Maastricht Treaty (Article 104c), the newly elected government urgently passed two austerity package measures that included cuts and freezing of public sector salaries and pensions, as well as an increase in the indirect sales tax from 19% to 21%, though to little avail.

The Greek economy with chronic structural inefficiencies (e.g. dependence on imported oil and consumer goods – see Sotiropoulos, 2012) and dependent heavily on a state susceptible to powerful interests (Featherstone, 2012) showed limited growth prospects in the wake of the 2007-2008 global financial crisis (Pagedas, 2015). In an environment of global financial insercurity, a series of downgrading of the Greek sovereign debt prospects meant the de facto expulsion of country from the international financial lending markets. This liquidity crunch meant that the state was unable to cover both primary deficits and standing loan obligations and the government requested financial assistance from the European Union, the European Central Bank and the International Monetary Fund.

The first bailout agreement was concluded by the spring of 2010, with a reform plan that would reduce the country's budget deficit to 3% of GDP by 2014 in exchange for a transfer of 110b Euros (initially). The funds were to be released in periodical tranches (i.e. structured payments earmarked to primarily cover existing debt) under supervision by the Troika (see IMF "conditionalities" – Boukalas and Müller, 2015) and included a series of structural reforms, privatizations and austerity measures (in the form of a "Memorandum of Understanding" - MoU).

The developments over the next years follow a predictable pattern. First the various Greek governments selectively applied the agreed upon measures, generally favouring increases in taxation and cuts to the country's social safety net over structural reforms (Eleftheriades, 2014). The breadth, suddenness, and depth of austerity contracted the economy and any benefits made to the primary deficit due to cuts in spending and increases in taxes were wiped off due to more pronounced deterioration in economic activity, meaning less revenues

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for the state. Ultimately this meant failure to achieve the projected fiscal aims and increased pressure from the creditors to adopt more austerity, turning what was initially a liquidity crunch into a debt crisis. Since 2009, twice the country's debt had to be re-financed with two new loans, a process that also included a Private Sector Involvement event, which involved the transfer of Greek debt from private to public hands (mostly the EZ countries, partly the IMF – see Pagedas, 2015) following a haircut on its nominal value.

More than failure to meet macroeconomic goals, the price paid by the population was heavy; indirect taxation increased (e.g. sales tax from 19% to 23%) and new direct taxes (e.g. "urgent" property tax) were imposed, while wages dropped by 25% and unemployment increased to over 25% (Boukalas and Müller, 2015). Simultaneously, the indiscriminate spending cuts meant a significant disruption in the provision of public services and an eradication of the social safety network (Matsaganis, 2013). By 2014, the OECD reported that nearly 20% of Greek households were having trouble meeting daily food expenses (see Kouki, Triandafyllidou and Gropa, 2013).

Naturally the imposition of austerity coupled with the deterioration of the economic situation and the widespread sense of the country's loss of sovereignty (Chrysogonos, 2011) took a heavy toll on the Greek political establishment (see Teperoglou and Tsatsanis 2014; Vasilopoulou and Halikiopoulou 2013). Between the 2009 and end of 2014, the country held three elections and had six prime ministers, three of them interim, the first woman in the country's history among them. By May, 2012 the first election held in the context of the crisis, New Democracy and PASOK, the two dominant parties received less than half of the votes compared to the 2009 elections (see Verney and Bosco, 2013). As such, the two parties that had been invariably gathering over 75% of the popular vote since 1974, were unable to even form a coalition government. This would happen in the June elections, one month later, although, as Pappas notes (2013) the 2012 elections signify the end of the "Metapolitefsi" period and the transformation from a majoritarian to an extremely polarized multiparty system.

3.2. Reactions among the population

Already with a strong legacy in protest action (see Hamman et al., 2013; Karyotis and Rüdig, 2015) and a romanticized view of contentious politics and protest (Andronikidou and Kovras, 2012), the country entered a period of protracted and heightened social unrest. No less than 27 general strikes took place in the period 2010-2013 (Vatikiotis and Nikolakaki, 2013) and Karyotis and Rüdig (2014) report an average of 19.5 and 16.4 demonstrations per day throughout the country for the same period. Moreover, new repertoires of collective action emerged with the appearance of new social movements (e.g. "Indignados") and alternative forms of communal action such as solidarity economy movements and squats (see Vatikiotis & Nikolakaki, 2013). According to Karyotis and Rüdig (2015), 29% of the population reported took part in at least one demonstration in this period.

All protest however was met with little response from a political elite trapped between domestic political concerns and international economic pressures. The failure of social mobilisation to resist austerity politics can be traced to structural factors unrelated to the crisis (such as the incestuous relationship between trade unions and political parties), the weakening of labour organisations as the labour market was becoming liberalized (see Kennedy, 2016) and psychological factors as pressure from the fiscal readjustments increased (Vatikiotis and Nikolakaki 2013). One however should not overlook the new material realities; no matter its size or rigour, no protest had leverage over the national

administration similar to that of the country's creditors, as rupture of the relationship with the latter risked a situation where the state would be unable to e.g. pay pensions or lead to a collapse of the banking system due to capital flight. Faced with this prospect or alienating the part of the electorate that was protesting, the political elite, not unnaturally, elected the latter.

In these conditions of growing mistrust toward political actors and institutions and with extra-institutional channels for expressing grievances no longer being effective, the electorate turned to previously peripheral political actors (Kriesi, 2012, p. 519) and populism became a prominent feature of Greek politics (Vasilopoulou et al 2014; Pappas 2013). The neo-Nazi party Golden Dawn entered the Hellenic Parliament in 2012, a small group split off New Democracy to form the ANEL party and SYRIZA, until recently a minor leftist coalition, increased its electoral power threefold and would come into power in 2015 (see Spourdalakis 2014).

3.3.   The January 2015 elections

In 2014, the New Democracy – PASOK grand coalition government was in a position to announce the first instance of positive, even if anemic, growth for the economy and a small primary budget surplus, the first since 2002. By then however, the country's economy had contracted b 25% and the initially problematic debt-to-GDP ratio of 115% had climbed to 178%. Following yet another lackluster evaluation by the Troika representatives in the autumn, the New Democracy-PASOK grand coalition failed to obtain the three fifths parliamentary majority required to elect a new President, forcing the fifth snap election in ten years, in January, 2015.

The convergence of the centre-Left PASOK with the conservative New Democracy and the ideological rigidity and aloofness of the Greek Communist Party (KKE) left the SYRIZA party as the unique approachable formal actor representing the anti-austerity Left (see Tsakatika and Eleftheriou, 2013, p. 2; Borreca, 2014). A party closely connected to social movements from its inception, SYRIZA used its organizational capacity and experience to connect with social protest (see Tsakatika and Eleftheriou, 2013) and managed to channel generalized and a-political economic frustration into formal political channels (Simon and Klandermans, 2001). Simultaneously, SYRIZA was expanding beyond its radical base (Moschonas, 2013, p. 36), dropping the more formulaic parts of its Marxist discourse in favour of more populist frames (Pappas and Aslanidis 2015) and became more professional (Rori, 2016), while its leader, Alexis Tsipras raised his profile by participating as a candidate for the presidency of the European Commission.

Having never been a serious contender for power, SYRIZA was free from responsibility for previous administrations and stressed the endemic corruption of the incumbent parties who "had turned the country into a debt colony" (see Klapsis, 2015), asking for a strong mandate to negotiate a more liberal agreement with the country's creditors. They further presented a maximalist platform promising the return of the social safety net to pre-crisis levels and abolishment of some of the more onerous taxes, framing austerity as a political, rather than economic decision (Rori, 2016). The incumbent parties had a harder sell to make since the aforementioned small macroeconomic positive developments were not translatable into immediate tangible benefits and no visible end to austerity politics could be offered. They instead overemphasised the potential dangers of the "radical" SYRIZA (Rori, 2016), often portraying it as an existential threat to the nation (Karyotis and Rüdig, 2015).

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In a clear example of a punishment-sanctioning election (Powell and Whitten, 1993), the voters granted first place (36.3% of the vote), though not a parliamentary majority to SYRIZA (149 of 300 seats), which led to a strange coalition with "Independent Greeks" (ANEL), a right-wing populist party and the first government in Europe elected on a purely anti-austerity platform, since the 2008 global economic crisis.

3.4.   SYRIZA in power and the negotiations period

Once in power, SYRIZA had to accommodate three priorities which proved contradictory: put an end to or, at least, ameliorate austerity, ensure the country's position in the Eurozone and negotiate a refinancing agreement with the Troika, since the previous was expiring in February. Upon being elected, the new government negotiated a "bridge loan" with its creditors to accommodate for the negotiations over the re-financing, which involved serving extant debt without financing from the Troika, which would only be forthcoming after successful negotiation of a new agreement.

The negotiations process turned out to be longer and more acrimonious than the SYRIZA government seems to have expected and no agreement had been reached by June, 2015. The failure of the Greek government to obtain significant concessions from its creditors compared to previous agreements is hardly surprising given:
a) The multifaceted nature of the country's negotiating partner: Ultimately, any agreement would have to be ratified by the member-states who would be providing the bulk of the necessary funds. The latter had little incentive to accommodate the Greek government's domestic plans especially in an environment of rising Euroscepticism.
b) The Greek side's leverage: In its efforts to procure concessions, the Greek side had a single point of leverage, the threat of unilateral refusal to serve the state's debt, which would risk a new cycle of crisis at the European level. Whether this reflected a genuine commitment on the part of SYRIZA not to risk an exit from the Eurozone, an understanding of the strong Euro-monetarism among the population or the sense that the risk of a unilateral Greek default was believed to have been alleviated, the Greek government never made use of its single point of leverage.
c) The domestic economic situation: Since Greece's international partners were, in essence, in control of its liquidity delays in reaching an agreement were costly to the Greek side, while leaving the former relatively unaffected. Despite no refinancing, the Greek government did keep up with its financial obligations up to June, 2015, although it did so with increasingly desperate measures, including a minor raid of government controlled entities (Boukalas and Müller, 2015). Concurrently, ever since the election of the new government in January, a significant capital flight was taking place placing the banking system at significant and ever increasing risk.

Since these elements were well known, one might wonder with the Greek side's persistence in elongating the negotiations despite the great transactional costs.
a) Some unwarranted optimism over the Greek government's ability to convince its creditors over the Greek debt's unsustainability and its ability to form a broad coalition with other Member States (Chatzistavrou, 2016) can certainly be postulated.
b) Moreover, the pressure from within the SYRIZA, which had only become a unitary party in 2013 (Chatzistavrou & Michalaki, 2014) should not be understated; the government had been quick to abandon promises to immediately begin "gradually reversing all memorandum injustices" and a number of old-guard SYRIZA parliamentarians were public in their disappointment with the delay in dealing with the country's "the humanitarian crisis", with calls for rupture with the Troika growing at every impasse of the negotiations.

c) Finally, Lakhani (2015) offers an alternative that can supplement the aforementioned reasons. In negotiations between parties with large power discrepancy, the more powerful side (here the creditors), through the exercise of its power risks placing the weaker in a position where it is difficult to accept any resolution (the "power paradox"). Feeling demeaned or feeling that there is little to lose, the weaker side may adopt stubborn positions, protracting the negotiations and increasing the transactional costs for both sides. Thus, agreements that could have been made earlier, may be rendered costlier for both sides.

So, with a deteriorating economy, banks nearing the end of their liquidity and a loan payment to the IMF expiring in July, the Greek side offered significant concessions on June, 22nd, largely abandoning its pre-electoral platform morally and programmatically. Although some concessions were made on the creditors' side, disagreements over pension cuts and the size of the primary budget deficit allowed (Boukalas and Müller, 2015) led to the Greek side unilaterally withdrawing from the negotiations on the June, 27th. That night, the Prime Minister announced that the last agreement offered would be subjected to the Greek people in the form of a consultative referendum on July, 5th and that the government would be advocating for its rejection.

4. The 2015 Greek bailout referendum

4.1.   Why call a referendum?

The reasoning behind the Greek government's decision to hold a referendum under these conditions remains somewhat confusing, even in hindsight, although a number of factors can be safely speculated. For one, the situation as of June, could not remain stationary, due, at a minimum, to the expiring of a loan from the IMF at the end of the month. Secondly, obtaining a majority in the Parliament (150+1) for any agreement would necessitate cooperation by SYRIZA or some of its 149 parliamentarians. In addition, but only in hindsight of developments following the referendum[64] we can assume that the government (though not SYRIZA as a party) was not, in principle, opposed to accepting the deal offered, anymore, or in other words accepting a function of managing austerity rather than abolishing it. Finally, two alternatives should not be considered as fully incompatible with the government's behaviour throughout the period: first that the government had a "secret plan" to force the creditors to expel the country from the Eurozone, as there were less costly ways to achieve this[65]. Second, that the government secretly wanted the "Yes" side to win, which would have allowed them to vote the agreement in without accepting responsibility for it, as the government campaigned strongly in favour of "No".

Accepting the above, at that juncture, the Greek government had three options, accept the agreement proposed, reject it or try to gain time by avoiding it:
a) Refusing the creditor's proposal outright would likely mean a state default in July and a collapsed banking system. With no third source of lending available, this would leave the state's future entirely at the hands of the Eurozone countries, ultimately risking a de facto expulsion from the Eurozone, an outcome that the SYRIZA government had a mandate to prevent.

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[64] Referring here to the government's immediate acceptance of an agreement fully in line with what had been rejected before the referendum.
[65] For example, calling an election and campaigning on rejecting the agreement would have maintained party unity, which was impossible after calling the referendum and subsequently accepting an agreement similar to what had been rejected.

b) Accepting the agreement outright also seems an unrealistic option. A large number of SYRIZA parliamentarians were unlikely to be convinced to vote for the same austerity measures they were voted in to resist; adopting a positive stance toward the offered agreement would in all likelihood mean open opposition by its more Leftist elements forcing new elections with SYRIZA split. Prior to any election, ratifying the accepted agreement could only go through with the support of the opposition parties, if that was forthcoming at all, since they could postulate a return to power[66] following an election. As described, these events took place following the referendum; the government brought to the Parliament an agreement similar to the one it had rejected, which was voted into law with support from the opposition, since 44 of the 149 SYRIZA parliamentarians voted it down and left the party.

c) The SYRIZA-led government could try to avoid the responsibility of the decision by stepping down and forcing a snap election. This would have helped little, since the party would have to campaign on accepting the agreement, thus splitting the party or rejecting it, in hopes that the election result would have improved their standing for the negotiations with the creditors, which would follow. In any case, organising an election would have been a time-consuming affair, while also risking a protracted period of a power vacuum, if SYRIZA's electoral standing was weakened without substantial gains for the opposition parties, an unlikely outcome given their lack of political capital, as the September elections also attest.

Seen in light of its alternatives, then, the decision to call the referendum has some advantages, while producing the least costly outcome among the aforementioned. First it could be organized much faster than an election. Secondly, it would force the opposition parties to openly express support for an agreement in line with what the government would eventually accept; it is important to remember that every party in opposition for the period 2009-2015 campaigned on "anti-memorandum" platforms, which they would eventually enact when in government, including New Democracy. The referendum, in a sense, made the necessary opposition support for an agreement following the referendum more likely. If this was indeed among the government's calculations, the referendum offered the additional advantage of gaining enough time for SYRIZA to reorganize for the elections that would follow the ratification of the agreement and the eventual party split.

In addition, the referendum with its binary structure, if managed properly, could provide the government with a strong popular mandate. While unlikely to change the nature of what would be agreed, it might have been thought that it would force some concessions by the creditors' side, fearing an ungovernable situation without cooperation by SYRIZA. Simultaneously it is also conceivable that the government postulated increase leverage because the creditors would also want to avoid the impending default to the IMF, or that it could force a situation where the IMF would not be part of the refinancing agreement that would be signed after the referendum.

4.2.   The referendum question

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[66] There is a historical lack of a culture of coalition governing in the country. Although this seems to be changing gradually and by necessity, the probability of a grand coalition between the stronger parties on the Left and the Right is extremely low. The large ideological differences, the country's political history and the ease with which the political climate becomes polarized means that New Democracy and SYRIZA could, at best, offer tolerance votes if necessary, but open support would involve electoral losses toward parties to their respective extremes (e.g. Golden Dawn or the Communist party respectively).

The citizens were to be asked to respond with a "Yes" (agreement approved) or a "No" (agreement rejected) to the following question:

> *Should the plan agreement submitted by the European Commission, the European Central Bank, and the International Monetary Fund in the Euro-group of 25.06.2015, be approved? It consists of two parts, which constitute an aggregate proposal: the first document is entitled "Reforms for the Completion of the Current Program and beyond" and the second "Preliminary Debt Sustainability Analysis".*

The decision to hold the referendum, voted in by the Parliament on the 28th, received a Court challenge by the opposition parties on the constitutional ground that matters of economic policy are not to be put to referendums. The challenge was weak, since the exception is directly tied to the second type provided for (on "important social matters") and the government claimed that the referendum concerned "crucial national matters", so the Supreme Court ultimately rejected the challenge (see Chatzistavrou, 2016).

Far more problematic than its legal status, was the issue of its legitimation. Firstly, although citation of external documentation is not unusual in referendum ballots (e.g. EU Treaties), the question in these cases was self-contained and enough time was allowed for the interested voters to become informed. Here, voters were asked to deliberate on 38 technical pages, which contained third references within nine days, a period short enough to draw the criticism of the head of the Council of Europe. Other complaints over e.g. the structure of the ballot, with the "No" box appearing on top, although secondary in importance, certainly created the sense that the government was staking the odds in its favour.

As Sygkelos (2015) notes, however, by far the most meaningful challenge to the legitimacy of the referendum concerns the ambiguity inherent in the question asked. While the "Yes" vote is to an extent unproblematic, the "No" vote is completely ambiguous; it can be interpreted equally easily as "I reject the agreement, even at the cost of exiting the EZ", as "I reject the agreement but not at the cost of exiting the EZ" or "I reject any agreement that involves austerity". Given the question, a "No" result could be treated as carte blanche for the government to do as it saw fit[67]. Indeed, government and opposition simply treated the referendum as pertaining to completely different matters. In his address while announcing the referendum, the PM argued that a "No" victory would mean rejection of the last proposal and empowerment of the Greek side in the negotiations for a new agreement to follow, while the opposition contested that the referendum was asking citizens to agree to leave the Eurozone and or the EU.

4.3.   The campaigns

4.3.1.   The "Yes" side

The side advocating for a "Yes - Accept" vote consisted of the old political guard of the country, New Democracy and PASOK, as well as the recently-formed "To Potami" centrist party and these three formed the official campaign committee. The electoral base for "Yes", consisting mainly of New Democracy voters was 2.4 million, assuming the 2015 election remained relevant.

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[67] Note that the suggestion of the opposition, as well as part of the international community that the question be a variant of "In or out of the EZ/EU" is equally problematic in this sense, as would be any question establishing a situation without explicitly mentioning its implications.

In addition, all living former prime ministers, the mayors of the country's two major cities and the association of regional and local administrations were vocal in their support of "Yes". Similarly, equivocal was the support by foreign dignitaries and EU officials, generally taking the form of impressing upon the electorate that a "No" outcome was risking the country's future in the Eurozone. Finally, the agreement had strong support among the economic elite, as well as the open (if often unenthusiastic) endorsement of a number of professional associations, major trade Unions, the Archbishop of the Church of Greece and, for the most part, of the domestic academia.

The country's Mass Media interconnected with strong relationships of dependence with economic interests and political parties (see "political parallelism" - Hallin & Mancini, 2004) overwhelmingly supported the "Yes" side. The relevant literature suggests that the established Media had been presenting an exaggerated version of the crisis since its beginning, stressing the lack of hope and helplessness (Davou & Demertzis, 2013) and fully adopting the necessity and inescapability of austerity politics narrative (Doudaki et al., 2016). Although commonly aggressive and sensationalistic during periods of political tension (Komninou, 1996), during the referendum campaign they became highly polarized, to an extent reflecting the strong sentiments among a large segment of the population. Especially aggressive were television channels, whose ownership had already been in conflict with the government over the introduction of payments for broadcasting licenses, the exception being the national broadcaster, which did provide increased coverage for the government. Data from the three newspapers analysed here suggest that the Press, although for the most part supporting the "Yes" vote, was more careful to contain advocacies within its editorials and opinion pieces. Finally, preliminary analyses, in an interesting parallel with the case of the UK referendum, indicate that the side with the less privileged access (here the "No" side) made more extensive use of social media (e.g. 57% of tweets in the period containing a position were in support of "No"), although in the Greek case not in a large-scale organized fashion.

This broad support among the political and economic elite carried significant advantages (see Sniderman et al., 1993), in the form of economic resources, established communication networks and mobilization apparatus of the major parties. However, overreliance on elite establishment voices could have proven counter-productive, as it allowed the "No" side to identify the opposition with the country's entrenched interests and economic privilege (especially among younger voters, see Teperoglou and Tsatanis, 2014). Similarly, broadcasting support by international actors and, especially EU officials, offered the "No" side the opportunity to cry foul over the intervention in the country's domestic politics and the subversion of democracy. Indeed, the major advantage for the "Yes" side did not lay in the identity or power of its advocates but in the strong attachment to the Euro currency among the country's population ("Euro-monetarism" see Chatzistavrou and Michalaki, 2015).

4.3.2. The "No" side

The political parties constituting the "No to the agreement" side were SYRIZA, its junior partner in the government ANEL and the neo-nazi Golden Dawn party. Altogether, the three parties had gathered 2.9 million votes in January, 2015, mostly for SYRIZA (2.5m). Since it would have required sharing of the ordained public funding with Golden Dawn, SYRIZA elected not to form an official campaign at all, forgoing the public funds, which left the "No" side at a significant disadvantage, given the small support among the economic elite, referendum notwithstanding.

The "No" side almost completely lacked institutional and organized support from economic, professional bodies and associations, only receiving international support from parties across Europe not in power or marginalized actors (e.g. President Maduro of Venezuela). It did however receive a number of endorsements by the domestic cultural elite and academia, as well as endorsement from foreign academics, though on an individual basis, not in organized fashion. The "No" campaign did, on the other hand, have the opportunity to promote a sense of social capital (see Klandermans et al., 2008) with a number of visible protest actions within the country and solidarity marches across the continent.

Assuming that the partisan heuristic is indeed "the quintessential shortcut in direct democratic votes" (Kriesi, 2005; p.139), the "No" side began the campaign with a significant advantage of half a million votes, provided no steep increase in turnout (it actually decreased by 1%). The latter was by no means a given in an environment of heightened polarization (see Levendusky, 2009) and ideological conflict which tend to increase participation (Abramowitz, 2010; Hetherington, 2009 – though see Callander & Wilson, 2007). Moreover, in their vast majority voters for these three parties had at some point voted for the opposition parties, SYRIZA being the only of the three who had participated in the 2009 elections gathering 300 thousand votes. Therefore, instead of party identification, the government would have to use rhetoric to maintain the support from its recent mandate, a process which would be facilitated if the population was convinced that the referendum did not concern an issue of high salience. In other words, the "No" side would have to convince the electorate that, contra "Yes" contestation, the referendum did not concern the country's status in the Eurozone but was part of international politics and negotiations.

4.3.2.2. The Greek Communist Party

A mainstay of the Greek Parliament, the Greek Communist Party (KKE) consistently gathers the support of 5-8% of the electorate. Ideologically rigid and thoroughly hostile toward the EU, elected not to support either of the two sides, arguing that the referendum posed an unacceptable dilemma and challenging the "myth" of a better agreement within the Eurozone. It advised its members and supporters to cast a blank ballot, which about two thirds likely did, given that the number of blank ballots cast for the referendum was tripled (300 thousand) from what is usually the case (100 thousand blanks).

4.3.3.   The campaigning period

The limited time allowed left little room for formal campaigning and the two sides quickly devolved to advocacies through the Media, advertising and interpersonal communication through digital media. The campaigns proceeded in this erratic fashion amidst a climate of increasing polarization with the only notable instances resembling official campaigning being television appearances or press conferences by the leaders of the respective sides, A. Tsipras and A. Samaras and the organization of rallies throughout the campaign period, although a number of them took place following citizens' initiatives.

The process of campaigning was overshadowed from the beginning by the exhaustion of liquidity in the banks through an ongoing capital flight, since SYRIZA had been elected. In parallel to announcing the referendum, the Greek government made a formal request that the ECB extend the Emergency Liquidity Assistance (ELA) mechanism in order to accommodate for the referendum. Whether this simply reflects the strict rules governing the ELA, a lack of confidence toward the Greek government or, as was widely supposed within the country, a form of "costly signal" (see Fearon, 1995) of voting for "No" by the creditors' side, the development exacerbated the sense of uncertainty and fear within the country. The

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extension not being granted, the government was forced to shut down the banks and impose capital controls on June, 28th, which meant that the electorate would go to the polls, while being allowed to withdraw up to 60 euros per day from ATMs. The banks would remain closed for nearly twenty days and the capital controls would gradually be lifted from September on, though the still apply one and a half years later. The imposition of capital controls was clearly operating in favour of the less risky "Yes" vote, as was immediately reflected in the polls, although it would serve to supplement a "blackmail" narrative against the Troika by the "No" side.

4.3.4.   Campaigns discourse

The limited time and unconventional character of campaigning made it difficult to study the discourse of the two campaigns through comparable official communiques. Moreover, official campaign rhetoric tends to be largely unattended by voters (Iyengar & Kinder, 1987), its effect usually being indirect by affecting the way the Mass Media frame the issues (see Zaller, 1992). Therefore, we elected to study the discourse in favour of "Yes" and "No", as it appeared on the Press, since the later tends to provide more detailed analyses and commentaries than other media (Graber, 2001).

So, we collected all articles relevant to the referendum between June, 27th and July, 4th from three newspapers, "Efimerida ton Sintakton", "Kathimerini" and "To Vima", all mainstream, popular, broadsheet newspapers.
a) "EfSyn" is a left-wing newspaper published through a self-managed cooperative and had an editorial line in support of a "No" vote.
b) "Kathimerini" is an elite-oriented newspaper and early advocate of the implementation of economic reforms suggested by the MoUs and was, unsurprisingly, supporting the "Yes" side.
c) "To Vima" had an editorial line similar to "Kathimerini", although it was more reluctant in its support of economic reforms, afraid to risk the country's Eurozone status.
Using a stratified (by day and type of article) random sampling approach, we analysed 245 articles, which yielded a total of 1121 arguments, which we grouped into 109 unique lines of argumentation, 61 for the "Yes" side, 42 for the "No" side. We employed argumentation analysis in two waves, first by categorising the various argumentation lines by theme and subsequently we attempted to re-organize them into campaign narratives taking into account content, as well as function into account.

4.3.4.1. Argumentation lines by content

When considering only the content of what was being argued, we coded the 109 arguments into six categories (see Table 1). In the context of this report, the only serve to illustrate other the matter of issue-divergence and we will not go into detail as to what the different categories entail. Briefly, the "Us" category refers to the presentation of positive characteristics for the side the author supports (including endorsements), "Them" contains argumentation lines whose aim was the attribution of some permanent characteristic to the opposition, while "Assigning blame" established one or another action by the respective opposition as negative for the country. The "Referendum question" category refers to the debate over what the "real" question of the referendum was and "Referendum outcomes" consisted of projections of events following the referendum, depending on its result. The final category "Emotional Appeals" was used almost uniquely by the "Yes" side and contained argumentation lines made not in reference to a specific domain, person or event, but rather drawing their persuasive power from presenting a "No" vote as an act that was a moral imperative in and of itself (e.g. "Say No to the humiliation").

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4.3.4.2. Issue divergence

One observation that can be clearly made from Table 1 is that the two sides frequently talked past each other. Of the 19 broad argumentation themes, only 11 were addressed by both sides, the "Yes" side addressing 84.7% of its arguments within the 11 commonly contested themes, 68.9% being the equivalent for the "No" side.

Table 1: Frequencies and relative freq. of arguments by thematic category

		No vote		Yes vote	
		Freq.	%	Freq.	%
Us	EU membership advantages	NA[1]	NA	32	4.5
	Powerful coalition supports us	25	6.9	91	12.8
	Overall	25	6.9	123	17.3
Them ("Attack")	Other coalition's internal cleavages	11	3.1	9	1.3
	Other coalition for actions	19	5.3	34	4.8
	Opposition for actions	74	20.6	19	2.7
	Opposition for enduring characteristics	11	3.1	55	7.7
	Opposition as undemocratic	15	4.2	57	8
	Overall	130	36.1	174	24.5
Blame them for	Negotiations breakdown	17	4.7	62	8.7
	Current problems (e.g. closed banks)	NA[1]	NA	62	8.7
	Overall	17	4.7	124	17.5
Referendum Question	Increase negotiations leverage	12	3.3	27	3.8
	Exit the Eurozone	19	5.3	95	13.4
	Overall	31	8.6	122	17.2
Referendum Outcome	Immediate outcomes	16	4.4	68	9.6
	Economic outcome	23	6.4	65	9.2
	Long-term outcomes	NA[1]	NA	26	3.7
	Overall	39	10.8	159	22.4
Emotional Appeals	Anger	34	9.4	NA[1]	NA
	National pride	35	9.7	NA[1]	NA
	Dignity	26	7.2	NA[1]	NA
	Anti-austerity (Moral)	24	6.7	NA[1]	NA

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Table 1: Frequencies and relative freq. of arguments by thematic category

		No vote		Yes vote	
		Freq.	%	Freq.	%
	Emotionality a mistake	NA[1]	NA	7	1
	Overall	119	33.1	7	1

[1] The line of argumentation was not employed by this side of the argument

Source: Authors

Moreover, even within the commonly contested argumentation lines, the two campaigns used arguments that were different enough to consider them as addressing different issues. When attacking the opposition, for example, the "No" side referred to specific actions and tended to focus more on international actors (blaming e.g. the creditors for shutting down the banks), while the "Yes" side dedicated a third of these arguments to enduring characteristics of the "No" side (e.g. the government is dogmatic or undemocratic). Even within commonly contested themes then, crosstalk between the campaigns was calculated (see Sigelman and Buell, 2004) to be less than expected, with the "Yes" side addressing the same concerns as "No" about 75% of the times, while the "No" 80% of the times.

Taken together, these suggest that 64.4% of the arguments of the "Yes" side were spent on commonly contested themes while the equivalent for the "No" side was 50%. In this informational environment, the first dilemma voters faced concerned not the persuasiveness of the two sides' arguments but which side was making arguments relevant to the referendum. While not an infrequent phenomenon concerning polarizing elections, since contesting parties may want to avoid engaging with themes where the opponent has an advantage (Petrocik et al., 2003 p. 609) this number is very high and it may be worth considering that issue divergence is a critical component of disintegration-type referendums (see Walter et al., 2016).

4.4.   Campaign narratives

In the process of deciding their vote, it is unlikely that any, but the most dedicated voters, would engage in an exercise similar to the one described. It is rather more likely that they will either follow some heuristic advising for a vote choice (e.g. partisan cues) or form an opinion on the basis of an overarching understanding or narrative concerning the issue at hand. We attempted to re-organise the original 1121 arguments in order to re-produce the possible narratives the voters could form, had they been subjected to the same information, by applying frameworks borrowed from the political campaigning literature (e.g. Lau and Pomper, 2004; Petrocik, 1996; Riker, 1996).

4.4.1.   The "Yes" campaign

From this perspective, the "Yes" campaign was largely unproblematic. First, it provided a central message that set the criteria by which people should decide their vote (agenda setting – see Riker, 1996), here that the electorate should vote as if they were voting for the country's participation in the Eurozone. Secondarily, they tried to emphasise the aspects of this decision that would facilitate voting "Yes", while increasing the perceived risks of a "No" victory, reducing the likelihood of "No" votes among the more undecided voters. Overall, the

different arguments offered give the feel of being subjected to the message of a political campaign, broadly following the opposition parties campaign philosophy in the December 2014 elections.

More specifically, a prospective voter reading the three newspapers in the week before the referendum would be subjected to the following persuasion elements (see table 2):

a) Agenda setting: The "Yes" campaign made a concerted effort to convince voters that the referendum question was not the "real" issue at hand. For the most part this consisted of arguments stressing that ultimately the referendum would decide the country's participation in the Eurozone, while to a lesser degree disputing the government's claim that a "No" victory would increase their leverage in the negotiations.

b) Framing the outcomes: Taking advantage of the ambivalence surrounding the possible outcomes of the referendum the "Yes" side framed them in three ways: projecting very negative economic outcomes in the short- and long-term, projecting generalized catastrophic outcomes (e.g. "national security is at stake") and positing short-term, positive effects of a "Yes" victory (e.g. "restoring liquidity to the banks"). Generally, these types of negative-valence arguments, increase uncertainty, making risky behaviours (such as voting "No") less likely (Lerner and Keltner, 2001).

Table 2: "Yes" side: Weighted relative frequencies of argumentation lines by rhetorical function

Function Theme	%	Argumentation line	%
Agenda Setting	17.6	"No" vote does not translate into increase leverage in negotiations	3.9
		"No" vote translates to "No to the euro"	13.7
Framing the outcomes	21.1	"No" victory means economic hardship	9.3
		"No" victory means generalised collapse	5.7
		"Yes" victory means immediate solution to current problems	6.1
Suppressing the "No" vote	31.9	Delegitimation of referendum	15
		Undermining of a "No" victory	6.9
		Doubting the government's ability to provide solutions	10
Going negative	13.1	Against SYRIZA	8.6
		Against "No" coalition	4.6
Endorsements	11.7	Surrogates	7.6
		Foreign	2.6
		Experts	1.6
Benefits of EU participation			4.6

Source: Authors

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c) Suppressing "No" votes: These arguments functioned to either raise the attached risk or lower the perceived utility of a "No" vote, ultimately suggesting that the current government be removed from power. About 45% of all arguments used by the "Yes" side were dedicated to this category, functioning in three ways: by delegitimizing the referendum itself (e.g. "the government has a hidden agenda"), undermining the gains of a potential "No" victory (e.g. "the government's counterproposals are worse than the creditors""") and by questioning the capacity of the government to manage the country's problems, given its five months of governance.

d) Going negative: Attacking the government on an ideological basis drawing on the tradition of anti-communist rhetoric in the country ("anti-democratic", "dogmatic" etc.), while attempting to tie SYRIZA to the two other parties on the "No" side, on the basis that their unifying characteristic is that they are all ideologically extreme, even if at the other ends of the political spectrum. Obviously, such arguments were not directed at SYRIZA partisans directly, but rather at the large amount of previous New Democracy and PASOK voters, who the two parties were hoping to regain, postulating that their SYRIZA vote in the winter was a temporary protest vote. Although potentially effective (see Baumeister et al., 2001), these negative attacks along with the highly negative projections for the future involve a risky trade-off. Being frequently used in previous contexts (see Rori, 2016) they can desensitise the electorate and, in the absence of actual "socialist takeovers", discredit the argument's source, especially considering that the "No" side spent about 10% of its arguments warning of "fear-mongering".

d) Endorsements: The "Yes" side spent nearly 12% of the space/attention in presenting the endorsements "Yes" received by a number of different individuals. Although there was a large variety, these were focused on endorsements by the political elite (19.5%), the domestic academia or experts (13.4%) and equally (15.9%) on foreign officials and citizens (mostly in the form of reporting on marches and demonstrations).

4.4.2. The "No" campaign

The "No" campaign was harder to comprehend using a similar framework; little attention was dedicated to defining the issue, limited effort is made to contest common themes and some of the arguments made seemed counterproductive. A significant amount of space is dedicated to attacking the government's international partners in the negotiations, for example. It certainly makes sense to attack the domestic opposition in order to demobilize "Yes" votes and prevent defections among SYRIZA and ANEL voters; making the case that the government's future negotiations partners are actively trying to cause its downfall, on the other hand, makes any future agreement appear less likely, increasing the sense of risk associated with voting "No". Finally, a number of arguments seem to advocate voting "No", offering no instrumental end, other than the vote itself (e.g. "A Yes vote means capitulation"; "On Sunday we say No to blackmail") with little persuasive power in this conceptualization.

Abandoning the political campaign framework in favour of a protest movement one (e.g. Bentford & Snow, 2000), renders the aforementioned elements comprehensible. The latter, which were incomprehensible as attempts at persuasion, take central place as "calls to action"; they let the electorate know how the "No" side feels regarding the externally driven attempt to impose austerity (e.g. angry, indignant, rebellious etc.) and advocates expressing these sentiments through the act of voting "No" to the agreement. Similarly, the elements that were described as attacking the international partners along other arguments form a list of transgressions against the Greek people that serve as the reasons for this protest vote.

Adopting such a protest framework, the various arguments can be organized around the following headings:

a) Transgressions: Identifying both the agents of injustice and the victims, a long series of transgressions against the Greek government (and thus the Greek people) perpetrated by the country's creditors and domestic political elite can be frequently found among "No" discourses. These grievances are expressed regarding three distinct areas: the intentional obstructionism on the part of the creditors during the negotiations, the undermining of the decision to put the proposed agreement to a referendum and the lack of support by the domestic elite in the government's efforts to resist austerity by running a campaign based on fear, with the complicity of the Mass Media (Tsatanis and Teperoglou, 2016 also describe this type of narrative).

It is significant to note that throughout "No" advocacies, negative attacks are reserved for specific international or domestic actors and never at their supporters or European peoples (see Chatzistavrou, 2016). Simultaneously politically charged speech is also somewhat rare, which is surprising given the solid Left orientation of SYRIZA and its more fervent supporters. Thus, an open and inclusive in-group is created, potentially open to all citizens who want to direct their frustration at the creditors and domestic political elite.

b) Grievances: Rather than acting as persuasive devices, the argumentation lines employed here offer reasons to engage in collective action, invoking the imperative to resist austerity, the voter's sense of pride and loss of "national" sovereignty. A final subcategory also draws on pride and the loss of sovereignty, although the motivating factor is anger, rather than pride or indignation (e.g. "say No to subjugation, No to the new occupation!"), an often cited motivator of protest (see Van Zomeren et al., 2004).

Among these, the need to resist austerity is most often stressed, almost equally likely as a moral or an economic imperative (e.g. "the measures adopted are recessionary" or "the debt is unsustainable"). Interestingly, the economic argument against austerity is properly articulated and is the only of the grievances to refer to material deprivation (i.e. distributional injustice). The rest refer for the most part to unfairness over the procedure through which decisions were and are made for the country (i.e. procedural injustice, see Tyler and Smith, 1998).

A final note is warranted on the phrase "national sovereignty"; its more appropriate translation would be "popular sovereignty", restoring decision making power to the people, with no nationalistic undertones, a frequent rhetorical refuge for the political parties of the Left in Greece. Arguments on the basis of national sovereignty, patriotism etc. are also present, though mostly from the junior partner of the government. Whether by design or not, the coalition discourses act in a complementary fashion, covering the nationalist element, a potentially significant pool of "No" votes (e.g. New Democracy voters), while allowing SYRIZA not to alienate either its international or domestic audiences (see Mudde and Kaltwasser, 2013).

This simple organisational frame covers 80% of all argumentation lines made in favour of "No", the remaining consisting, for the most part by arguments whose function was to reduce the perceived risk linked with voting "No" (e.g. "quick negotiation and new agreement") and endorsements, mostly by foreign academics, and Greek and European citizens. Generally disengaging from the need to discuss economic or practical aspects of any renegotiations to follow, enabled the "No" side to pursue a campaign of low-key optimism, avoiding for the

most part to engage with the opposition's narrative concerning the country's uncertain status in the Eurozone.

It is important to note that what is argued is not that the Greek government planned the referendum to function as a protest or that there was an organising force behind the rhetoric of "No" advocates or the "EfSyn" newspaper. Such a claim would require access to the minds of the SYRIZA leadership or its decision-making process which we do not have. The argument, rather, is that for a large segment of the Greek electorate in conditions of high uncertainty and information overload, this protest narrative was available, intentionally or not, and offered a meaningful interpretation of the situation and a clear route to action. For these voters' considerations over "plan agreements" and "sustainability analyses" could ultimately be reduced into a question and an assessment: "Do I believe that the country's membership in the Eurozone is at stake?" and "Am I sufficiently angry and frustrated to overcome the "loss looms larger than gains" principle?" (Lerner and Keltner, 2001). As it turned out, despite the prospect of a state default, the capital controls and international pressure, for a lot of voters the answer to the questions just set must have been "No" and "Yes". Druckman & McDermott point that in such conditions anger "produces optimism about future outcomes and risk seeking choices" (2008; p. 301 – see Garry, 2014 for an application to Ireland's Fiscal Compact treaty).

Table 3: "No" side: Relative frequencies of argumentation lines by function

Function Theme	%	Argumentation line	%
Transgressions	48.8	Creditors did not treat the government as an equal and sovereign partner in negotiations	9
		The domestic establishment elite are aligned more with the Troika than with the government	8.2
		Domestic and international opponents disrespect the referendum	23.4
		Proposed austerity agreement does not solve the economic problems (e.g. unsustainable debt)	8.2
Grievances	30.2	"No" expresses sentiment against austerity (Moral)	6.8
		"No" expresses sentiment against loss of "national" sovereignty	6.5
		"No" expresses sentiment against loss of dignity	7.3
		"No" expresses anger	9.6
Efficacy	14.6	After "No" victory, increased leverage in negotiations	3.4
		After "No" victory, quick negotiation and agreement	1.4
		After "No" victory, banks will re-open	2.8
		After "No" victory, no exit from the Eurozone	5.1
		No internal cleavages in the government coalition	1.1
		Internal cleavages within the Troika	0.8

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Table 3: "No" side: Relative frequencies of argumentation lines by function

Function Theme	%	Argumentation line	%
The "No" coalition	6.2	Social Capital	4.2
		Endorsements	2

Source: Authors

5. The Referendum result

The electorate granted the government an overwhelming "No" victory by a margin of 22 points (61.3%), gathering 3.55 million votes (2.25m for "Yes") with a gain of half a million votes over what the three "No" parties achieved in the winter election combined. Keeping in mind that about 70% of the population is in favour of the monetary union (Chatzistavrou and Michalaki, 2015), ultimately the result is most likely traceable to the inability of the "Yes" campaign to convince the Greek voters that it was participation in the Eurozone that was at stake in the referendum (Walter et al., 2016). Indeed, Jurado, Konstantinidis & Walter (2015) found that voters chosen to be identical as to demographics, political preferences and attitudes toward the EU who expected that Eurozone membership was at stake, were 32% less likely to vote "No", than their counterparts who did not believe so.

It is hard to speculate as to why the electorate was not convinced regarding the gravity of the referendum outcome and the reasons are bound to differ between individuals. Perhaps some among the population felt secure in the knowledge that formal mechanisms for forceful expulsion of a Member State do not exist. A large segment of the population could have become desensitized to threats of forced exit from the Eurozone, since they had become mainstay of every incumbent government since 2010 during elections (see Rori, 2016), or when facing protest while large bundles of austerity measures were voted for in the Parliament. Additionally, two events in the duration of the campaign may have played a role in making the referendum appear as a less serious concern than the opposition and creditors' representatives presented.

At the heart of support for any structural adjustment fiscal programmes or technocratic solution to policy is the belief that they are mandated by immutable, objective material realities; that they are an inevitability and not a political decision (see Chatzistavrou, 2016). This sense was first undermined in the case of the bailout agreement by the lack of clarity over what the agreement to be voted on was, even after the decision for the referendum had been announced. In his press conference announcing the referendum A. Tsipras stressed that he was putting to the vote the proposal his government had received on June, 25th as an "ultimatum". Refuting this claim, EU officials accused the Greek side of unilaterally withdrawing from the negotiations table and publicised a version that they claimed was concluded on the 26th; regardless, by the 29th the head of the IMF, C. Lagarde suggested to the BBC that the referendum would relate to "proposals and arrangements which are no longer valid"[68]. Simultaneously, the President of the Commission, J.C. Juncker accused the Greek side for not putting the agreement of the 26th to the ballot[69], which he claimed was a significant improvement on the previous. In the same Press conference, he insinuated that

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[68] Morris, C. (2015, June 28). Greece debt crisis: MPs back referendum on bailout. *BBC*. http://www.bbc.com/news/world-europe-33302526
[69] Press release available at: http://europa.eu/rapid/press-release_SPEECH-15-5274_en.htm

there was, still, room for manoeuvring: "I will be asking the Greek people to vote "Yes", regardless of the question that is ultimately put to them. Indeed, the question may change over the next few days". The Greek government responded by making a last-minute counter-proposal on June 30th, which was ultimately rejected on the 1st of July by the Eurogroup. This back-and-forth is certainly an indictment of the SYRIZA government at a minimum for its cavalier attitude toward the institution of referendums. Being conducted in public, through journalists and social media, it did far more to damage the sense of immutability of the proposal made, since it gave the impression that the Greek side had received some concessions, making the referendum appear as a negotiating tactic, even if indeed the proposal discussed on the 29th by Juncker, did not contain new features as he stressed.

A second event that helped divest the referendum of importance was the release by the IMF of a report concluding that the Greek debt was unsustainable four days before the first ballot was cast; sustainability of debt being a prerequisite for participation by the IMF to any rescue programme, it appeared that the Greek government would have an ally within the Troika for debt restructuring, a persistent request by the Greek side during the negotiations and a red line for the creditors. This appearance of a cleavage within the Troika served to heighten hopes of a renegotiation that would accommodate the request for debt relief. Moreover, it served to further damage the credibility of the immutability of austerity argument, since it appeared that some, at least of the decisions taken by the creditors reflected political will rather than material realities.

The refusal to further extend liquidity to the Greek banks and the subsequent imposition of capital controls operated in the opposite direction, bringing home the immediate consequences of failing to refinance the country. Making the referendum vote appear an important decision over the country's future it favoured the least risky option and Walter et al. (2016) report that 12.3% of their respondents changed their referendum vote to "Yes" after the closing of the banks on the 27th of June, although in the case of 3.8% of respondents, the event made them harden their stance toward voting "No".

6.   Referendum outcomes

Celebrations among the victorious "No" side were not to last long, as none of the material realities had changed between the 5th and 6th of July; the government immediately returned to the negotiations table and signed a new bailout agreement for 86 billion euros two days later. Although widely portrayed as significantly worse (e.g. Mavrozacharakis & Tzagarakis, 2015), this is not necessarily the case; they both involve austerity and some elements of the later proposal are more problematic, most importantly the clauses for increased supervision and the control of funds obtained through privatisations, while others are improvements, with some fiscal stimulus allowed and a vague promise of future talk regarding debt sustainability (see Schmieding, 2015; Pitsoulis & Schwuchow 2015). Regardless, the signing of a memorandum no different in philosophy than that signed by previous governments, with "little of the radical left in it" (Mudde, 2015; p.79) certainly constituted a programmatic and moral defeatfor SYRIZA (Moschonas, 2015; p.26), with little achieved other than a moment of catharsis, at a high transactional cost.

The bailout plan was ratified by the Parliament, despite 44 SYRIZA parliamentarians who refused to consent, with the support of the "Yes" side parties and with "a striking absence of social unrest" (Rori, 2016). Given the split of the governing party a new snap election was called, which SYRIZA would win with a small amount of defections compared to the winter of

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2015 (about 300 thousand votes – 13% of its previous votes) and with little loss of electoral power (145 seats in the Parliament). New Democracy similarly maintained its voter base, though the offshoot party of SYRIZA, "Popular Unity" (LAE) which ran on a platform of leaving the Eurozone could not gather the minimum 3% of the popular vote to gain a seat in the Parliament. SYRIZA had completed its transformation from a "radical Left" to a transactionalist "post-Left managerial" party (Chatzistavrou, 2016), winning the elections on the message that the third memorandum was the only way of ensuring the country's EZ membership (Chatzistavrou and Michalaki, 2015), although this likely came at the cost of citizen participation in politics, with voter turnout for the September elections decreased by 7%, the lowest since 1977.

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D. IRELAND

Why Do Irish Citizens Vote the Way they do in EU Referendums?
Issues, Second-Order Effects & Lessons for Europe

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1. Introduction

Governments of Member States across the European Union occasionally supplement conventional forms of electoral democracy with a powerful legitimating instrument of direct democracy: the referendum. For the majority of Member States, it was a national referendum that sanctioned their accession to the EU in the first place.[70] However, in only a minority have governments opted to consult directly with their citizens on matters of European integration thereafter. For decades, it was understood that a 'permissive consensus' existed in public opinion that enabled integration to proceed along a predominantly elite-driven process (Hooghe and Marks, 2008). To the extent that citizens are consulted on European matters, they have the opportunity to express their preferences in, and shape the discourse of, national election campaigns and, indeed, elections to the European Parliament (see, for example, Moravcsik, 2004). Beyond accession, questions of European integration have overwhelmingly been addressed through these *representative*, as opposed to *direct*, democratic channels.

For critics of direct democracy, the relative infrequency of referendums on issues of European integration is unproblematic. By conceptualising such referendums as second-order contests, the outcome is taken largely as a function of voters' perceptions of their national government, not the substantive issues of European integration themselves (Franklin *et al*. 1994; Moravcsik, 2006). However, given the prominence of calls for the greater use of referendums as a means of national governments consulting with their electorates on the future of European integration, and given that they have already served as devices to legitimise this process, it is necessary to critically appraise rival interpretations of referendum voting behaviour. Should European referendums be conceptualised as second-order contests, or do they provide an opportunity for voters to engage with substantive issues?

The Republic of Ireland offers a particularly valuable context within which to evaluate the relative weight of second-order voting effects in European referendums for two principal reasons. First, unlike in the majority of Member States, Irish voters have had relatively frequent opportunities to express their views on issues of European integration. Since a referendum endorsing Ireland's accession to the EU in 1972, a further eight referendums on European matters have been held in Ireland. Of the 43 referendums to be held on EU issues across the 28 Member States, one-fifth have been held in Ireland alone.[71] Second, Irish voters have delivered conflicting verdicts. On two occasions, they famously, or infamously, rejected new treaties proposed by the European Union and backed by their national government, only to reverse both decisions in a subsequent referendum.

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[70] Austria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Hungary, Ireland, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia and Sweden all held referendums on accession prior to joining the EU.
[71] At nine, Ireland has held the most EU-related referendums of any member state. Denmark has held a similarly high number, eight, along with an additional plebiscite restricted to voters in Greenland.

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Using Ireland as a case study, this report examines the relative weight of two rival explanations of voting behaviour in its five most recent referendums on the EU. Drawing on the results of three empirical studies involving one of the authors (Garry *et al.* 2005; Garry, 2013; Garry, 2014), we aggregate the main findings to assess whether Irish voters' attitudes towards specific issues relating to European integration primarily explain vote choice, or whether voting behaviour is best attributed to second-order effects. Drawing on survey data collected after referendums on the Treaties of Nice and Lisbon and the European Fiscal Compact, we derive two main conclusions from the Irish case.[72] First, in each of the referendums examined, individuals' attitudes towards European issues provide a stronger predictor of voting behaviour than second-order effects. Second, the relative importance of issue-voting and second-order effects is conditional. People are more likely to vote on issues when there is a high level of campaign intensity, when the issues are specific to people's perceptions of the proposed treaty in question rather than general attitudes about European integration, and when people feel a sense of anxiety rather than anger. Second-order effects play a greater role in referendums with a lower level of campaign intensity and when voters report a sense of anger rather than anxiety during the campaign.

Before looking more closely at this post-referendum survey analysis, we briefly summarise the theoretical context and the political background of these five Irish referendums. We conclude with some lessons that may be derived from the Irish case, and which may have a particularly strong resonance in the wake of the Brexit referendum.

2. The Theoretical Context

Much of the literature on the EU's 'democratic deficit' cautions that the opportunity for citizens to deliberate on European issues in national and European parliamentary elections is seldom realised in practice. In both types of election, domestic political forces are decisive (Follesdal and Hix, 2006). Such a tendency may be at least understandable in national electoral contests, but less so in elections to the European Parliament. Reif and Schmitt (1980) offer an enduring explanation of the conspicuous absence of European issues in elections to the latter: elections to the European Parliament, like those to sub-national branches of government, can be conceptualised as 'second-order' contests. According to this approach, voters perceive these elections as less important. In contrast to 'first-order' contests that determine the national government, second-order contests are seen as less consequential. With less at stake, they are associated with lower levels of voter turnout and the outcome is typically dependent on the popularity of political parties, especially those in government, at the national-level (Norris, 1997). There is, thus, less incentive to vote in the first place and less incentive to deliberate on the specificities of the given contest.

If European issues are essentially marginalised by conventional electoral democracy, could referendums potentially offer a superior opportunity for citizens to engage in meaningful deliberation on specific matters of integration? Indeed, the precise advantage of referendums is that they present voters with a single question to which they necessarily respond with a clear response: Yes or No. Critics doubt, however, that voters genuinely engage with the intended subject of a referendum. As with European Parliament elections, they are regarded as ostensibly second-order contests whose outcomes are primarily shaped by voters' levels

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[72] Irish voters were presented with two referendums on the Treaties of Nice and Lisbon respectively. Henceforth, those on the Treaty of Nice will be referred to as 'Nice I' (2001), 'Nice II' (2002), and those on the Treaty of Lisbon will be referred to as 'Lisbon I' (2008) and 'Lisbon II' (2009). The full title of the Fiscal Compact is the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union.

of satisfaction (or, typically, dissatisfaction) with the incumbent administration, not by their attitudes to the specific issue(s) at stake (Franklin *et al*. 1994). At best, sceptics of citizens' propensity to rationally deliberate on substantive issues in a referendum may concede that they display rational ignorance: voters may not possess or acquire much knowledge about European integration, but they may competently employ their partisan attachments as voting cues (Hobolt, 2007).

The second-order approach to referendum voting clearly depicts the average citizen in a far less favourable light than the normative ideals of democratic theory would envisage. Rather than engage in a process of high-quality deliberation envisaged by Cohen (1997) and Dryzek (2002), voters apparently ignore substantive issues altogether in a referendum campaign. Rather than arrive at rational decisions that reflect their own issue preferences, they make a snap judgement (usually negative) about the government. From a normative perspective, this conception of voters provokes understandable concern, as it essentially undermines the legitimacy of referendum outcomes that have already been realised, as well as undermining the potential legitimacy of any yet to be held. With an empirical approach, however, we can scrutinise these disheartening claims. Some voters, of course, may well avoid issue deliberation and vindicate second-order concerns, but we must consider the extent to which, and under what conditions, citizens *do* act in accordance with their issue preferences.

The second-order approach to voting casts a blanket assessment on voting behaviour without respect to variation of at least four conditions. In the first instance, the national context matters: of the scholarly studies that have investigated second-order effects in European referendums, none have found them to be decisive in Irish referendums (see Garry *et al.* 2005; Garry, 2013; Garry, 2014). Second, issue-voting should be more widespread when the issues themselves are salient among voters. This would require that political actors engage in a high-intensity campaign that raises awareness about the issues at stake. In other words, the contest is treated like a first-order election (Olsen & Trenz, 2011). Third, and related, issue-voting can be expected to be more widespread when we look at voters' specific attitudes towards the relevant issues, not simply their underlying predispositions towards European integration (see Miller & Shanks, 1996). Finally, issue-voting may be more widespread when voters are emotionally receptive to political arguments. While emotional voting is often distinguished from rational voting, literature from political psychology points to a conditional relationship between the two: when voters are anxious, rather than angry, they are more likely to behave deliberatively (MacKuen *et al.* 2010). Conversely, when voters are angry, rather than anxious, they are more likely to rely on second-order factors. We will later provide empirical evidence supporting these expectations.
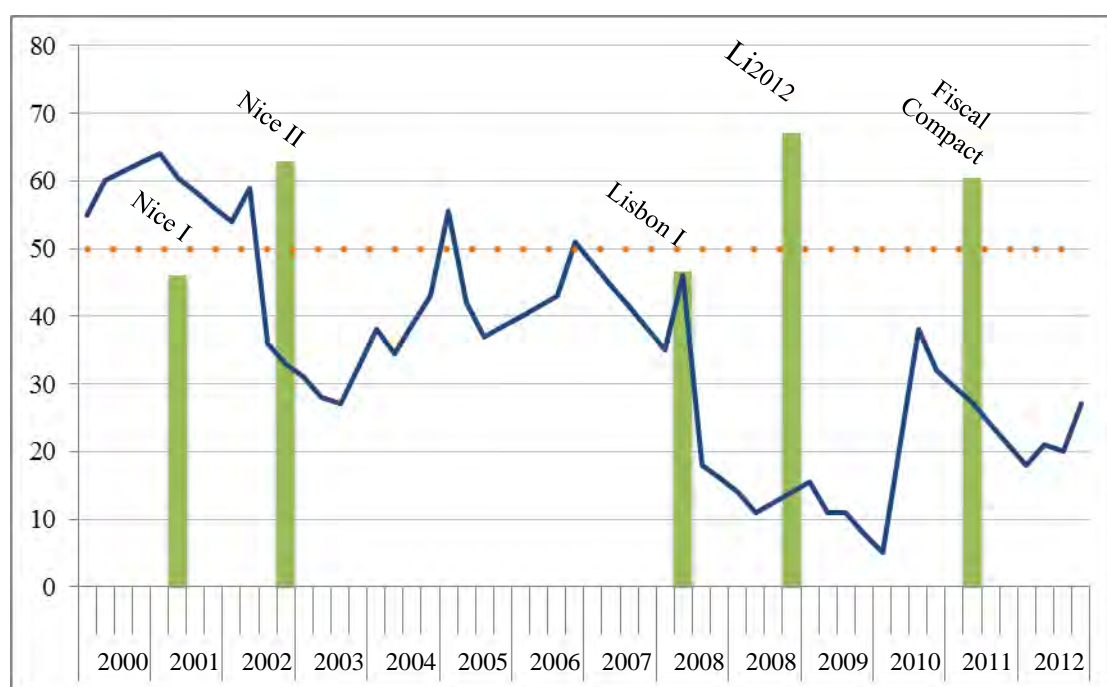
3. The Irish Context

Ireland contains a relatively unique institutional environment in that any referendum on an EU treaty is both *necessary* and *binding*. They are necessary in the sense that, as per Article 46 of the Irish Constitution, a simple majority in a national plebiscite must approve any proposed constitutional amendment before the President can sign it into law. When 83.1 percent of Irish voters endorsed their government's decision to join the European Economic Community in June 1972, it marked the first such referendum on any aspect of European integration. In the landmark *Crotty v. An Taoiseach* ruling in 1987 the Irish Supreme Court ruled that the incorporation of the Single European Act (SEA) into Irish law amounted to a change to the Constitution, and so required a ratification referendum. Consequently, every subsequent EU treaty has been put to Irish voters in a referendum: Maastricht (1992), Amsterdam (1998), Nice (2001 and 2002), Lisbon (2007 and 2008) and the Fiscal Compact

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(2012).[73] Furthermore, the outcomes are binding in the sense that they cannot be overturned by parliamentary statute; they can only be overturned by the people themselves in a subsequent referendum.

These twin institutional features of referendums in Ireland may dampen the potential prevalence of second-order effects. Since they are constitutionally necessary, Irish referendums on Europe can be distinguished from those held by a government's own choosing. In the latter case, voters may be more likely to use the vote as an opportunity to express a verdict (usually a protest) against the government. Since they are binding, voters may feel a greater sense of responsibility when casting their ballot in the former since more is at stake. For example, if the voter supports a treaty but dislikes the government, he or she may be less likely to use the referendum as a protest against the government because the government will be unable to simply ignore the outcome.

Figure 18 : Government satisfaction (%) and EU referendum "Yes" vote share (%), 2000-2012. Adapted from Sinnott & Elkink (2010: 11)

Setting aside the constitutional context, every referendum within a particular state, as with any election, is shaped by its own particular context. As Table 1 demonstrates, the fact that Irish voters have delivered conflicting outcomes on European referendums – *twice* on (essentially) the same treaty – is an apt illustration. Therefore, before evaluating the relative explanatory power of voters' issue attitudes against second-order effects, we must first be familiar with key contextual variables: the intensity of the campaign mounted by each side and the dominant issues of each referendum (on top of the issue of EU integration itself). These were themselves, of course, shaped by the broader economic and political context in Ireland.

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[73] In its 3-2 ruling, the Supreme Court established that any significant transfer of sovereignty to the EU-level must be put to a national referendum. It should be acknowledged, however, that scholars have been divided as to whether or not recent EU treaties have involved a sufficiently significant transfer of sovereignty to require a referendum (see, for example, FitzGibbon (2012: 4) on the Fiscal Compact). Thus, by adhering to precedent and avoiding the potential implications of losing a legal challenge, Irish governments may have held referendums on EU treaties out of *political*, if not constitutional, necessity.

The first referendum campaign on the Nice Treaty was widely recognised as lethargic, perhaps due to a sense of complacency from the government. In the previous four EU referendums, Irish voters had reliably voted "Yes". This was also the first referendum to be overseen by the independent Referendum Commission; the Irish government may have taken for granted that the new commission would do much of the explaining of the issues around the referendum (Gilland, 2003). The Referendum Commission, however, was a neutral arbiter in the campaign. While it distributed content-balanced information leaflets to every Irish household, it was no substitute for a traditional campaign relying on activist mobilisation and media attention. Indeed, the government itself failed to explain to voters the specific issues at stake or to outline a compelling vision of the future of the EU (Hayward, 2002). After all, that is precisely what the Treaty of Nice was about. In advance of the upcoming eastern enlargement of the EU, Nice proposed a series of institutional reforms designed to enhance the efficiency of decision-making to cope with the additional number of Member States. Having failed to make a prominent, positive case for enlargement, and why Nice was necessary to facilitate it, the government effectively allowed the "No" side to take the initiative.

Accordingly, the "No" side turned to two 'holy cows' of Irish politics: protecting Ireland's military neutrality and its conservative abortion laws. The "No" side successfully cast doubt on Ireland's ability to maintain its constitutional position of military neutrality in light of the development of the EU's Common Foreign and Security Policy (CFSP), and used the signing of the Charter of Fundamental Rights and Freedoms in Nice (which was not part of the Treaty), to suggest that Ireland would be forced to liberalise its abortion laws against its will (Gilland, 2002). In addition, it appropriated the enlargement issue and framed it in the negative: a small country like Ireland would "lose money, power and influence" in an expanded EU with increasingly centralised decision-making (Gilland, 2002: 529). It should be noted that by raising these issues, the "No" campaign was careful not to explicitly oppose European integration or indeed enlargement. Instead, it cast sufficient doubts on the particular version of integration proposed by Nice and, above all, benefited from a general lack of voter knowledge on the subject. In the final week of the low-intensity campaign, its slogan was 'If you don't know, vote No'.

The Nice II campaign was markedly different. Shocked by defeat, the "Yes" side mounted a rejuvenated operation to educate and mobilise voters. The new effort paid off. Whereas just 36 percent of respondents reported possessing at least some understanding of the issues relating to the Treaty of Nice at the time of the first referendum, the figure rose to 61 percent by the end of the second campaign (Garry *et al.* 2005: 207). Not only did the government lead a more energetic campaign to raise voters' awareness of the issues, but it also took steps to address the sensitive issue of military neutrality. At the Seville Summit of the European Council in June 2002, the Irish government successfully obtained a declaration that affirmed the compatibility between Ireland's traditional policy of military neutrality and the Treaty of Nice, should Irish voters accept it. The reversal of Ireland's initial rejection of Nice in 2002 may at least be somewhat attributable to the more energetic, higher-intensity campaign.

Whatever lessons had been learned by the Irish government in the wake of Nice, they appeared long forgotten by the first referendum on the Treaty of Lisbon. As with Nice I, the campaign was characterised by elite complacency, weak salience, and a lack of voter knowledge. Like Nice, the Treaty of Lisbon was designed to improve the efficiency of decision-making within the EU. Even more so than its predecessor, however, Lisbon was a more complex proposition to put before Irish voters. Widely criticised for its lack of clarity, Lisbon was vulnerable to a range of sweeping arguments from the "No" campaign to which the "Yes"

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side found difficult to respond positively or without resorting to nuance. Thus, familiar warnings resurfaced that the Treaty would undermine Ireland's military neutrality and abortion laws, along with some new lines of attack. There were concerns, for example, that workers' rights would suffer, that Ireland's competitive rate of corporation tax would have to rise, that Ireland would lose influence in the EU by the loss of its commissioner. Pro-Lisbon campaigners simply struggled to allay these concerns. A telling post-referendum poll found that 68 percent of respondents thought that "No" was the more convincing of the two campaigns, including 57 percent of "Yes" voters (O'Brennan, 2009: 11).

Yet again, by rejecting an EU treaty for the second time, Irish voters triggered an abrupt halt to the integration project. As in the post-mortem of Nice I, the Irish government realised that it needed to fight a second referendum with much greater conviction and intensity. Two further factors helped produce a different result in Lisbon II. First, the Irish government used its relatively strong bargaining position to help change the issue narrative. Just as the Seville Declaration helped to address concerns over the potential undermining of Ireland's military neutrality, the Irish government negotiated specific clarifications that the Lisbon Treaty would have no effect on military neutrality, abortion statutes, the rate of corporation tax, or workers' rights. EU leaders agreed that these guarantees would be appended as protocols in the next accession treaty. In addition, the Irish government successfully negotiated the retention of its commissioner in Brussels. With a marginally revised proposition to put before the Irish people in the second referendum, the Irish government was able to neutralise some of the troublesome, and very specific, issues raised in Lisbon I.

Perhaps more significantly, Lisbon II took place against a radically different economic backdrop. After voting on the Treaty in June 2008, by September it was confirmed that the years of the Celtic Tiger were over: Ireland was in recession. The announcement brought about an emergency budget and the onset of widespread public spending cuts. As a small country and a member of the Eurozone, Irish citizens suddenly felt more vulnerable in a more challenging global economy. In Lisbon II, therefore, pro-Treaty campaigners emphasised the risk that a second "No" result would entail. Instead, during these turbulent economic times, proponents of Lisbon argued that it was essential for Ireland to strengthen its ties as a member of a larger economic union, rather than distance itself from its European neighbours. Choosing to avoid the uncertainty of a second "No" vote, and in spite of government popularity plummeting in the wake of Lisbon I, Irish voters ultimately endorsed the 'safe' option.

In many ways, Lisbon II set the stage for the referendum on the Fiscal Compact three years later, at which time there was an even more salient macroeconomic backdrop. In contrast to the Lisbon Treaty, however, the Fiscal Compact was a relatively short document that focused on a single issue: financial and economic governance in the EU (FitzGibbon, 2013). Its proponents called it the 'Stability Treaty'; its detractors branded it the 'Austerity Treaty'. In more normal economic circumstances, it is possible that traditionally pro-integrationist actors from the centre-left would have broken ranks to oppose the Fiscal Compact on grounds that it necessitated severe public spending restraint. However, despite the unpopularity of austerity and the incumbent government, it was difficult for opponents of the Fiscal Compact to present the status quo as a convincing alternative. As FitzGibbon (2013: 11) puts it, "voters were both unsure of the costs of rejecting the Treaty and were also deeply unsatisfied with the status quo." One cannot underestimate the climate of fear and uncertainty that surrounded the Fiscal Compact campaign.

It should be noted that at the time of each of the referendums, the main parties of government and opposition *both* campaigned for a "Yes" outcome. Thus, when the largest

governing party, Fianna Fáil, signed the Treaties of Nice and Lisbon, it was supported by the main opposition parties, Fine Gael and the Labour Party. The general consensus among the main parties on the issue of European integration is perhaps best summarised by Labour's campaign slogan ahead of Nice II: 'Hold Your Fire. Fianna Fáil Can Wait. Europe Can't'. In a not-so-subtle fashion, as an *opposition* party it sought to downplay any potential second-order effects by reminding voters of the substantive proposition of the referendum. Similarly, after electoral defeat in 2011, it decided to support the governing Fine Gael-Labour coalition's efforts to ratify the Fiscal Compact. The "Yes" in each campaign has typically enjoyed a broad range of support from business, the Catholic Church, and trade unions, notably the influential Irish Congress of Trades Unions (ICTU). In the Fiscal Compact referendum, however, the ICTU maintained a neutral position. The largest political party to consistently support a "No" vote in each referendum was Sinn Féin, joined by a handful of smaller parties on the left.

4. Evaluating the Evidence

A central claim of the second-order hypothesis is that a referendum outcome is largely a function of the popularity of domestic political parties, especially of the government. If this were the case, we would expect voters to be more likely to defer to its recommendation in a referendum when voters are satisfied with its performance. Conversely, when the incumbent administration is unpopular, we would expect voters to take the opportunity to protest against it and vote against the proposition. Even a cursory glance at Figure 1, however, is enough to cast doubt on this interpretation. At the time of the first vote on Nice, a healthy majority of citizens (approximately 60 percent) were satisfied with the government, but yet voters still rejected its recommendation in the referendum. By Nice II, the government's popularity had declined sharply to the extent that well under half of Irish citizens were satisfied with its performance. Still, despite far fewer people being satisfied with their government, voters now overwhelmingly endorsed its recommendation to approve the Nice Treaty. A similar pattern unfolded more over Lisbon: when public satisfaction with the government was comparatively healthy, voters rejected the Treaty. Despite satisfaction levels plummeting to near-record lows in the months thereafter, voters went on to reverse their initial decision by endorsing Lisbon in 2009.

Table 1: Results of European referendums in Ireland, 2001-2012.

Referendum	Outcome	"Yes" (%)	No (%)	Turnout (%)
Nice I (2001)	No	46.1	53.9	34.8
Nice II (2002)	Yes	62.9	37.1	49.5
Lisbon I (2008)	No	46.6	53.4	53.1
Lisbon II (2009)	Yes	67.1	32.9	59.0
Fiscal Compact (2012)	Yes	60.3	39.6	50.5

Source: Department of Public Expenditure and Reform (2016)

However, we must consider a serious weakness of interpreting referendum results in the context of government satisfaction levels at the aggregate-level. When conducting surveys on government satisfaction, polling companies seek a representative sample of the whole adult population. This is different from the *voting* population. If we were to account for voter turnout in each referendum, the share of the "Yes" vote relative to the total number of eligible

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voters falls would be considerably lower to the share of the "Yes" vote among actual voters. In the first Nice referendum, for example, the low turnout of 35 percent meant that the rejection of the Treaty by a mere 19 percent of the eligible voting population was sufficient to produce a "No" result. Figure 1, therefore, provides insufficient evidence to rule out the possibility that the minority of the adult population who were not satisfied with the government (either through dissatisfaction or indifference) disproportionately took the opportunity afforded by the Nice referendum to protest against the incumbent administration. To assess the relative influence of second-order effects on referendum outcomes, we now shift our attention to the *individual*-level.

4.1.   Issue-Voting over Second-Order Effects

Using post-referendum survey data, we examine models of voting behaviour from the Nice and Lisbon referendums, adapted from Garry *et al.* (2005) and Garry (2013). These models seek to explain why some people voted in favour of a given EU treaty and why others opposed it. After controlling for demographic factors such as age, sex and social class, we are left with two rival sets of variables that may explain why an individual chooses to vote "Yes" over "No" in a referendum. The first set captures second-order effects, including individuals' party preferences and their level of satisfaction with the government. The second set of variables captures issue-voting effects, specifically respondents' underlying attitudes towards European integration.

Binary logistic regressions show that both second-order effects and issue-voting effects are significantly associated with individuals' voting behaviour, and in the expected directions.[74] Supporting an opposition party rather than a governing party is associated with significantly lower probability of voting "Yes" in each of the referendums, as is dissatisfaction with the government. In contrast, when it comes to an individual's general attitudes towards the integration process, those expressing positive views are significantly more likely to vote "Yes" compared to those with anti-integration attitudes. However, we are not merely interested in whether or not second-order effects or issue-voting effects can explain voting behaviour at the individual-level; rather, we are interested in the *extent* to which they do. To evaluate the relative strength of the two explanations of voting, we examine the statistical performance of the rival models.

A baseline model is constructed that includes only demographic factors to explain voting behaviour. A second model adds second-order effects to the regression equation, and a third model adds issue-voting effects to the demographic and second-order effects variables. Taking the demographics-only model as a baseline, Garry *et al.* (2005) find that the issue-effects model consistently offers a higher degree of model improvement than the second-order model in each of the Nice and Lisbon referendums.[75] In Table 2 we see that the largest difference in model fit in Lisbon II. Adding second-order effects to a regression equation with only demographic predictor variables improves the model fit of voting behaviour by 7 percent; adding issue effects to the equation improves model fit by four times this amount. Based on these results we can infer that citizens' attitudes towards EU-related issues are

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[74] These are statistical analyses that assess the impact of a range of predictive (explanatory) factors on an outcome (how people vote). Logistic regressions are used instead of linear regressions due to the binary nature of the outcome variable (Yes/No).

[75] In Table 2 we can only make direct comparisons between the two models for each referendum, as opposed to all four models, for two reasons. First, post-referendum surveys for Nice and Lisbon included slightly different questions, so the precise issue-voting and second-order effects variables differ slightly. Second, a different measure of model improvement is used in each set of referendums: for Nice, Garry *et al.* (2005) use differences in log likelihood to estimate model fit improvement; for Lisbon, Garry (2012) uses differences Bayesian Information Criterion (BIC).

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stronger predictors of referendum voting behaviour than second-order effects (partisanship and satisfaction with the government).

Table 2: Improvement in model fit (%) by adding second-order effect variables and issue effect variables to a demographic model of voting behaviour

	Nice I	Nice II	Lisbon I	Lisbon II
Second-Order Effects	6.0	5.6	10.4	7.4
Second-Order + Issue Effects	16.3	26.2	18.8	28.1

Source: Adapted from Garry et al. (2005) and Garry (2013). See Footnote 7.

4.2. When Issue-Voting Matters More

The results presented in Table 2 provide evidence for the relative strength of an issue-based interpretation of vote choice against a second-order explanation, but they also suggest that issues are stronger predictors of vote choice in the *second* (more salient) referendums on the Treaties of Nice and Lisbon that, of course, yielded different outcomes. But there is a puzzle. In Nice I, respondents with pro-integration attitudes were 33 percent more likely to vote "Yes" than respondents with anti-integration attitudes. By the second referendum, they were only 26 percent more likely to do so. In other words, even when the outcome shifted decisively from "No" to "Yes", there was actually a *reduction* in the likelihood of voting "Yes" among those who held positive views about the general issue of European integration.

To help explain this disparity and the study of outcome change, it is helpful to refine the conceptual distinction between second-order and issue-voting effects by disaggregating the latter. In a study of outcome change between the two Lisbon referendums, Garry (2013: 95; original emphasis) distinguishes between "citizens' *underlying attitudes to the integration process*" and their "*perceptions of the specific implications of the treaty* being voted upon." People's underlying predispositions, such as euroscepticism or euro-enthusiasm, can be understood as long-term attitudes that are resistant to change, whereas people's short-term attitudes towards specific matters about individual policies or treaties may be more receptive to change, particularly if the issues themselves (military neutrality, abortion etc.) are hotly contested – as was certainly the case with the Treaty of Lisbon.

We recall from Table 2 that the inclusion of issue effects resulted in an improved voting model performance. That was, taking into account respondents' *general* underlying attitudes towards the EU in Lisbon II resulted in a 28 percent improvement in model fit compared to a model with only baseline demographic variables. What would happen if the model supplemented respondents' underlying attitudes with variables capturing their *specific* attitudes to the Treaty of Lisbon itself? Garry (2013) ran this model to find a larger (36 percent) improvement in fit, a larger improvement than in Lisbon I (30 percent). Therefore, voters' perceptions about the specific implications of the Treaty of Lisbon were, relative to their underlying predispositions, significant predictors of vote choice in both Lisbon referendums – especially the second.

Table 3: Distribution (%) of attitudes to the EU and perceptions of the implications of the Lisbon Treaty at Lisbon I and Lisbon II

	Lisbon I	Lisbon II	Change
Second-order factors			
Support for pro-Treaty party	66.1	68.1	+2.0
Satisfied with the government	44.1	18.4	-25.7
Underlying values			
Unite fully with the EU	62.4	65.1	+2.7
Irish only identity	35.7	34.8	-0.9
Benefited from EU membership	92.0	88.5	-3.5
Perceptions of Treaty implications			
Loss of EU Commissioner	79.1	23.3	-55.8
Compromised neutrality	51.8	30.1	-21.7
Reduced Ireland's influence in EU	54.3	39.0	-15.3
Caused more unemployment	33.1	18.8	-14.3
Simplified decision-making	62.0	75.7	13.7
Strengthened protection of workers' rights	45.4	55.0	9.6
Made abortion more likely	37.6	32.6	-5.0
Led to change in tax	56.8	52.0	-4.8

Source: Adapted from Garry (2013)

Table 3 illustrates why this finding is important. At both time points, as expected, there was considerable stability in voters' underlying values. The percentage of those wishing for Ireland to fully unite with the EU, those with an exclusively Irish identity, and those evaluating Ireland's membership of the EU as beneficial, only changed by up to 3.5 percentage points. In stark contrast, respondents' specific perceptions of Treaty implications were much more dramatic. Between Lisbon I and Lisbon II, 56 percent fewer respondents associated the Treaty with the (negative) consequence of Ireland losing its Commissioner. Meanwhile, 20 percent fewer thought that it would compromise Ireland's military neutrality, and only 19 percent thought that Lisbon would result in higher unemployment levels. At the same time,

there was a significant reduction in the percentage of respondents who were satisfied with the government between Lisbon I and Lisbon II. Thus, not only did issue-voting outweigh the importance of second-order effects in both referendums, but it was voters' attitudes towards the *specific* issues associated with the Treaty of Lisbon that significantly predicted vote choice. It was the changes in people's perceptions about the Treaty's implications, not a change in their underlying attitudes towards the EU, which helped ensure a different result in Lisbon II.

Despite the relative prevalence of issue-voting in European referendums, second-order effects are still present to some extent. So, when do they matter most? Emotions provide a, perhaps counterintuitive, answer. There is often an assumption that voters *either* rely on their own (irrational) emotions or the weight of (rational) arguments when deciding their vote choice. Increasingly, however, political psychologists acknowledge a conditional relationship between different negative emotions, specifically anxiety and anger, and rational information processing. These two negative emotions have distinct effects. MacKuen *et al.* (2010) provide empirical evidence that anxious individuals are more likely to engage in deliberation, whereas angry individuals are more likely to rely on habitual partisanship to guide behaviour. Anger is a moral emotion associated with a desire to blame and punish, and a higher tolerance of risk (Petersen, 2010). An angry voter, therefore, may be more likely to treat a referendum as a second-order contest. Anxiety or fear, in contrast, is associated with risk-aversion and a desire to seek out information. An anxious voter may be more likely to vote in line with their issue attitudes.

In the 2012 referendum on the Fiscal Compact, a close observer interpreted the campaign and result precisely in terms of fear and anger:

> The great struggle was between fear and anger – and fear won. Anger is about the past and the present, about what has happened to people's lives, about cuts and unemployment and emigration ... Fear is about the future – about what might happen to the euro, to the world, to Ireland, to the economy. So you had that tension between anger and the past and present, and the referendum, which is about the future and whether Ireland will have access to funds and that's a vision for the future that motivated fear (*Irish Times*, 2 June 2012).

Garry (2014) provides empirical evidence supporting this interpretation. In line with their risk-aversion, fearful voters were more likely to support the Fiscal Compact than angry voters. Of those who felt angry during the referendum campaign, "a strong and highly statistically significant relationship emerges between dissatisfaction with the government and voting No" (Garry, 2014: 246-7). Among these voters, there was also a statistically significant relationship between supporting Sinn Féin, the largest party opposed to the Fiscal Compact, and voting No. In contrast, there is no relationship at all between government satisfaction, partisanship and vote choice among anxious voters, but among them the magnitude of issue voting is much higher. This empirical finding of the moderating effect of emotions on vote choice has an important implication: campaigners who are confident that reasonable voters would support their arguments about substantive issues may be incentivised to induce fear. Conversely, other campaigners may seek to offset deliberation by deploying anger-inducing rhetoric that taps into voters' discontent with the government or status quo. In the Irish referendum on the Fiscal Compact, anxious voters outnumbered angry voters, which reduced the potential for second-order effects to influence the outcome.

Empirical evidence on voting behaviour in EU referendums in Ireland generates two main conclusions. First, issue-voting provides a stronger explanation of individuals' vote choice

compared to the second-order approach. In each of the five most recent referendums – including those with a "No" outcome – the explanatory power of voters' partisan attachments and levels of dissatisfaction with the incumbent government was weaker than that of voters' attitudes on substantive issues pertaining to the given referendum. Second, the relative strength of the two rival explanations of voting behaviour is conditional. Issues play a stronger explanatory role of individuals' vote choice when they relate to citizens' perceptions of the implications of the specific treaty under consideration, as opposed to their general attitudes towards European integration. This finding carries the implication that voters are capable of developing their own attitudes towards the specific proposition of a referendum and using those attitudes to guide their vote choice. Meanwhile, the extent to which second-order effects may explain voting behaviour is moderated by (negative) emotional conditions: while the vote choice of anxious voters bears no statistical relationship with partisanship or their level of satisfaction with the government, the vote choice of angry voters is significantly associated with second-order variables.

At the present juncture, these findings from the Irish case carry a number of pertinent implications regarding European referendums and their preceding campaigns.

- *(Specific) issues matter.* It is insufficient for a government to rely purely on people's *general* attitudes towards the EU. If it fails to mount an energetic campaign or fails to make specific arguments to positively shape citizens' perceptions about the referendum subject, it risks handing its opponents the initiative and, potentially, victory.
- *'Emotions versus rationality' is a false dichotomy*. The injection of an element of fear into a referendum campaign, or 'scaremongering', is not necessarily a negative development in itself because it can be associated with the positive consequence of prompting citizens' use of reason. The actors who will benefit most from this fear will almost certainly be those who can convincingly present their side as the 'safe' option and their opponents' position as the 'risky' option. However, this strategy will only work if voters are sufficiently fearful and sufficiently convinced of the risk.

A second referendum may require certain conditions. The Irish case demonstrates that it is possible to hold two referendums on the same (European) subject and obtain different results. However, the Irish case also demonstrates that such a strategy is only plausible if the context of the referendum subject becomes discernibly different. If the political and/or economic context remains broadly constant, there is little reason to expect voters to deliver a different outcome to the same essential question.

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E. HUNGARY

The Hungarian Migrant Quota Referendum of 2016 in the Context
Hungarian Direct Democracy
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1. Introduction

Hungary's political system is grounded on the idea of representative democracy. The country has a long tradition of parliamentarianism. As it is the case with many other Central- and Eastern-European countries, direct democratic instruments were introduced into the country's political repertoire during the transition from state-socialism to democracy during the "Third wave" of democratisation (Huntington 1993, 16). It was the party state's parliament which, seeking to enhance the decaying communist system's legitimacy, introduced a bill on referendums and popular initiatives in June 1989, even before the constitutional amendments introducing democracy were enacted in October 1989 and the first free elections were held in March/April 1990 (Pállinger 2012, 113).

Direct democracy, however, is quite alien to Hungarian political traditions and practices. Since their introduction direct democratic instruments caused a problem regarding their adjustment to the predominant representative democracy. The original act on referendum and popular initiative (Act XVII/1989) was not entirely in line with the new democratic institutional setting, and the 50 % participation threshold questioned its practicability. The integration of direct democratic elements into the representative system made numerous clarifications necessary. Therefore, the CC grew into the position of a major actor in shaping Hungarian direct democracy. It helped to clarify procedural ambiguities and its fundamental decisions became guiding principles for the parliamentary law-making.

In 1997 the parliament amended the constitution and the act on referendum and popular initiative, thereby lowering the approval threshold to 25 % and clarifying some procedural questions. In April 2011, the parliament adopted a new constitution (FL), which restored the 50 % participation threshold, abolished the agenda initiative and the parliament's competence to initiate a nationwide referendum. Finally, the parliament enacted a new act on referendum and popular initiative (Act CCXXXVIII/2013), which implemented the new basic law's provisions and brought further procedural clarification.

Since 1989 seven national ballots have been held in Hungary, in which thirteen questions have been decided. The first group of referendums in 1989/90, which were triggered by popular initiatives, were transition-related: In November 1989 (even before the first democratic elections had taken place) four questions[76] seeking to dismantle the state party's instruments of power were decided. In 1990 the former state party tried to introduce the direct (popular) election of the President, but due to low participation the referendum was not valid. With this two ballots the immediate phase of transition was concluded.

The second group of referendums 1997 (NATO-accession) and 2003 (EU-accession) were related to the process of European integration. The referendum on NATO-accession in 1997 was initiated by the parliament (Decision 86/1997 of the Parliament). The referendum on EU

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[76] The opposition parties wanted to 1) to end the state party's presence at workplaces, 2) to dissolve the "Worker's Guard," 3) to postpone the presidential elections after the general elections, and 4) the state party to render an account on its belongings.

accession in 2003, was prescribed by the constitution (Act 1949/XX section 79). Considering the traditionally low level of political participation in Hungary (Tardos 2009), the parliament even changed the "rules of the game" for the 1997 referendum by lowering the participation threshold (Act 1997/XCVIII) in order to guarantee the positive outcome (Dieringer 2009). The parliament also changed the constitution in 2002 (Act 2002/LXI) in order to make a popular vote on EU-accession possible (Arató 2004). In both cases the political elite could be sure of the popular support. These foreign-policy related referendums were rather symbolic and they served the purpose of legitimising Hungary's western integration.

In 2004 two initiatives were put on the ballot: the first aimed at ending the privatisation in health care, the second wanted to grant, under certain conditions, Hungarian citizenship to ethnic Hungarians living abroad. The two questions, were not able to mobilise the citizens and both referendums failed because of the participation threshold.

After 2006 Hungary was in a grave political crisis. The MSZP was able to win the elections of 2002 and 2006. Having made promises during the 2006 election campaign, which were impossible to keep, the Government had to cut down spending, because of the country's bad financial situation. The reform measures that were announced from June 2006 onwards rapidly eroded the Government's popularity. During the campaign for the regional elections in autumn a non-public speech of Prime Minister Ferenc Gyurcsány delivered in May to the members of the MSZP's Parliamentary group, was leaked to the media and became publicly known in September 2006. The Prime Minister admitted that in order to win the elections his Government had lied to the public about the state of the country during the last one and a half years (Szoboszlai 2009). The reaction was immediate and strong. The Opposition organised mass protests and asked for the resignation of the Government, but due to its solid parliamentary majority, the Government did not step down. Recognizing the futility of its endeavours, the opposition nevertheless sought to retain the momentum. In this situation, the idea to overthrow the Government by referendum came up. Fidesz and KDNP proposed several carefully chosen referendum questions, which covered a wide range of interest groups that were affected by the Government's austerity measures. Finally, after a lengthy legal quarrel, three questions[77] were submitted to a referendum, which took place on 9 March 2008. It was thus no wonder that the opposition could celebrate a triumph at the ballot box. All three fees were abolished immediately after the referendum. But there were also indirect consequences: The governing coalition fell apart, and the MSZP had to form a minority Government. The referendum also helped the opposition to retain momentum until the next general elections in 2010, in which they gained a landslide victory.

Between 2008 and 2016 no referendum was held. From 2010 on the governing parties had a two-thirds majority in Parliament, which allowed them to enact a new constitution and profoundly alter the political system. The opposition was not able to halt the governing parties. In such a situation, initiatives could have been an instrument to influence the Government's policy, but – as mentioned above – no successful initiative was launched.[78]

Finally, Hungarian citizens were asked in a government-initiated referendum on 2 October 2016 to give their opinion on whether to accept mandatory EU quotas for relocating migrants.

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[77] Following questions were put on the ballot: 1) abolition of fees for in-patient treatments, 2) abolition of tuition fees for higher public education and 3) abolition of fees for convalescent treatments.

[78] However, between 2012 and 5 June 2016 328 question have been submitted for validation to the NEC. 79 % of these questions were proposed by private persons, 16 % by parties and 5 % by other organisations. Only 15 were validated, 313 were rejected. Most of the questions were rejected on grounds of ambiguity (62 %), formal errors (48 %), bona fides/proper use (16 %) and competence of the parliament (12 %) (Farkas 2016, 111).

Although an overwhelming majority of voters was in favour of the Government's proposal, the referendum was invalid due to low voter turnout.

This paper will focus on the latest referendum of October 2016. After a short presentation of the conceptual basis of Hungarian direct democracy, the referendum will be examined in more detail: Starting with the background, the campaign, the vote and the consequences of the referendum will be discussed. Finally, the conclusions will be presented.

2. Conceptual Basis

2.1.   The Hungarian Conception of Direct Democracy

The Hungarian FL stipulates the principle of popular sovereignty (Art. B, Sect. 2 FL), which "shall be exercised by the people through elected representatives or, in exceptional cases, directly" (Art. B, Sect. 2 FL). This represents a slight shift in comparison with the old constitutional provision, in which representative and direct democracy were on equal footing: "supreme power is vested in the people, who exercise their sovereign rights directly and through elected representatives" (Act 1949/XX, Sect. 2). The new wording makes it clear that the use of direct democracy should be restricted to exceptional cases, whereas the representative mode of exercising the power should represent the normal case. In accordance with this principle the National Assembly (Parliament) is the supreme organ of popular representation (Art. 1, Sect. 1) and possesses the legislative monopoly and budgetary sovereignty (Art. 1, Sect. 2, Lit. a-c FL). These principles are echoed in the new the referendum and popular initiative act (Act 2013/CCXXXVIII). Direct citizen involvement is only an exceptional possibility. However, if a citizens' initiative leads to a successful referendum, the direct exercise of power supersedes the representative. In this case, the Parliament falls — according the Constitutional Court — into a purely executive role and has to execute the "popular will" by legislating corresponding measures (Ruling III/1998 of the CC). This conception has two problematic aspects: Firstly, there seems to be a contradiction between the principles of the Parliament's legislative monopoly and the binding character of a successful referendum. This tension is somewhat relaxed in practical terms: Popular votes can only decide factual questions, whereas it is the Parliament's duty — as it has the monopoly to do so — to enact the corresponding bills. It's a political obligation — which was always met to date — but can't be enforced legally (through a ruling of the CC for example). Secondly, the process of popular law-making (popular initiative) and the process of parliamentary (representative) law-making are completely separated. The whole procedure — in case of a successful referendum — "is under the influence of the interested citizens" (Ruling III/1998 of the CC).

2.2.   Instruments

As Article 8, Section 2 FL states: "National referendums may be held about any matter falling within the functions and powers of the National Assembly." The constitution provides for three types of referendums (Art. 8, Sect.). The first is a full scale popular initiative which leads to a referendum. The second is a kind of an agenda initiative, by which the Parliament can decide, whether a referendum should be held or not. The third one is plebiscite, which can be initiated either by the Government or the president. The constitutional changes of 2011 did not basically alter the instruments of direct democracy. The three above mentioned

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kinds of referendum typologically unchanged. However, the old "proper" agenda initiative, which existed in the old constitutional setting, was abolished.[79]

Full-scale popular initiative (Art. 8, Sect. 1, Lit. 1 FL): 200,000 eligible voters can initiate a so-called "national referendum" (országos népszavazás). This kind of referendum aims at deciding a political question or expressing an opinion. The result of a successfully held national referendum is binding for the Parliament (Art. 8, Sect. 4 FL). Contrary to the international usage (which would be "optional referendum") this instrument is called in Hungarian legal terminology "compulsory referendum." It is compulsory, because a sufficient number of signatures have been collected so that the Parliament has to schedule a referendum (cf. Komáromi 2015, 80).

Popular agenda initiative with a possible referendum (Art. 8, Sect. 1, Lit. 1 FL): Based on its own consideration, the Parliament can schedule a "national referendum" upon the initiative by 100,000 eligible voters. This kind of referendum aims at deciding a political question or expressing an opinion. If the referendum is successful the result is binding for the Parliament (Art. 8, Sect. 4 FL).[80] Hungarian legal terminology doesn't differentiate between popular agenda initiative with a possible referendum and the plebiscite, both are called "facultative referendum." They are facultative, because it is the Parliament's own discretionary decision to call for such a referendum.

Plebisicite (Art. 8, Sect. 1, Lit. 1): Based on its own consideration, the Parliament can schedule a "national referendum" (országos népszavazás) upon the initiative of the president or the Government. This kind of referendum aims at deciding a political question or expressing an opinion. If the referendum is successful the result is binding for the Parliament (Art. 8, Sect. 4 FL).[81]

On the first sight, the subject matter of the initiatives ("any matter falling within the functions and powers of the National Assembly") seems to be quite comprehensive. However, the FL constricts in a next step the scope of possible subjects, by stating that national referendums may not be held on following subjects (Art. 8, Sect. 3 FL):
  a) "any matter aimed at the amendment of the Fundamental Law;
  b) the contents of the Acts on the central budget, the implementation of the central budget, intcentral taxes, duties, contributions, customs duties or the central conditions for local taxes;
  c) the contents of the Acts on the elections of Members of the National Assembly, local government representatives and mayors, or Members of the European Parliament;
  d) any obligation arising from international treaties;
  e) personal matters and matters concerning the establishment of organisations within the competence of the National Assembly;
  f) the dissolution of the National Assembly;
  g) the dissolution of a representative body;

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[79] According Section 28/D of the old constitution 50,000 eligible voters were able to ask the Parliament to place a subject under its jurisdiction on the agenda. The Parliament was obliged to debate the subject defined by the this kind of initiative. The main goal of this instrument was the involvement of citizens in the representative decision-making process. However, the agenda initiative did not affect the Parliaments' freedom of decision. It was purely consultative. In Hungarian legal terminology called this agenda initiative "national popular initiative" (cf. Komáromi 2015, 80).
[80] In the old constitutional setting the Parliament had to decide in advance – before scheduling the referendum – if the results of a successfully held national referendum were regarded as binding or only as consultative (Act 1949/XX, section 28/C [4]).
[81] Under the old constitutional regulations also one-third of the members of parliament were entitled to initiate a plebiscite (Act 1949/CC, Sect. 28/C [4]). This provision was deleted, because it was contrary to the system of (majoritarian) parliamentary system of government.

h) the declaration of a state of war, state of national crisis or state of emergency, furthermore on the declaration or extension of a state of preventive defence;

i) any matter related to participation in military operations;

j) the granting of general pardons."

The FL and act on referendum and popular initiative have to some extent contributed to the clarification of some open questions. It is clear, that a referendum can be held only on a subject that falls in the competence of the Parliament. However, the delineation of this provision is unclear, especially when the Parliament delegates some of its competences to the Government. The latest jurisprudence seems to interpret this provision very restrictively, meaning that delegated questions are not open for referendum anymore (Komáromi 2014, 5). The ban on constitutional initiatives has been made explicit and absolute. This question was not regulated in the old constitution. The CC, ruled that the constitution could not be changed by popular initiative, however, it was possible that the Parliament itself could decide to put single constitutional changes or even a whole new constitution to confirmatory popular vote (Ruling XXV/1998 (VII. 7.) of the CC). Finally, there is also a slight semantic difference regarding the formulation of the ban of referendums on international treaties. The FL says "any obligation arising from international treaties," whereas the old constitution was more comprehensive by saying "obligations set forth in valid international treaties and on contents of laws prescribing such obligations" (Act 1949/XX, Sect. 28/C, Lit. c). Supposedly, both formulations are intended to mean the same thing. However, the new formulation could be interpreted to exempt also international treaties, which are not valid yet, or it might prevent confirmatory referendums on international treaties, which the Parliament already has adopted (cf. Komáromi 2014, 6). Furthermore, electoral acts are also excluded, and also validity requirements have become more restrictive. Now, there is a 50 % + 1 participation threshold, whereas between 1997 and 2012 there was a 25 % approval quorum. The new provisions represent a return to the original rules, which were in force between 1989 and 1997 (Komáromi 2014, 6).

2.3.   Procedures

In this section, we only deal with the government-initiated referendums, the popular initiatives are omitted, because they are of no interest in the present context. The current system of direct democracy evolved through an interplay of legislative acts and rulings of the CC. A first major step were the constitutional changes of 1997 (Act 1997/XCVIII) and the ensuing act on referendum and popular initiative (Act 1998/III). The present act on referendum and popular initiative (Act 2013/CCXXXVIII), which was enacted after the FL, made a major attempt to unify the material regulation for all direct democratic instruments into one single act (European citizens' initiative, nationwide and local referendum), however, some procedural regulations stayed in the act on electoral procedure (Act XXXVI/2013).

An important point that had to be clarified was the treatment of concurring initiatives, by stating that in case of initiatives dealing with the same subject, the priority is given to the one which was submitted first, the processes has been made unambiguous, avoiding contradicting legislative demands on the Parliament (Act XXXVI/2013, Para. 38 [1] and [3]). Seeming logical in theory these provisions became very problematical in practice.and had to be amended later in 2016 (Act 2016/XLVIII).

The system of legal remedy has also been reformed. Appeals against decisions of the NEC regarding the validation of initiatives have to be addressed to the Kúria (=Supreme Court) instead of the CC (Act XXXVI/2013, Para. 29) and the Kúria has to decide the question within

90 days,[82] whereas the CC was not bound by any time restrictions in this field. It is also new that the Kúria may alter the NEC's decision in its stead. Before the only possibility was to order the NEC to re-decide the question, which in the past could lead to continuous iterations (Act XXXVI/2013, Para. 29). There is still a possibility of appeal to the CC against the Parliament's decision to order a referendum. The CC will only conduct an inquiry if circumstances have changed fundamentally between the validation of the initiative and the ordering of the referendum by the Parliament (Komáromi 2014, 9)

The Government or the president have to submit the question of the referendum to the NEC for validation. The NEC denies validation if the question does not meet the legal requirements (Act XXXVI/2013, Para. 10 [1]). This means, that the question has to be answerable without ambiguity and has to belong into the competence of the Parliament. Furthermore, the question has to comply with the abovementioned constitutional exemption clauses and with other formal prescriptions. Appeal against the NEC's decision and any other of its decisions during the referendum process can be filed with the Kúria. If the question is validated (that means that no appeal has been filed, or the appeal has been rejected) the NEC has to inform the Speaker of the House within five days (Act XXXVI/2013, Para. 14 [4]).

Then the Parliament must take a formal decision on conducting the ballot and providing the necessary funds.[83] The president and the Government are allowed to withdraw their proposal "until the day when the holding of the referendum is ordered" (Act XXXVI/2013, Para. 26). The Parliament's decision is published in the official bulletin and the President is informed by the Speaker of the House (Act XXXVI/2013, Para. 27 [2]). Following this, the President has 15 days to call for the national ballot within a period between 70 and 90 days. The referendum is valid if more than 50 % of the voters have participated and more than half of them are in favour of the proposition (Art. 8, Para. 4 FL). The results of the referendum are binding for the Parliament. Finally, the provisions of the referendum have to be enacted by the Parliament within 180 days (Act XXXVI/2013, Para. 31 [1]), which means that the Parliament has to pass a bill which implements the content of the popular decision also formally. Furthermore, the outcome of the referendum is binding for the Parliament for three years, meaning that there is a ban on legislating on the same matter (Act XXXVI/2013, Para. 31 [2]).

3. The Migrant Quota Referendum of 2016

3.1.   Background

The numbers of refugees and migrants to Europe began rising since 2010 and culminated in the migrant crisis of 2015. The number of asylum seekers in the EU rose from approx. 431,000 in 2013, to approx. 627'0000 in 2014 and close to 1.3 million in 2015 (Eurostat 12.10.2016). Being situated at the Balkan route Hungary was one of the most severely affected countries of this crisis (Eurostat 4.3.2016). Despite all efforts, the EU and the European states were not very successful in controlling and limiting the stream of refugees and migrants. On 27 May the European Commission adopted some measures of its European Agenda on Migration, including the relocation of 40'000 of Syrian and Eritrean nationals in need of international protection from Italy and Greece according an emergency relocation scheme (European Commission 27.5.2015). On 9 September, the European Commission put

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[82] There is an exception to the 90-days-rule: Review requests against the resolutions of the NEC to reject the initiative in some special cases ("offences") have to be decided within thirty days (cf. Komáromi 2016, 8).
[83] It is possible, under some circumstances, to appeal against the decision of the parliament at the CC, which has to decide the question within 30 days.

forward a comprehensive package of proposals to address the migrant crisis. The package comprised inter alia an emergency relocation proposal for 120,000 refugees from Greece, Hungary and Italy and a Permanent Relocation Mechanism for all Member States (European Commission 9.9.2015). On 14 September, the Council of the European Union agreed in principle on the additional relocation of 120'00 persons (Council of the European Union 13.9.2015). Finally, on 22 September the Justice and Home Affairs Council adopted with a majority vote a temporary and exceptional relocation mechanism over two years from the frontline Member States Italy and Greece to other Member States (Hungary renounced the proposed relocation of 54'000 applicants from Hungary). According to this decision 1'294 applicants for international protection (306 from Italy and 988 from Greece) should be relocated to Hungary (Council Decision (EU) 2015/1601). Hungary, the Czech Republic, Slovakia and Romania voted against this decision, Finland abstained from the voting (Spiegel Online 22.9.2015). In consequence of that decision, Slovakia filed a lawsuit (Case C-643/15) at the European Court of Justice against the mandatory relocation of applicants on 2 December, which was joined by Hungary a day later (Case C-647/15). The Justice and Home Affairs Council's decision regarding the relocation of applicants was reconfirmed by the European Council during its meeting on 18/19 February 2016 (European Council 19.2.2016). Hungary didn't veto the Council's Conclusions, meaning that the question whether the Justice and Home Affairs Council's decision should remain binding will be decided by the Court.

Against the background of the growing numbers of migrants, the question of migration got at the top of the Hungarian political agenda even before the migrant crisis reached its peak in August 2015. Reacting to the European Commission's idea on migrant relocation, Jobbik's leader Gábor Vona requested on 15 May in an interview on N1 TV a referendum against the migrant quota in case that idea should be adopted by the EU (Jobbik 15.5.2016).[84] The party started to collect signatures for a referendum on the question "Do you agree that the citizens of foreign countries should not be allowed to be settled in Hungary neither by quota nor by readmission" (Jobbik 21.112015). This attempt must be seen as a political action, which aimed at mobilising the party's supporters, because the referendum proposal was never submitted. It anyway would have fallen under the forbidden topics clause of the FL, because it aimed at the modification of international treaties (Art. 8, Sect. 3, Lit. d FL). Consequentially, Jobbik proposed a bill for changing the FL allowing referendums on international obligations if they affect Hungary's immigration policy (Bill T/9256), which was not put on the Parliament's agenda.

Meanwhile, the governing parties started signature collection of their own for a petition against the quota on 4 November 2015. Fidesz parliamentary group leader, Lajos Kósa, stated that such a quota "regarding the settlement for illegal migrants" was senseless and would raise terrorist threat and the crime rate, would contradict international agreements and would not provide a solution against "the modern invasion" (Magyar Nemzet Online 4.11.2015). This signature collection was continued even after the Government announced the referendum.

On 17 February 2016, a private citizen, József Csabay, submitted a referendum proposal to the NEC on following question: "Do you agree, that Hungary should not implement the EU's decision on relocating the refugees according the quota" (Nemzeti Választási Iroda 20.10.2016). By submitting his proposal he would have prevented other proposals to be submitted, which in turn would have posed a major problem for the Government, which

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[84] In May 2015, also the Government launched a so called National Consultation "immigration and terrorism." Approx. 8 million questionnaires were mailed to the citizens. More than 1 million questionnaires were returned. The questionnaire contained question about the citizens' opinions on migration and terrorism. The vast majority of the answers agreed that with the Government's proposals regarding illegal migration (Kovács [27.7.2016]).

planned to submit its own proposal. On request of the Minister of the Prime Minister's Cabinet Office, Antal Rogán, Csabay withdrew his proposal on 24 February, therby opening the path for the Government's own proposal (Szalay 24.2.2016). On the same day, Prime Minister Viktor Orbán announced that the Government would submit a referendum proposal whether to accept mandatory EU quotas for relocating migrants with the concrete question "Do you want the European Union to be entitled to prescribe the mandatory settlement of non-Hungarian citizens in Hungary without the consent of the National Assembly?" The NEC validated this proposal on 29 February 2016 (Decision 14/2016 of the NEC).

This decision was legally challenged on 1 March, but the Kúria confirmed on 3 May the decision of the NEC (Decision IV.37.222/2016/9 of the Kúria), stating that the proposal met all the legal requirements. According to the Kúria the proposed referendum does neither aim at changing the accession treaty nor at applying additional conditions at the implementation of decisions of EU organs by Hungary. This decision was severely criticised by four renowned civic organisations[85], which claimed that the referendum question did not meet the constitutional standards, because it did not fall within the functions and powers of the National Assembly and was moreover not unambiguous (Magyar Helsinki Bizottság 4.3.2016).

Following the Kúria's decision the Parliament decided on 10 May 2016 to order a referendum (Decision H/10611 of the National Assembly). Both, the decision of the Kúria and of the Parliament were challenged at CC, but the court dismissed the appeals (Decision 3130/2016. (VI. 29) and Decision 12/2016. (VI. 22.) of the CC). Therefore, the President scheduled on 5 July a nation-wide referendum for 2 October 2016.

3.2. Campaign

Due to the legal situation three types of outcomes are possible for Hungarian referendums. Either the "Yes" or "No" votes win or the referendum is invalid. These framework conditions determine the possible campaign strategies for the political actors. Because of the wording of the referendum question the Government – and also Jobbik – had to campaign in favour of a "no" vote. For the Government, the optimum outcome would be a majority of "no" votes and a participation rate of more than 50 % of all eligible voters. Since it was clear from the onset that a vast majority of the voters opposed the relocation quota the opponents of the referendum were in a difficult situation, because also their supporters were not in favour of the quota (Ipsos 11.8.2016). Therefore, they theoretically should support the Government's proposal, but considering the extreme polarisation of Hungarian politics, this was not a viable option. That's why, the optimum outcome for them would be an invalid referendum. In order to achieve this result, they either had to call for a boycott of the referendum or for casting invalid votes. This logic determined the course of the campaign and the arguments which the actors put forward.

3.2.1. Arguments for "Yes"

Only the small Liberal Party endorsed the "Yes"" vote. It called the opposition voters to participate in the referendum and to give their opinion on the Government's policy. The Liberals condemned the Government's "hate campaign", and maintained that the Government's message would be disastrous for the EU. Only a "Yes"" would allow to maintain

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[85] Eötvös Károly Intézet (Eötvös Károly Institute), Magyar Helsinki Bizottság (Hungarian Helsinki Committee), Political Capital és a Társaság a Szabadságjogokért (Hungarian Civil Liberties Union).

European values and allowing Hungary to stay in the EU (Liberálisok 13.08.2016). Furthermore, the Liberals claimed that the migrant quota was a non-existent legal concept. The party invested HUF 12 million for their campaign, which allowed them to place 150 billborards (Stumpf 7.9.2016).

3.2.2. Arguments for "No"

The Government's ballot pamphlet condensed the referendum's purpose as follows: "Let's send a message to Brussels, which they can understand!" (Miniszterelnöki Kabinetiroda 2016). Starting with the argument that the right to decide about the country's future belongs to the Hungarians, it put forward that Brussels had made a proposition to relocate migrants to EU Member States according to quota. Considering the current pace of immigrations and the rules regarding family reunification, this could mean that migrants amounting to the "scale of a city" could be settled in Hungary within the next five years. Instead of halting immigration, Brussels is planning – illegally – to settle tens of thousands of migrants in Hungary. The mass migration would not only endanger Europe's, but also Hungary's future, by increasing terrorist threat and by and jeopardising Europe's and Hungary's culture and legal system. Brussels is threatening Hungary's sovereignty by usurping national competencies. Brussels is pursuing a mistaken policy by not protecting the borders and by trying to solve the demographic challenges by immigration. One of the most revolting proposals is, that states that don't comply with the migrant quota should be punished by such an amount per refused migrant, which would amount to 39 times the salary of an average Hungarian (Miniszterelnöki Kabinetiroda 2016). The Prime Minister emphasised that the cause in question was of national importance and stood above party matters. One should not jeopardise Hungary's future (delmagyar.hu 12.9.2016). This line of reasoning was upheld during the whole campaign by the Government. The Government lead a campaign of unprecedented dimensions. Observers estimated that more than HUF 15 billion have been spent on the campaign, which would be five times the amount, Fides spent on the election campaign in 2014.

The Government's proposal and its arguments were supported during the campaign by the major right-wing opposition party Jobbik (Jobbik 3.10.2016) and other extra-parliamentary parties like the left-wing Worker's Party (Munkáspárt 9.9.2016) and the right-wing Hungarian Justice and Life Party (hvg.hu 19.9.2016). Furthermore, several civic organisations joined the no-campaign (cf. appendix 1).

3.2.3. Arguments for Boycott

After some back and forth the major left-wing opposition party, MSZP, called for a boycott of the referendum. First the party tried unsuccessfully to put two own referendum proposals on the ballot (Majláth 6.4.2016) and also made some ambiguous statements, but finally made its position clear (atv 15.9.2016). The main reason for the boycott, was that the referendum was meaningless in a legal sense and therefore has no legal consequences. Because of that the referendum is not about the proposed question, but about the people's assessment of the Government. The MSZP asked people to abstain from voting in order to not strengthen the Government's position (Népszava Online 19.9.2016). The MSZP also claimed that the referendum only serves the purpose of diverting from the country's real problems and could endanger Hungary's EU-membership (MSZP 29.9.2016). During the campaign the MSZP spent "some HUF 10 millions" on the campaign (Fábián 29.8.2016).

The second biggest left-wing opposition party DK consistently called for boycotting the referendum. Also for them, it was clear that the referendum was not about the migrant question, but only served the interest of Fidesz. It clearly saw that the legal framework (participation quorum) offered a chance for the opposition to defeat the Government (DK 13.9.2016). The DK spent approx. HUF 10 million on it's campaign (Fábián 29.8.2016).

The small centre-left parties Együtt, MoMa and PM jointly campaigned for a boycott. They also claimed that the referendum served for diverting from the country's real problems. Furthermore, they questioned that the EU even had a proposal which aimed at relocating "illegal migrants." In their opinion the persons concerned were refugees (hvg.hu 1.9.2016). These parties spent together between HUF 12-23 million on the campaign (Fábián 29.8.2016).

3.2.4.   Arguments for Invalid Voting

The MKKP conducted a campaign for invalid voting. It mimicked the Government's campaign posters, but turning their statements into the absurd. According to the party's chairman, Gergö Kovács, this is the only adequate answer to the governmental campaign. "To a stupid question you can only give a stupid answer" (Grabow 27.8.2016). The party lead the biggest opposition campaign against the referendum, spending HUF 26 million (Fábián 29.8.2016). Also a group of 22 civic organisations jointly called for a boycott of the referendum (cf. appendix 2), because the proposed question would not give answers to the situation of the refugees and the future of the EU. The campaign is promoting hatred against migrants and the question is legally meaningless above all (Népszava Online 14.9.2016).

3.2.5.   Neutral

LMP decided not to take position and not to lead a campaign. According to the co-president of the party, Bernadett Szél, the question of migration falls within the competence of the national states. There's no other alternative to the manipulative question of the referendum than "no." However, the Government's referendum proposal is not a genuine tool for fostering popular participation, but only a manipulative instrument to strengthen its own power. Such endeavours should not be supported. According to Széll the voters of LMP will decide according their assessment, which of the two positions they put weight on (Dull 27.07.2016).

3.3.   Ballott

After a lengthy campaign the ballot took place on 2 October 2016. After the closing of the polling stations it soon became clear that the necessary participation threshold was not was not reached (hvg.hu 2.10.2016). There were 8'272'625 eligible voters, but only 3'646'334 did cast a vote. 3'418'387 voters (41.32 %) casted a valid vote. Although 3'362'224 (98.36 %) voters voted against the quota, and only 56'163 (1.64 %) were in favour of it, the referendum was not valid. There was also quite a high number 224'668 (6.16 %) of invalid votes.

The number of votes in favour of the Government's proposal exceeded the number of votes cast for the governing parties and Jobbik in the general elections of 2014 by roughly 6 %. This shows that the governing parties and Jobbik were able to extend their voter base – at least temporally – to some extent, but it is not yet clear how lasting this effect will. According to the Republikon Intézet, a liberal research institute, the geographical distribution of the valid votes corresponds to the support of Fidesz. In those districts in which Fidesz fared well in the general elections, the participation rate was higher than average, however in the

districts were the party did not fare well, participation was also low. On the other side the rate of invalid votes correlated less with the MSZP, but the results of the former liberal party SZDS and the results of the liberal Együtt party. Republikon Intézet also found some evidence that the casting of invalid votes or absenting were motivated as a means of opposing Fidesz. "Yes" votes were motivated substantially, whereas "no" votes were an expression of the support of values propagated by the Government during the campaign (Republikon Intézet 2016).

3.4.   Consequences

Although the referendum was conclusive, but not valid, the governing side started to impose its interpretation of the result on the public. The Prime Minister called the result a big success and announced that the Government will initiate a constitutional amendment in order to "anchor the will of the people in the constitution." Fidesz' vice-president, Gergely Gulyás, called the result of the referendum *politically* valid (Magyar Nemzet Online 2.10.2016). The Prime Minister stressed that unity occurred in Hungary, which stands above the parties (Origo 17.10.2016).

The other parties assessed the result according to their previous position. The MSZP called the referendum an "expensive opinion survey" and DK spoke of "Orbán's defeat". The three small opposition parties, which had campaigned for the boycott, called the boycott "successful." Jobbik concluded that Orbán "shot himself in the foot, thereby weakening Hungary's position. LMP stressed also that the invalid referendum has weakened the Government's position. Finally, the Liberals pointed out that Hungary was the real "looser of the referendum" (Magyar Nemzet Online 2.10.2016).

Would the referendum have been conclusive and valid, there would be no possibility to change the constitution, but under this circumstances, the Government seized the chance to initiate a constitutional amendment. Not disposing of a two-thirds majority the Government is trying to reach an agreement with opposition parties (Jobbik and probably LMP). The constitutional amendment will most probably state that foreign citizens are not to be to settled to Hungary without the Parliament's consent. The proposal will stress Hungary's participation in the EU has to be in accordance with the principles of the FL and has to respect Hungary's "constitutional identity" (hvg.hu 17.10.2016). It is unclear whether the Government will be successful with its project. The bargaining is still going on to date.

4. Conclusion

Hungary's experiences with direct democracy date back to 1989. In the last 27 years, the importance and the practice of direct democracy have changed. The experiences in the transition period were ambivalent. Although the first referendum has helped to dismantle the socialist regime completely, it was also the beginning of the conflict between the democratic forces, which lasts until to date. The second referendum was a clear sign, that there was a consensus within the political elite to condone direct democracy. The third and fourth referendum aimed at confirming the country's new foreign political orientation. Although they legitimized the new orientation, they were only valid because the threshold had been lowered. The fifth referendum was invalid because of the low voter turnout. The situation changed in 2008, when the sixth referendum campaign was used as an instrument in the struggle for power. The concrete questions were not significant. Direct democracy was used to pressure the government, because the opposition had no other means against the parliamentary

majority of the government. The seventh referendum was a plebiscite, which purpose was to strengthen the government internally and externally. In this context, the Government is playing a two-level game trying to enhance its internal position and seeking to gain more leverage for the bargaining process within the EU at the same time.

The referendum of 2016 has brought to attention some peculiarities of the Hungarian system of direct democracy. Hungarian direct democratic instruments are somewhat difficult to classify. They may either be pro- or anti-hegemonic. The full-scale popular initiative is – on a theoretical level – not-controlled, whereas the popular agenda initiative and the plebiscite are controlled by the elite (Smith 1976). These instruments may be used either to promote or to control decisions (Uleri 1996, 10f.) Therefore, the function of the referendum within the Hungarian political system is somewhat unclear. It is by no mean insignificant – important decisions have been decided by referendum, but it struggles with two major conceptional flaws. Hungary's political system is simultaneously extremely majoritarian (this tendency has been reinforced with the new FL) and predominantly representative.

This constellation prevents the development of a political space, in which questions can be discussed without reference to party politics. Furthermore, the government consciously pursues politics based on a friend-enemy scheme, in order to polarise society. Thereby, the governing parties can use the resources of the state to propagate their positions unchecked by other actors/social forces. In this situation, there is no objective information available and the media is also largely biased in favour of the Government's position (Democracy Reporting International 2.10.2016). Although, the discourse reflects the deep division within the Hungarian society the quality of public discussion remains poor. Furthermore, regarding financial power the government side is dominating absolutely. Their use of funds can't be matched by the other actors.

Finally, the dominance of the representative principle in Hungarian politics induces the political elite to try to condone direct democracy. It is illustrative, that the state doesn't provide any support for citizens wishing to initiate referendum. The conceptional and practical flaws lead to a situation in which the interaction of the representative system with direct democracy is very limited.

It is difficult to fit in direct democratic instruments, which are anti-hegemonic and are not controlled by government, into a predominantly representative and extremely majoritarian system. In a way (especially the ruling) parties have reacted to this situation. Nowadays, direct democracy is primarily used (and controlled) by the (ruling) political elite as a tool to mobilise its supporters and gaining additional legitimation/empowerment (Rahat 2009, 102) in domestic politics as well as in foreign affairs. The current state of affairs facilitates the colonialization of direct democracy by the representative system and the political elite. Therefore, it can be concluded that the potential of direct democracy in Hungary is very limited. In extreme cases it can function as a safety valve, but under "normal" circumstances it is controlled by the political elite and its deliberative potential is not realised at all.

List of Abbreviations/Translation

Demokratikus Koalíció	Democratic Coalition
Együtt – a Korszakváltók Pártja	Together – Party for a New Era
Fidesz – Magyar Polgári Szövetség	Fidesz – Hungarian Civic Alliance
Fundamental Law	FL
Jobbik Magyarországért Mozgalom	Jobbik, the Movement for a Better Hungary
Keresztény Demokratata Néppárt	Christian Demokrate People's Party
Magyar Kétfarkú Kutya Párt	Hungarian Two-tailed Dog Party
Magyar Liberális Párt	Hungarian Liberal Party
Magar Szocialista Párt	Hungarian Sozialist Party
Modern Magyarország Mozgalom Párt	Modern Hungary Movement
Nemzeti Választási Bizottság	National Election Commission
Párbeszéd Magyarországért	Dialogue for Hungary

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Appendix 1: Major organisations supporting the no- or invalid campaigns

Table 1. Major organisations supporting the no-campaign

Hungarian Civic Organisations
Civil Összfogás Fórum (Civil Union Forum)
Fiatal Caládosok Klubjának Egyesülete (Young Family's Clubs Association)
Keresztény Értelmiségiek Szövetsége (Christian Intellectuals Union)
Magyar Gazdakörök és Gazdaszövetkezetek Országos Szövetsége (Hungarian Farmer's Circles and Farmer's Cooperatives Association)
Magyar Polgári Együttműködés Egyesület (Hungarian Civic Cooperation Association)
Munkástanácsok Országos Szövetsége (National Federation of Workers' Councils)
Professzorok Batthyány Köre (Professor's Batthány Circle)
Civil Összfogás Fórum (Civil Union Forum)
Fiatal Caládosok Klubjának Egyesülete (Young Family's Clubs Association)
Keresztény Értelmiségiek Szövetsége (Christian Intellectuals Union)
Magyar Gazdakörök és Gazdaszövetkezetek Országos Szövetsége (Hungarian Farmer's Circles and Farmer's Cooperatives Association)
Magyar Polgári Együttműködés Egyesület (Hungarian Civic Cooperation Association)
Munkástanácsok Országos Szövetsége (National Federation of Workers' Councils)
Professzorok Batthyány Köre (Professor's Batthány Circle)
Extra-Hungarian Civic Organisations
Erdélyi Magyar Nemzeti Tanács (Transylvanian Hungarian National Council)
Erdélyi Magyar Néppárt (Transylvanian Hungarian National Party)

Source: 2016-os magyarországi népszavazás. (2016. október 15). Wikipédia. Retrieved 2016. október 15. 23:17 from //hu.wikipedia.org/w/index.php?title=2016-os_magyarorsz%C3%A1gi_n%C3%A9pszavaz%C3%A1s&oldid=18042987.

Table 2. Major organisations supporting the invalid voting

Hungarian Civic Organisations
Artemisszió Alapítvány (Artemissio Foundation)
Eleven Emlékmű (Living Monument)
Eötvös Károly Intézet (Eötvös Károly Institute)
Független Előadó-művészeti Szövetség (Independent Performing Arts Union)

Table 1. Major organisations supporting the no-campaign

Hungarian Civic Organisations
Gyerekesély Közhasznú Egyesület (Chances for Children Public Utility Association)
Hálózat a Tanszabadságért (Network for the Freedom of Teaching)
Hívatlanul Hálózat (Unsummoned Network)
Humán Platform Egyesület (Human Platform Asscociation)
Krétakör Alapítvány (Chalk Circle Foundation)
Közélet Iskolája (School of Public Life)
Magyar Helsinki Bizottság (Hungarian Helsinki Committee)
Magyar Női Érdekérvényesítő Szövetség (Hungarian Women's Lobby)
Magyarországi Európa Társaság (Hungarian Europe Society)
Magyar Helsinki Bizottság (Hungarian Helsinki Committee)
Magyar Női Érdekérvényesítő Szövetség (Hungarian Women's Lobby)
Magyarországi Európa Társaság (Hungarian Europe Society)
Magyarországi Evangéliumi Testvérközösség (Hungarian Evangelistic Brotherhood
Migration Aid
MigSzol (Migrant Solidarity Group of Hungary)
Oktatói Hálózat (Teacher's Network)
Oltalom Karitatív Egyesület (Oltalom Charity Society)
Opera Közhasznú Kulturális Egyesület (Operaa Public Interest Cultural Association)
Segítsünk együtt! (Let's Help Together!)
Szépírók Társasága (Hungarian Society of Writers, Critics and Literary Translators)
Társaság a Szabadságjogokért (Hungarian Civil Liberties Union)

Source: Népszava Online (14.9.2016): TASZ: civil szervezetek a népszavazás érvénytelenítéséért, http://nepszava.hu/cikk/1105853-tasz-civil-szervezetek-a-nepszavazas-ervenyteleniteseert (retrieved on 29.10.2016).

F. DENMARK

A tale of two referendums - the contrasts between low and high salience referendums in Denmark

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1. Introduction

Why do citizens vote no in EU referendums? Two referendums in Denmark held within eighteen months of each other provide an opportunity to compare voter behavior, enabling us to assess: 1) whether citizens actually vote based on their EU attitudes (issue-voting), and 2) whether the perceived importance of the proposition matters. The comparative analysis looks at the successful, but relatively low-salience, European Patent Court (EPC) referendum held in May 2014 in conjunction with the European Parliament election, and the relatively high salience but unsuccessful Danish Justice and Home Affaird (JHA) opt-out referendum in December 2015.

In theory, we should expect that voters will engage in 'second-order' dynamics in low salience referendums, either staying home or, if they vote, exploiting the referendum as a chance to signal their approval or disapproval of the sitting government (Franklin, 2002; Szczerbiak and Taggart, 2004). On the other hand, in referendums that citizens view as more important, we should expect citizens to decide whether to support or oppose a proposition will be based on their EU attitudes, thereby engaging in issue-voting (Svensson 2002; Hobolt, 2009).

This paper finds that in the low salience referendum (EPC in 2014), voters actually did decide based on their EU attitudes, but the effect of issue-voting was mediated through their vote choice in the parallel EP election. Voters chose which party to vote for in the EP election based on their EU attitudes, after which they then followed to a large extent the recommendation of the party in the EPC referendum. In contrast, in the high salience JHA referendum in 2015, we find strong evidence of issue-voting, but where voters used their EU attitudes more directly to decide whether to support the proposition or not.

Given that issue-voting dynamics dominated in the 2015 JHA opt-out referendum, the paper then explores whether there are different decision-making dynamics for voters with varying levels of attitude strength. The hypothesis is that Danish Euroskeptic voters typically hold stronger attitudes that are 'affect-based', focusing on concerns about *identity*-related issues like sovereignty, whereas pro-EU voter attitudes are typically more pragmatic and *interest*-based, meaning that they are less strongly held (Boomgarden et al 2011). Do we find a form of *asymmetric issue-voting*, where we would expect based on theories of motivated reasoning from political psychology that voters with strongly held (negative) attitudes would require less information to make a decision based on their issue attitudes, and once they have decided they would be less responsive to persuasion through cues and endorsements. The paper finds support for both expectations in the JHA opt-out referendum.

This paper first presents the history of EU-related referendums in Denmark before turning to a description of the course of the two campaigns of the 2014 and 2015 referendums. This is followed by a theoretical discussion of issue-voting versus second-order dynamics, and furthermore why based on motivated reasoning theories from political psychology that we

might expect 'assymmetric' issue-voting where voters with stronger held (negative) attitudes require less information and are less susceptible to persuasion through partisan endorsements and other cues. Section 5 presents the evidence of whether issue-voting mattered in the two referendums, followed by the analysis of whether there is evidence for asymmetric issue-voting in the 2015 JHA referendum. The conclusion discusses the implications of the findings.

2. The Danish history of referendums

There have been eight EU-related referendums in Denmark since 1972, depicted in table 1. Most have been constitutionally-mandated referendums based on §20 of the Danish Constitution, which states that ratification of a transfer of sovereignty to an international organization requires either a 5/6 parliamentary majority or a majority in a referendum. But there have also been convened advisory referendums in situations where either there was not a transfer of soveregnty in Danish constitutional terms (the 1986 ratification of the Single European Act), or where a 5/6 majority was present but a referendum was needed for political reasons (Maastricht II in 1993).

Table 1: EU referendums held in Denmark

	Date	Required constitutionally?	Turnout	Yes votes	Ratified
Accession to EU	Oct 2, 1972	Yes	90.1%	63.3%	Yes
Single European Act	Feb 27, 1986	No	75.4%	56.2%	Yes
Maastricht I	June 2, 1992	Yes	83.1%	49.3%	No
Maastricht II	May 18, 1993	No[1] ()	86.5%	56.7%	Yes
Amsterdam	May 28, 1998	Yes	76.2%	55.1%	Yes
Euro opt-out	Sept 28, 2000	Yes	87.6%	46.8%	No
European Patent Court	May 25, 2014	Yes	55.9%	62.5%	Yes
JHA opt-out	Dec 3, 2015	Yes	72.0%	46.9%	No

[1] but 5/6 majority present (§20)

Source: Author

The two referendums that are analyzed in this paper were both constitutionally-mandated because they involved a transfer of sovereignty and there was not a 5/6 majority of parties in parliament in support of the propositions. The EPC referendum dealt with the accession of

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Denmark to the European Patent Court; a relatively minor issue that most voters had little, if any, real understanding of the implications of joining the EPC for either themselves or Denmark as a whole. In contrast, the JHA opt-out referendum dealt with removing the existing JHA opt-out and replacing it with a British-style opt-in solution where a majority in the Danish Parliament could decide on a case-by-case basis whether to join particular JHA legal acts or remain outside. However, in Danish constitutional terms, the full transfer of sovereignty would happen in connection with the referendum, thereby enabling Parliament to decide to join new or existing JHA acts without convening a new referendum. This 'in principle' transfer of *all* sovereignty within the field of JHA turned out to pose major problems for the "Yes" side in the campaign, as will be detailed in the next section.

3. The referendum campaigns in 2014 and 2015

I now turn to discuss the campaigns in the two referendums. The EPC referendum was held in parallel with the May 2014 EP election. The EPC issue was very low salient for voters, reflected best in the lack of coverage by the media of the issue. In a media content analysis of three major newspapers in the eight weeks prior to the EPC referendum/EP election, 16 percent of all news stories dealt with EU questions, but only 5 percent of these EU stories were related to the EPC (DKOPT Survey[86]). In other words, while Danish voters were interested in the EP election - primarily due to the debate on social benefits for EU citizens from new Member States - there was almost no demand for information on the EPC, suggesting that the issue was widely perceived to be extremely low salient.

Furthermore, in the EPC case most accounts in the media suggested that a "No" vote would have insignificant economic consequences for the Danish economy, with the greatest cost being firms who would have to pay slightly more for patenting their products because they would have to apply for *both* a Danish and EU common patent if they intended to operate both in Denmark and the rest of the EU. That Danish voters did not perceive the economic consequences of voting "No" to be high can be seen in the post-election survey, where 51.7 percent believed that a "No" would either have no effect on economic growth in Denmark or positive effects (DKOPT survey). The benefits of joining the EPC were also uncertain, with legal experts disagreeing about how the multi-level legal system would operate in practice, and whether it would be a benefit for smaller Danish firms to be protected from large multinationals by a separate Danish patent system or not.

The JHA referendum was a product of the changes in JHA introduced by the Treaty of Lisbon, which involved the transfer of the areas of JHA related to police and judicial cooperation to the supranational first pillar. The changes in the Treaty of Lisbon meant that the original opt-out of supranational JHA cooperation was significantly expanded in unwanted ways to include the areas that a broad majority of Danish parties wanted to take part in - in particular Europol. To mitigate these negative effects, the Danish government during the 2007 IGC ensured that a new British-style opt-in was included as a protocol to the Treaty of Lisbon - a protocol that would first be triggered once Denmark formally ratified the protocol at a future date.

The JHA opt-out issue was highly salient in Denmark because it was related to one of the four Danish opt-outs that were originally agreed in relation to the Treaty of Maastricht.[87] This

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[86] - The full data set can be found at: http://dda.dk/catalogue/26709?lang=da.

[87] - The option of opting-out of the third phase of EMU was included as a protocol to the Treaty of Maastricht, whereas the other opt-outs were adopted in the Edinburgh Agreement from December 1992. Here Denmark declared that they would not participate in defense-related measures in CFSP, potential future supranational cooperation in

meant that it was viewed as part of the core of the Danish special relationship with the EU, making it highly salient for sovereignty-conscious Danish voters. In addition, while the twenty-two legal acts that the yes-majority in the Danish parliament stated that it would join if the proposition was ratified were relatively unimportant, the most salient issue for many voters was one that the yes-majority said it would *not* join in the foresseable future - the common EU asylum and immigration policies. Here the crucial difference though before and after a potential "Yes" vote was that with the existing opt-out, Denmark could only join the common asylum and immigration policy with either a 5/6 majority or a referendum, but with the opt-in a mere parliamentary majority could decide to join at a later date without convening a §20 mandated referendum. This difference proved to be a major strategic mistake from the "Yes" side because it gifted the no-side the strong argument of whether voters could trust the yes-majority in parliament to not join the asylum and immigration policy in the future without convening a referendum. Danes were split on the issue of joining the common asylum and immigration policies (44% in favor, 37% opposed, 19% undecided or don't know; DKOPT-JHA survey), with a majority of left-wing voters in favor and right-wing voters opposed to joining.

The Danish government had only recently been installed after its narrow victory in the June 2015 parliamentary election. The government, with the support of a large majority of pro-EU parties in parliament, convened a referendum on August 21st, with the vote to be held on December 3rd 2015. After that the campaign had been running over two months, the Danish Prime Minister on October 6th tried to counter this no argument by promising that his party would not support joining the common asylum and immigration policy without convening an advisory referendum. But this promise was purely political and could not in Danish law be legally binding on future governments. Further, the political promise was not perceived as very credible by many voters in a time of dramatically declining levels of trust of politicians in general (in particular amongst voters with Euroskeptic attitudes). The importance of remaining outside of the common asylum and immigration policy became even more salient for voters as the refugee crisis exploded in August and September of 2015.

The actual referendum campaign was very low key, with political parties and organizations on both sides deploying relatively few resources. Another key strategic mistake by the Danish government was that the campaign was occurring at the same time that they were negotiating their first budgetary law. This meant that top politicians were unable to dedicate time to the referendum campaign until after the budgetary law was passed in mid-November, leaving only two weeks for active campaigning by high-level politicians. As a result, there was little news coverage and few events held prior to the referendum. Not surprisingly, there were record levels of undecided voters until the final week of the campaign.

4. Theoretical approaches to voter behavior in EU referendums

What factors determine voter choice in EU-related referendums? The core debate is whether citizens actually decide in relation to the issue being considered (issue-voting), or whether they decide based on other considerations because they do not believe the proposition is important enough to expend the cognitive resources required to engage in issue-voting

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JHA, and would not accept that EU citizenship replaced national citizenship. The citizenship 'opt-out' was purely symbolic given that EU citizenship was never intended to replace national citizenship. The JHA opt-out was not initially a 'real' legally binding opt-out because JHA cooperation was purely intergovernmental until the Treaty of Amsterdam, after which Denmark secured a legally binding protocol that enabled Denmark to stay out of all supranational cooperation in JHA. This protocol was amended in the Treaty of Lisbon to enable Denmark to change to a British-style opt-in model.

(second-order). If issue-voting dynamics are prevalent, the next question is whether all voters engage in similar reasoning processes, or whether we find significant differences between voters with strongly held attitudes and other voters with less strongly held attitudes (asymmetric issue-voting).

4.1.   Issue-voting

Many scholars claim that voter behavior in referendums on EU matters is similar to normal elections, where voters decide based upon the issues (Merrill and Grofman 1999; Svensson 1994, 2002; Hobolt, 2006, 2009). Early versions of the *issue-voting model* as regards EU referendums argued that voter choice was based upon voters' *general attitudes* towards European integration (Svensson 1994, 2002), whereas more recent formulations focus more explicitly on voter attitudes towards the *specific question* they are posed (e.g. Hobolt 2006; 2009). While it is usually not made explicit in issue-voting models, it is assumed that these issue-related attitudes reflect voter evaluations of their utility gains in relation to EU integration based upon the socio-economic predispositions of the individual voter, in that those groups that stand to gain the most from integration support it and vice versa, other things equal (Gabel 1998; Hooghe and Marks 2005).

Hobolt has proposed the most ambitious issue-voting model as regards EU referendums (2006, 2009). Hobolt draws upon a rational choice proximity model, where the median voter decides based upon the relative location of his/her ideal point (IP) in relation to the proposition and the reversion point (RP) in the event of a "No" vote.[88] When the proposition is closer to the median voter's IP than the RP, the voter will vote "Yes", and vice versa. [89]

4.2.   Second-order dynamics

In contrast, many scholars and commentators claim that EU referendums are perceived by ordinary citizens as abstract and relatively unimportant affairs, meaning that we should not expect voters to expend the cognitive resources required to evaluate the proposition and the reversion point in relation to their underlying attitudes towards European integration. Instead, voters can be expected to treat an EU referendum as a 'second order' election, where they can express their level of satisfaction with the performance of the government by voting yes or no (Franklin 2002; Franklin, Marsh, and Wlezien 1994; Reif and Schmitt 1980; Ivaldi 2006). A popular government will be able to steer a proposition to ratification because a majority of voters will trust that the government will only endorse it if it is good for the country, and vice versa (Franklin, Marsh, and Wlezien 1994: 102). Second-order dynamics should be particularly dominant in low salience referendums (Franklin 2002).

There is some disagreement about the exact causes and mechanisms of the second-order election thesis, but at the core is the argument that when voters feel little is at stake, they either abstain from voting (resulting in lower turnout), or if they decide to vote, they merely utilize heuristics drawn from first-order, national affairs such as attitudes towards government performance or attitudes to national political issues to either punish unpopular incumbents (strategic voting) or by supporting smaller parties who have few chances in

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[88] - While it cannot be reasonably expected that average voters engage in a synoptic evaluation of the the proposition in relation to their IP and the expected RP, voters can utilize heuristics like cues from referent persons to calculate their position 'as if' they had expended the analytical resources to calculate their utility function (Hobolt, 2009; Lupia, 1992, 1994; Sniderman, Brody, and Tetlock 1991; Rau and Ledlawsk 2006).

[89] - Berinsky and Lewis (2007) question whether voters ever have more than general notions about the location of a proposition and the RP, but many other scholars contend that while voters do not have the information to actually engage in a fully synoptic utility calculation, they can utilize different heuristics when issues are salient, like cues from referents to enable them to make a decision 'as if' they had engaged in this type of calculation (Lupia, 1992, 1994; Hobolt, 2009).

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normal, first-order national elections (sincere voting) (Hix and Marsh 2011; Marsh and Mikhaylov 2010; Hobolt and Brouard 2011). Irrespective of the specific mechanisms, the results of the second-order dynamics are the same: when going to the polls in European referendums, voters focus on how they feel about national politics rather than how they feel about European integration.

4.3.   Assymetric issue-voting – motivated reasoning and attitude strength

Finally, based on work from the political psychology literature, we might expect that citizens with strongly held attitudes tend to engage in more motivated reasoning, where they selectively recruit and evaluate evidence so that it matches their prior beliefs (Epley and Gilovich, 2016; Visser, Bizer and Krosnick, 2006; Taber, Cann and Kucsova, 2009; Holbrook et al, 2005). This implies that voters with strongly held attitudes: 1) *require less information* overall to make a decision that maps onto their underlying issue attitude (e.g. Druckman, 2012; Houston and Fazio, 1989; Holbrook et al, 2005; Schuck and de Vreese, 2008: 113-114), 2) are *less susceptible to persuasion* through cues and endorsements than less motivated voters (Hobolt, 2006), and 3) once they have made a choice they will also be *less prone to change their mind*.

Specifically, and based on evidence of EU skepticism more broadly, I claim that Danish anti-EU attitudes are more strongly held, affect-based attitudes (Boomgarden et al. 2011). By contrast, pro-EU atittudes are typically utilitaristic and therefore less strongly held. Pro-EU voters therefore are less motivated to deploy the cognitive resources required to match the proposition with their underlying issue attitudes, meaning that they are more predisposed to utilize second-order behavior where they either stay home, or utilize party recommendations and/or level of trust/satisfaction with the proposer of the proposition. Given the lower salience of the issue for these voters, there is less issue-voting and more second-order behavior.

5. Explaining the outcomes in the two referendums

This section explores the evidence of whether issue-voting dynamics dominated in both the low and higher salience referendums, followed by an assessment of the evidence for different reasoning processes amongst Euroskeptic voters. But before we explore the findings, a few words are required about the survey instruments used to explore voter behavior in the referendums.

5.1.   Methods – the DKOPT and DKOPT-JHA survey instruments

This articles uses the data from the DKOPT (2014) and DKOPT-JHA (2015) post-election surveys designed by the author to investigate second-order versus issue-voting dynamics.[90] For assessing asymmetric issue-voting in the 2015 referendum, data from a rolling cross-sectional (RCS) survey in eight waves every week starting fifty days prior to the referendum is then explored to assess different reasoning processes amongst voters during the campaign (n=2500). The RCS was deployed on 300 - 350 respondents every week, who answered within three days of being invited. Data was collected via a web-survey by the polling company Epinion, using an internet panel to recruit respondents.

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[90] The 2014 data set is available at the Danish Data Archive (http://dda.dk/catalogue/26709?lang=da). The 2015 data set will be uploaded in the course of the next year.

The dependent variable in assessing overall voting dynamics is vote choice in the referendum, with a "No" vote coded 1 and non-voters excluded. To test the 'second-order' hypothesis, I utilize a standard question that measures the level of satisfaction with the incumbent government. In order to test the issue-specific issue-voting hypotheses, I utilized a battery of questions relating to EU attitudes in both referendums. In the EPC case, I engaged in an exploratory factor analysis of voter attitudes based on twelve questions from the DKOPT post-election survey (see appendix 1). Three distinct dimensions were found to have eigenvalues greater than 1. The dimensions were: 1) a general EU attitudes, 2) views towards the EPC proposition, and 3) perceptions of the EU being a threat to DK that do not map directly onto general EU attitudes. In contrast, given the high number of missing values on some EU attitude questions in the JHA survey data, the initial analysis uses an index of five core EU-**related questions (α=.79).**[91] In the subsequent analysis of motivated reasoning, a battery of eleven questions is analyzed using exploratory PCA, which finds one dimension in particular that explains more than 60 per cent of the observed variation. To deal with the question of missing values, they have been imputed by Stata's MI algorithm applied to the variables fed into the PCA plus respondents' left-right self-placement.[92] This procedure reduces the missingness of the EU atittude dimension to less than 6%.

To control for partisan endorsements in the EPC case, I compared what party that voters claimed they had voted for in the parallel EP elections with whether the party had endorsed the EPC or not (no endorsement coded 1), whereas for the JHA case I assessed whether the party they claimed to have voted for in the recent parliamentary election (June 2015) had endorsed the proposition or not. Because the EPC election had the EP election held in parallel, one might expect non EU-related issue dimensions to be relevant. Therefore, additional controls were included: political attitudes (here an 'old' (economic left-right) politics and 'new' (value) politics dimension that were also found using a set of items in the DKOPT post-election survey using factor analysis). For both referendums, a set of socio-demographic control variables was included (age, education, income, gender).

I now turn first to an assessment of whether issue-voting dominated in the two referendums, followed by the assessment of whether there was asymmetric issue-voting in the 2015 JHA referendum, with Euroskeptic voters behaving differently than pro-EU voters.

5.2. Predicting the vote in the EPC referendum (2014)

Was voting behavior dominated by issue-voting in the low salience EPC referendum? The results for the EPC referendum post-election survey are shown in table 2, using logistic regression to estimate correlations because the dependent variable is binary.

Table 2 indicates that only two out of the three found issue attitude dimensions are significantly correlated with vote choice. The dimension tapping into voter evaluations of the specific proposition is not significant, suggesting not surprisingly that voters in a low salience referendum did not engage in a cost/benefit analysis of the specific proposition. The second-order and partisan endorsements are also found to be significant. Overall, the fit of the model is relatively good, with a pseudo-R^2 of .355.

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[91] - Items Q24, Q25, Q26, Q26_2 and Q27 were used.

[92] - The decision was made to not use this issue dimension in the initial statistical analysis because of concerns with the imputation, enabling us to compare it easily with the EPC results where no imputation was undertaken.

Both general issue-voting, partisan endorsements and second-order variables mattered, but what was their relative importance? To assess this I calculated the marginal effects of each of the statistically significant variables by increasing each of the variables by one half standard deviation from the mean, holding all other variables at their means. For binary variables, the increase is from 0 to 1. The marginal effects are illustrated in figure 1.

Table 2: Predicting the "No" vote in the EPC referendum (2014)

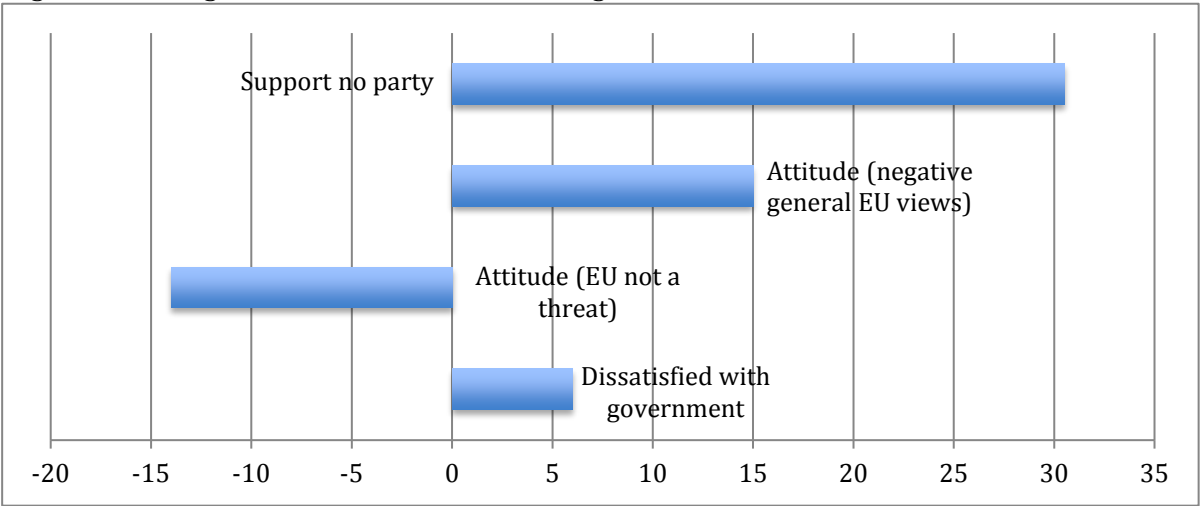| Independent variables	Coefficient	SE
General EU attitudes	.778***	.142
EPC specific evaluation	-.199	.136
EU a threat to Denmark	-.756***	.150
No party endorsement	1.383***	.247
Government satisfaction	.346**	.114
Old politics	-.222[93]	.115
New politics	.144	.124
Age	-.057	.007
Gender	.227	.223
Education	-.010	.055
Income	-.091	.968
Interest in EU	-.089	.108
Constant	-1.637*	.814
Pseudo R^2	.355	.142
N	703	.136

* p<.05, ** p<.01, *** p<.001

Source: DKOPT post-election survey (2014)

Figure 1 illustrates that partisan endorsements had the strongest effect in the EPC referendum, followed by the two general attitude dimensions. The weakest effect is found for level of dissatisfaction with the government (second-order), with a half SD deviation increase resulting in only a 6.7% increase in the probability of voting no. These findings suggest that partisan endorsements mattered most, while general EU attitudes also mattered but to a much lesser extent. This suggests the conclusion that when voters perceive an issue to be low salience, they tend to follow the party they otherwise support. If voters believed the EPC issue was very important, based on what we know from other Danish referendums (Hobolt, 2009), they would have been less reliant on partisan cues, and more focused on an proposition-specific evaluation of utility. And in the EPC case, given that all major parties, except a far-right (Danish People's Party) and a far-left (Unity List) party, supported the proposition, voters also supported the proposition in the actual referendum by a relatively large majority.

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[93] - Note that this variable was 'almost' significant (.53).

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Figure 1: Marginal effects on "No" voting in EPC referendum

However, while voters followed the recommendation of the party that they supported in the parallel EP election, there is also evidence that voters actually chose which party to support based on their EU attitudes (for more evidence of this, see Beach, Larsen and Hansen, forthcoming). This means that issue attitudes did matter for how voters decided in the EPC referendum, but only indirectly through party choice in the more salient EP election.

5.3.   Predicting the vote in the JHA referendum (2015)

Table 3 indicates that general EU attitudes, partisan endorsements and second-order factors all were significantly correlated with the outcome. In order to estimate their relative effects, the same procedure was utilized as above. The results are reproduced in figure 2, which shows that issue-attitudes was the most important factor. A half SD increase in negative EU atittudes increases the probability of voting "No" by 50%, whereas the impact of partisan endorsements is slightly weaker (37%), and second-order factors matter little for voting intentions. The results provide evidence that voting behavior in the JHA referendum was dominated by issue-voting.

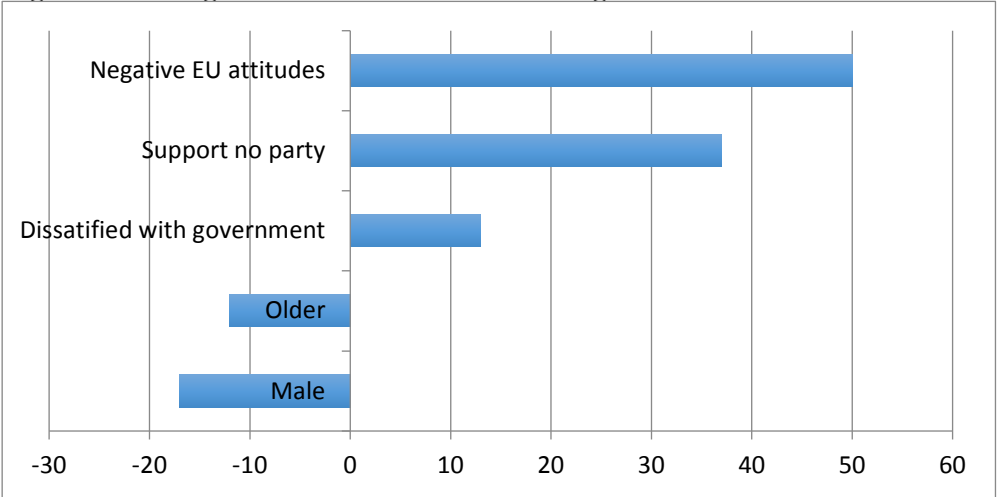Figure 1: Marginal effects of "No" voting in the JHA referendum

Table 3: Predicting the "No" vote in the JHA referendum (2015)

Independent variables	Coefficient	SE
General EU attitudes	.721***	.066
No party endorsement	1.029***	.193
Government satisfaction	.291***	.072
age	-.314*	.113
gender	-.454*	.168
education	.216	.177
income	-.042	.031
Constant	1.393	.495
Pseudo R^2	.546	
N	502	

* p<.05, ** p<.01, *** p<.001

Source: DKOPT-JHA post-election survey (2015)

5.4. Motivated reasoning and attitude strength in the 2015 JHA referendum

The following assesses whether there is evidence of asymmetric issue-voting, meaning that voters with Euroskeptic attitudes needed less information to decide whether to vote no, and once a decision was made they were less prone to persuasion. In contrast, we would expect that pro-EU voters needed more information, were more reliant on partisan endorsements, and their decisions were more unstable.

Are there significant differences during the campaign? Looking first at the trends of vote intention for the 50% most pro-EU voters as compared to the 50% most Euroskeptic voters.[94] The differences are dramatic between the two groups. Pro-EU voters start out with the 40% that state they will vote "Yes", 10% No, and 50% undecided. At the end of the campaign, amongst pro-EU voters there are 54% "Yes" votes, 18% No-votes and 28% undecided. That is a net gain of only 6% for the "Yes" side. By contrast, the Euro-sceptic half starts out with around 53% No-voters, 18% "Yes" voters and 29% undecided. But they ended with 79% No-voters, 11% Yes voters and 10% undecided; a net gain of 33% for the No-side. This illustrates two things. First, it provides some evidence that suggests that Euro-skeptical voters were able to better utilize information provided by the campaign to figure out whether voting "No" corresponded to their underlying issue attitudes. Second, on election day the percentage of undecided and, therefore, not mobilized pro-EU voters was three times higher compared to the group of undecided Euroskeptic voters.

Similar effects are found when we assess whether voters feel they have sufficient information to make an informed decision. At the start of the campaign around 45% of the Euroskeptic

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[94] - Here issue attitudes are measured using the above-described PCA results that utilized imputation to deal with missing values. If missing values had been dropped, there would not have been enough observations to enable analysis in the RCA given the smaller number of respondents per wave.

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voters felt sufficiently informed about the proposal (40% of the same group felt insufficiently informed). At the end of the campaign 60% (+15) of the Euroskeptics felt sufficiently informed, whereas only 22% (-18) felt insufficiently informed. By contrast, slightly more than 50% of the pro-EU voters felt uninformed at the start of the campaign, whereas only 32% felt sufficiently informed. At the end of the campaign 42% (+10) felt sufficiently informed, but still 36% (-14) felt insufficiently informed. This suggests that although the information campaign did reach both groups, the campaign effect was larger for the Euroskeptics and, maybe more important, at the election day there were significantly fewer pro-EU voters than Euroskeptic voters who felt sufficiently informed (60 to 42 %).

These differences suggest that campaign effects differ by EU attitudes. Although the same information has been available to every voter, we observe larger shifts in vote intention and learning for voters with Euroskeptic attitudes. This provides some evidence for asymmetric issue-voting dynamics, where a group of voters that holds strong, affect-based attitudes needed less information to decide what to vote, and were more certain about their choice once it was made.

6. Conclusions

The analysis found that in the low salience 2014 EPC referendum, voters followed the partisan endorsements of the party they voted for in the parallel EP election, but also that voters did engage in issue-voting in relation to the EP election. This suggests that voters did engage in issue-voting in relation to the EPC proposition, but that the effect was mediated through party choice in the EP election. In contrast, evidence for both issue-voting and motivated reasoning amongst Euroskeptic voters was found in the 2015 JHA election.

The implications of these findings from the two referendums are two-fold. First, one of the key challenges of low salience referendums is to both ensure sufficient turnout overall for the proposition to be endorsed, but also that those who turn out are not primarily Euroskeptic voters with strongly held attitudes as was seen in the Nice I and Lisbon I referendums in Ireland. To ensure sufficient and generally representative turnout, the 2014 EPC referendum was held in parallel with the EP election, resulting in 'indirect' issue-voting in the referendum. However, while this coupling of the referendum to the EP election undeniably increased turnout, it also implies that coupling a low salience referendum with a *non-EU-related election* would probably be less effective because party choice in the parallel election would most likely not be driven as strongly by EU attitudes, but instead by *other* political atittudes (left-right or new political cleavages). Voters might still follow the recommendations of the party they voted for in the parallel election, but the initial choice of party would most likely be motivated by non-EU-related issue attitudes, meaning EU attitudes would *not* impact on voter choice in the referendum. If we view referendums in direct democratic terms, this would result in an outcome with lower democratic legitimacy because voters had not answered the question they had been asked.

Second, the findings in the 2015 JHA case suggest that in situations where many voters have strongly held Euroskeptic attitudes and where pro-EU attitudes are more pragmatic and interest-based, winning referendums is likely to be an uphill battle. This does not mean that EU referendums can never be won, but when the electorate is split between a large group that has relatively strongly held Euroskeptic views and another group that has more pragmatic (read less strongly held) pro-EU attitudes - like in Denmark and the UK - a strong pro-campaign is not necessarily enough to secure a yes vote because Euroskeptic voters are strongly motivated to *disregard* pro-EU information. Instead, evidence from other

referendums in Denmark suggest that in these circumstances, it greatly helps the "Yes" side when the reversion point in the event of a "No" vote is a highly harmful exit from the EU. This dynamic was clearly seen in the comparison of the 1992 and 1993 referendums, where it was obvious for all voters in 1993 that another "No" vote would result in Danish exit from the EU (Hobolt, 2009), meaning that even voters with relatively Euroskeptic atittudes preferred voting "Yes" over the very harmful reversion point in the event of another "No" vote.[95] In contrast, in opt-out referendums, the reversion point is the continuation of the status quo. Given that there is evidence that Euroskeptic voters are not very susceptible to persuasion, this implies that getting rid of opt-outs in countries like Denmark and Sweden, where there is a significant group of voters with Euroskeptic attitudes, might be almost a 'mission impossible' unless we see major shifts in voter atittudes towards the EU, or if the status quo becomes widely perceived to be so negative that it trumps Euroskeptic voters' predispositions to keep it.

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[95] - As was seen in the Brexit referendum in June 2016, a harmful reversion point is not necessarily enough when motivated reasoning is taking place amongst Euroskeptic voters. Here there is evidence that despite warnings of the costs of Brexit, voters with Euroskeptic attitudes engaged in motivated reasoning to discount them.

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G. THE NETHERLANDS

The Dutch EU referendums on the Constitutional Treaty (2005) and the EU-Ukraine Association Agreement (2016)

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Two EU referendums have been held in the Netherlands: in 2005 on the Constitutional Treaty (CT) and in 2016 on the Association Agreement (AA) between the EU, its Member States and Ukraine. Both referendums resulted in a negative result for the Dutch government: the citizens rejected both treaties by more than 60 percent. In this case study, both referendums are analysed on their 1) political context; 2) political campaign; and 3) political consequences.

1. Political context: Referendums in the Netherlands

Besides the second Danish referendum on the Maastricht Treaty, the Netherlands has been the only other country so far in which parliament pushed through a referendum on EU-treaty ratification. How did this occur? Until the start of this millennium, Dutch law did not provide for nationwide referendums, neither binding nor consultative ones. The Dutch Constitution stipulates that the bicameral States-General and government are responsible for law-making, i.e. not the citizens themselves.[96] As such, binding referendums would be unconstitutional.

Despite several earlier attempts, it was not until the late 1990s that both bills introducing nationwide binding and consultative referendums received serious attention. The social-liberal coalition of PvdA-VVD-D66 (1994-2002) agreed to introduce a binding ('corrective') referendum. A bill providing for the necessary constitutional amendment had almost passed both houses of parliament, until the final vote in the Dutch Senate in May 1999 failed to meet the required two-thirds majority by a single vote. Somewhat unexpected, VVD Senator (and former party leader) Wiegel dissented from his party's stance. As a consequence, D66 announced to leave the government (Elzinga, 2005, p.98). Renegotiations led to the introduction of a Temporary Referendum Act (valid between 2002 and 2005), together with another bill providing for binding referendums by constitutional amendment. The latter was rejected by the Second Chamber in second reading in 2004, as the first Balkenende cabinet did not endorse it.[97] The Temporary Referendum Act provided for advisory referendums to be called by 600,000 citizens within six weeks and also enabled referendums to be held at the local and regional level. Because of the relatively strict requirements (initiators had to submit their signature at their municipality), a referendum was never held. After the expiration of the Temporary Act, the MPs Dubbelboer (PvdA), Duyvendak (GreenLeft) and Van der Ham (D66) submitted two other bills: The Advisory Referendum Act (ARA) which was eventually revised and adopted in 2015 (see below), and the Corrective Referendum Act, which is still under revision in parliament.

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[96] Dutch Constitution, Art. 81. "Acts of Parliament shall be enacted jointly by the Government and the States General."
[97] Letter of the Interior Minister to parliament, 16 September 2002. Tweede Kamer, 2001–2002, 28.515, nr. 4

1.1.   Constitutional Treaty 2005

These developments in the early 2000s, plus the fact that many EU-related referendums took place or were announced in that period[98], shaped a broad opinion in parliament that in case of a European Constitution, the people ought to be directly involved. The Dutch CDA-VVD-D66 government led by Prime Minister Balkenende, however, did not support this – as had become clear by its decision not to endorse the introduction of a binding referendum. As the Dutch Constitution does not provide for referendums, but neither prohibits legislation on non-binding referendums, a legal base for a consultative referendum on the CT had to be created by law first. Moreover, the usage of such a referendum required special justification. The Council of State (*Raad van State*) provided in its legal advice that the European Constitution had to contain constitutional elements to justify such a referendum, which ought to be the case.[99] The general rule of Art. 91 of the Dutch Constitution that international treaties are to be ratified by parliament eventually should remain unchanged (Massüger and Kuoni, 2011, p.150).

After a first proposal for a consultative referendum on the eventual outcome of the European Convention by opposition Labour MP (and member of the Convention) Timmermans had failed in 2002, a new bill of Green, Labour and Liberal-Democratic MPs (Karimi, Dubbelboer and Van der Ham) was adopted.[100] Their tripartite proposal was not guaranteed of securing a parliamentary majority. It was the liberal VVD which held the key and somewhat surprisingly[101] lent decisive support to the referendum proposal in both the Second and First Chamber (see *Table 1*). Only the confessional parties CDA, CU and SGP voted against the initiative, because they ought it against the spirit of the Dutch constitution (Aarts and Van der Kolk, 2005, p.15).

The decision-making took the Dutch parliament until February 2005 – four months before the referendum was scheduled. The Referendum law was principally concerned with the establishment of an independent Referendum Commission. Although this Commission preferred a relatively late date of 29 June 2005, under pressure from the Interior Ministry the referendum was announced for 1 June. In contrast to other EU-referendums, the commission formulated a somewhat complex question: *"Are you in favour of or against approval by the Netherlands of the Treaty establishing a Constitution for Europe?"* (Lucardie and Voerman, 2006, p.1201). The establishment of the institutional framework for the referendum was very much a matter of 'learning by doing'.

1.2.   EU-Ukraine Association Agreement 2016

Although an original bill[102] was initiated in 2005, it took parliament until mid-2015 to enact a successor of the 2005 expired Temporary Referendum Act. It had been introduced to Parliament shortly after the failed CT in 2005, with the high turnout therein having contributed to renewed efforts by parliamentarians to introduce referendums in the

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[98] In Denmark and Sweden on the introduction of the Euro, in Ireland on the Nice Treaty and in ten Central and Eastern European candidate member states.
[99] Advice of the Council of State of 14 July 2003. W04.03.0194/I. Kamerstukken II 2002/03, 28 885, A
[100] Act on the consultative referendum on the European Constitution - (*Wet raadplegend referendum Europese Grondwet van 27 januari 2005. Staatsblad 44/2005).*
[101] Traditionally, the VVD has been against referendums. Only in its new 'Liberal Manifesto' group leader, and former foreign minister, Van Aartsen endorsed the use of referendums more frequently supplementary to representative democracy.
[102] Voorstel van wet van de leden Dubbelboer, Duyvendak en Van der Ham, houdende regels inzake het raadgevend referendum (Wet raadgevend referendum). Tweede Kamer, 2005–2006, 30 372, nr. 2.

Netherlands. The Advisory Referendum Act however languished in Parliament for many years until being passed by both chambers, finally in spring 2015. The original initiating MPs all had retired from parliament, so it was up to their successors Fokke (PvdA), Schouw (D66) and Voortman (GreenLeft) to finalize the decision-making process.

The Act provides for a referendum to be held on adopted bills or ratification laws of international treaties, if at least 300,000 citizens so request within a few months after its adoption, and if the government notifies that the law can be put to a referendum.

Referendums concerning the monarchy, amending the constitution or the national budget, however, are excluded, as well as those acts arising from international treaty obligations (cf. Passchier and Voermans, 2016). Like was the case with the referendum on the CT, the date, question and allocation of campaign subsidies would be decided by a Referendum Commission, to be appointed by the government as soon as the law entered into force.

An unusual amendment was enforced by the Senate.[103] Labour Senator Koole, who was appointed as member of the Referendum Commission after his retirement from the Senate after its 2015 election, demanded a turnout threshold of 30 percent to be included. As the Labour Party's support was indispensable for the adoption of the bill, the initiating MPs submitted a small second bill, including the requested threshold. Although the Council of State concluded in its advice[104] on this bill that the introduction of a turnout threshold would not concur well with the non-binding character of the advisory referendum, the initiators upheld their bill, supported by the favouring parties. In the event of a negative vote, and if the turnout threshold of 30 percent is met, the Act requires the government to propose a law *as soon as possible* that repeals or approves the Act that had been the subject of the vote and that Act itself cannot be the subject of a new referendum (Van der Loo, 2016).

As the original bill was adopted in April 2014, it took until January 2015 until both Chambers adopted the second bill, which was published in the official journal in March 2015, indicating that the law would enter into force four months later. Notably, CDA, PVV, CU and SGP voted against this threshold. Hence the Advisory Referendum Act entered into force on 1 July 2015. The combination of a turnout quorum and non-binding referendum makes the Dutch act exceptional in comparative perspective.

Comparing the two referendum acts, one can observe in *Table 1* that the support for the 2005 act comprised a two-thirds majority, whereas in 2015 this was only a solid simple majority. Despite the fact that the VVD returned to its original position in opposing referendums, the same left-wing parties of 2005 were able to reach a majority mainly due to the support of Wilders' party PVV.

In the meantime, Dutch calls for another referendum on the EU had never faded away. As the Dutch parliament ratified the Lisbon Treaty in 2008 without -another- consultative referendum, some opposition parties qualified the avoidance of a referendum as betrayal. Although there was not sufficient appetite within parliament for another EU referendum on e.g. membership or the fiscal compact, outside parliament citizens demanded more direct influence on EU politics. The 2014 elections for the European Parliament could not fulfil these demands. Turnout in the Netherlands was rather modest (36 percent) and the outcome meant merely a status quo for both the composition and influence of Dutch MEPs. Because the Dutch news agencies were not allowed to publish local results of the EP elections, anti-establishment blog *GeenStijl* recruited volunteers to report the official notification of local results in order to circumvent this ban (called the *GeenPeil* initiative). Instead, the newly

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[103] As the Dutch Constitution does not permit Senators the right of amendment, the only way the Senate can enforce their demands is by adjourning its adoption and requesting the Second Chamber to adopt a bill revising their, originally adopted law.
[104] Advice of the Council of State of 28 May 2014. W04.14.0143/I. Tweede Kamer, 2013–2014, 33 934, nr. 4.

established NGOs *Burgercomité EU* and *Forum voor Democratie* were well aware of the looming referendum laws.

Table 1: Parliamentary support for national referendums in the Netherlands

Party	Consultative Referendum Act European Constitution 2005 (seats)		Advisory Referendum Act 2015 (seats)	
	For	Against	For	Against
CDA (Christian Democrats)		44		13
CU (ChristianUnion)		3		5
D66 (Liberal Democrats)	6		12	
GreenLeft	8		4	
LPF (Fortuynists)	8		-	-
PvdA (Labour)	42		38	
PvdD (Party for Animals)	-	-	2	
PVV (Freedom Party)	-	-	15	
SP (Socialist Party)	9		15	
SGP (State Reform Party)		2		3
VVD (Liberals)	28			41
50PLUS	-	-	2	
Total (150)	101 (67.3%)	49 (32.7%)	88 (58.7%)	62 (41.3%)

Source: Author

The *Burgercomité* was founded in January 2013 as *Burgerforum-EU*, as a reaction to British Prime Minister Cameron's 'Bloomberg speech' in which he pledged for a referendum on British EU membership. It started a citizens' initiative demanding that no further national competences would be transferred to the EU, and only if citizens could decide on such a transfer by referendum.[105] However, when the initiative was debated, parliament showed no support for such a referendum. Most parties argued,[106] as did Foreign Minister Timmermans, that no further transfer of sovereignty had occurred since the last treaty revision. The initiative ended up in vain. Thereafter, *Burgercomité* launched a citizens' initiative for

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[105] Van den Dool, P. (2013). Onherroepelijk richting een federale unie. Ook wij eisen een referendum! NRC Handelsblad, 26 January 2013.
[106] Tweede Kamer (2014). Handelingen 21 januari 2014: Burgerinitiatief "Geen EU-bevoegdhedenoverdracht zonder referendum"

parliamentary scrutiny on the introduction of the Euro. Moreover, from April 2014 onwards, it already started to recruit volunteers in order to collect enough signatures as soon as the law had entered into force. In June 2015, they used the 10th anniversary of the Dutch "No" to the CT to launch a manifesto calling for a referendum on Dutch EU membership. [107] However, because such a referendum (like in the UK) required a separate act of parliament which was and has not been likely to be adopted in the short term, the NGOs sought recourse to other means to hold an EU referendum.

Their first opportunity provided the ratification laws of the so-called 'mixed' association agreements between the EU, its Member States, and Ukraine, Georgia and Moldova. These three laws were adopted by the Senate on 7 July 2015, promulgated by the King on 8 July and published in the official journal. Two days later, the Foreign Minister announced, according to the Advisory Referendum Act, that all three laws could be subject to a referendum, indeed if, within four weeks, more than 10,000 citizens would request so (the introductory stage). *Burgercomité* and *Forum voor Democratie* joined forces in reactivating the *GeenPeil* initiative in order to collect enough signatures with well-known *GeenStijl* reporter Jan Roos as their public frontrunner. Mid-August the Electoral Council announced that on all three association agreements, introductory requests had been submitted: 14,441 on the association agreement with Ukraine (of which 13,480 valid requests), and respectively 98 and 100 on the agreements with Georgia and Moldova. As only the request on the agreement with Ukraine passed the first threshold, the initiators proceeded to the final stage in which they had to collect 300,000 signatures within six weeks (i.e. between 18 August and 28 September). [108]

Despite the fact that the collection of signatures started during the holidays, the initiators of *GeenPeil* and their volunteers managed to collect more than 400,000 signatures before the deadline. The Electoral Council (*Kiesraad*) allowed them to design a special website by which citizens could submit and sign up the request. However, the law stipulated that all requests had to be submitted in writing, so GeenPeil printed all digital requests and submitted the packages by van to the bureaus of the Dutch Tax authorities in Heerlen, which would check and process the requests on their validity. This smart digital, easy accessible way to support the request, plus the fact that the number of required signatures was half of the number of the Temporary Referendum Act, enabled the initiators to pass the threshold of 300,000.

Moreover, the potential salience of the issue has to be emphasized, particularly in The Netherlands: when Ukraine's president Yanukovych refused to sign the draft AA in November 2013, the following demonstrations at the Maidan square in Kiev triggered Dutch support of the pro-European politicians and protesters: PvdA Foreign Minister Timmermans, MEP Van Baalen and Belgian well-known MEP Verhofstadt (both ALDE) visited the Maidan square. The Russian annexation of Crimea in March 2014 triggered a short wave of protest in Dutch politics and the issuing of sanctions and boycotts against Russia. The situation did not calm down, with political instability in Kiev and a war in the eastern part of Ukraine. As the agreement was eventually signed in June 2014, this did not grasp much attention. However, when passenger flight MH17 from Amsterdam to Kuala Lumpur was hit high above the war zone area and almost 300 civilians died, the crisis topped the agenda. The public mourning, the war in Ukraine, the cooperation of local authorities with the Western investigation teams and the discussions in the UN Security Council dominated the Dutch politics and public opinion during the rest of the summer of 2014. The recurring news around the investigation of the

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[107] Burgercomité-EU (2014). Help mee met een referendum, 2 April 2014.; Manifest aan het volk van Nederland, June 2015.
[108] Ministry of Foreign Affairs, announcement 14 August 2015. *Inleidend verzoek referendum over EU-associatieverdrag met Oekraïne toegelaten.*

crash and the question how to handle the tense situation with Russia and Ukraine and what, if any, role the European Union should fulfil in this may still have puzzled Dutch citizens in 2015 more than the relationship with the smaller countries Georgia and Moldova. By campaigning for the required 300,000 signatures, *GeenPeil* initiators appealed to the question of potential future Ukraine EU membership and their dismissal of the envisaged AA with a country 'at war' and upsetting Russian president Putin.

Robust checks of the Electoral Council eventually estimated that of the 472,849 requests 427,939 were valid and 44,910 requests invalid.[109] It was now up to the Referendum Commission to determine the date of the referendum (within six months after the announcement of the referendum on 14 October 2015) and the wording of the question. The Commission decided that the referendum would be held on 6 April 2016. The question was more straightforward compared to 2005: *"Are you in favour or against the Act approving the Association agreement between the European Union and Ukraine?"* [110]

2. Political campaign

Obviously, the different nature of the subjects and the different external contexts of the two EU referendums in the Netherlands, made the two campaigns different as well. First, the CT was a large comprehensive reform of the existing framework of the European Union of 25 Member States. No less than ten of them announced a referendum on this treaty. Not just the 'usual suspects' as Ireland and Denmark, but also Spain, Luxembourg, France, Poland, Portugal, the Czech Republic and even the United Kingdom announced a plebiscite (Closa, 2007). The Dutch referendum would take place third, after the Spanish and French votes. In contrast, the EU-Ukraine Association agreement is just one part of the European Neighbourhood Policy, designed to intensify the relationship between the EU and its neighbouring countries. It forms an alternative to the 'big bang' eastern enlargement round, which, in the perception of voters and politicians in the 'old' Member States, had gone too quickly without strict application of the Copenhagen accession criteria. Despite the political tension preceding the conclusion of the AA, its ratification in the other 27 Member States and Ukraine itself went rather smoothly. The Netherlands was the only country to hold a referendum on the issue.

Second, the 2005 referendum took place in a time of further European integration and was considered as a giant institutional leap forward after the tiresome treaty reforms until then (Amsterdam, Nice). The EU had just been enlarged by ten new Member States and was optimistic to conclude the historic reunification of the European continent, fifteen years after the end of the Cold War. In contrast, the 2016 vote took place during a revival of the Cold War era: sanctions against Russia had been extended and the civil war in the eastern parts of Ukraine went on despite the cease fire agreed upon in Minsk in February 2015. Moreover, the war in Syria and Iraq against IS, instability in North Africa and the enormous and unexpected influx of migrants across Turkey, Greece, Italy and the Balkans, put the EU and its Member States to its largest political challenge in the history of the integration process. The months preceding the referendum were characterized by fear against terrorism and facing insecurity, with the Paris attacks of 13 November 2015 and the Brussels attacks on 22 March, just two weeks before the referendum.

Third, the Dutch vote was surrounded by at least two other referendums with high stakes. The Greek 2015 referendum on the bailout package received great attention in the Dutch

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[109] Electoral Council, announcement 14 October 2015.
[110] Referendum Commission, Press release 29 October 2015.

media, and the subsequent deal within the Eurozone forced Prime Minister Rutte to break his promise that his government would not support another Greek bailout. At the same time, the re-election of British Prime Minister Cameron increased the debate on the terms of a 'Brexit' referendum.

Besides these differences in substance and context, another institutional difference was the fact that the consultative referendum on the CT was initiated by parliament, whereas the advisory referendum on the AA was initiated by citizens. Whereas the former referendum would 'automatically' foster public debate and campaign between the political actors, the latter rather assaulted Dutch politics. No party would have expected that, so quickly after the Advisory Referendum Act entered into force, citizens and NGOs would be able to trigger a referendum, certainly not on such a complex, comprehensive AA which had led to only modest parliamentary debate. Moreover, the cabinet and its staff were very busy preparing the Dutch Presidency of the Council of the EU, which would take place in the first half of 2016.

2.1. Main actor positions

2.1.1. The Government

Despite the fact that it was in the government's interest to secure a majority in favour of both the Constitutional Treaty and the Association agreement, the government did not strongly campaign for it. Although the Christian-Democratic-Liberal government did not support the parliamentary referendum initiative, it would implement it and respect its outcome. It showed a lacklustre campaign stance. "[m]inisters lacked enthusiasm to campaign, did not attach sufficient attention to the issue, and disowned the referendum as a concern for parliament because it was the parliament that had initiated it" (Atikcan, 2015, p.137). Despite of that, the Dutch government had signed the CT in Rome on 29 October 2004 and committed itself to the ratification process. The official deliberations resulted in three different campaigns from the State, without command-control-communication: i) by the Referendum Commission on the content of the CT; ii) by the Interior Ministry to stimulate turnout; iii) a Yes campaign by the cabinet. Somewhat unnatural ministers started to distribute some flyers for the cameras of the Referendum Commission on a sunny Friday afternoon right after the cabinet meeting.[111] Transport Minister Peijs refused because she had 'another meeting' and Finance Minister Zalm simply admitted that he did not like to distribute flyers (Sprenger, 2016, p.65). Some other cabinet members made bold statements warning for the possible consequences of a No:

- D66 Economic Affairs Minister Brinkhorst: "the lights would go off in the Netherlands," "our country would be locked up", and "the Netherlands would become the Switzerland of Europe"; in the magazine of employers' organization VNO-NCW he argued in favour of referendums, but not in case of the CT.
- CDA Justice Minister Donner warned against the possibility of war and a possible Balkanization of Europe;
- CDA Foreign Minister Bot (and former Prime Minister Lubbers) recommended to abstain in case of doubt;
- VVD Migration Minister Verdonk warns that without the CT, much more immigrants would come to the Netherlands (Sprenger, 2016, p.62-3);

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[111] Shortly before ministers went on the street, civil servants in The Hague received an email calling them to come to the central square (Plein) and 'pretend to be an interested citizen' (Giebels, Kalse and Versteegh, 2005).

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- CDA Prime Minister Balkenende linked the future of Europe to the wars of the 20th century during a public commemoration of the end of World War II with US President Bush.[112]

As Europe Minister Nicolaï evaluated the failed "Yes" campaign: "it was enough to give people the impression that actually this government was not interested in the voice of the people and the outcome of the referendum…If we made mistakes, then I think the main mistake was these statements and this kind of arrogance" (Atikcan, 2015, p.152). The ministers openly criticized each other during the campaign. Bot dissented from Donner's opinion, whereas other ministers criticized Bot's advice to stay home if uninformed (Kleinnijenhuis et al., 2005, p.140).

The diverging strategies caused huge disputes between the Interior and Foreign Affairs ministries. As the latter was discontent with the summary of the Referendum Commission, it

Trouw, 20 mei 2005

decided to distribute the complete text of the (hundreds of pages comprising) CT without any further explanation, two months before the vote. After a storm of criticism, the government sent every household a short leaflet designed by the Referendum Commission, which contained better explanation. A brochure, however, led to misinterpretation, as it suggested that the primacy of EU law would be introduced by the CT, although this was just a codification of existing EU case law of the 1960s.

As a result, the "Yes" campaign was fragmented without a uniform strategy[113] and without financial means: of the budget of €30 million, €23 million was allocated to the municipalities to prepare polling stations and billboards. Despite its intention not to campaign actively[114], a month before the vote, facing negative polls, the government convinced parliament to spend an additional €3.5 million for advertisements and brochures 'in order to overcome the negative spirit in the media and the confusion' about the content of the treaty (Lucardie, 2005, p.116). Paradoxically to the fact that the proponents received three times as much media attention as the opponents of the CT (cf. Kleinnijenhuis et al., 2005, p.134), their performance was assessed much more negatively (Sprenger, 2016, p.63-6).

Likewise, in 2016 Prime Minister Rutte, Foreign Minister Koenders, Social Affairs Minister Asscher, Finance Minister (and Euro Group President) Dijsselbloem, and Defence Minister Hennis-Plasschaert did some public interviews in the last weeks before the vote, but did not take part in any public debate. Rutte did not want to flyer for a referendum, as it was not 'an ordinary election campaign'. Only the Foreign Ministry installed a working group lead by Hans Docter, former Dutch ambassador in Ghana and respected trouble-shooter. Problematic for the government was the leakage of a Q&A for ministers in February 2016 on possible

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[112] *"De Europese samenwerking heeft ons 60 jaar van vrede, voorspoed en veiligheid gebracht. We staan in de Europese Unie op het punt de volgende belangrijke stap te zetten: het ratificeren van de Europese Grondwet."* Prime Minister Balkenende, 8 May 2005.

[113] The cabinet admitted this in its evaluation of government communication: "*Het kabinet is onvoldoende in staat geweest een eenduidig beeld te geven over de betekenis van de uitslag van het referendum en over de mogelijke gevolgen vaneen negatieve uitslag van het referendum voor Nederland en Europa. Daarmee ontstond ruimte voor onduidelijkheid over hoe serieus de burger in zijn stem genomen zou worden.*" Tweede Kamer, 2005–2006, 29.993, nr. 24 p.6.

[114] Europe Minister Nicolaï: "In principle the government will not actively campaign in terms of sponsored advertisements on TV or printed media" (letter to parliament, 7 February 2005).

questions from the press on the referendum. The spin doctors tried to frame the agreement as an ordinary trade deal, like the EU had concluded with countries such as Chile and Israel, which would give the Netherlands access to a market of 45 million citizens. The question what the cabinet would do in case the Netherlands would not ratify the agreement, should be answered as: 'that is uncharted territory'. Ministers were advised not to mention arguments about Russia (Geraedts, 2016).

2.1.2.   The Parties

Both the CT and the AA received support of the main coalition and opposition parties. They comprised large majorities in both houses of parliament: 85 percent in 2005 and 79 percent in 2016 (see *Table 2*).

Table 2. Parliamentary support for the Constitutional Treaty and the Association Agreement

Party	Constitutional Treaty (seats)		EU-Ukraine AA (seats)	
	For	Against	For	Against
CDA (Christian Democrats)	44		13	
CU (ChristianUnion)		3	5	
D66 (Liberal Democrats)	6		12	
GreenLeft	8		4	
LPF (Fortuynists)		8	-	-
PvdA (Labour)	42		36	
PvdD (Party for Animals)	-	-		2
PVV (Freedom Party)		1		12
SP (Socialist Party)		9		15
SGP (State Reform Party)		2	3	
VVD (Liberals)	27		40	
50PLUS	-	-	1	
Independents	-	-	5	2
Total	127 (84.6%)	23 (15.4%)	119 (79.3%)	31 (20.7%)

Source: Author

2.1.3.   Constitutional Treaty

In 2005 the "No" camp immediately started to campaign as soon as the referendum date was announced and set the agenda, whereas the "Yes" campaign could only react to the framing of why voters should not vote No. Although the "Yes" campaign's arguments stressed

the advantages of the CT for the EU's institutions and policies and its contribution to Dutch prosperity, the "No" camp argued that the treaty would cause a loss of veto rights and sovereignty to a European 'super state', creating an expensive European army. They stated that the treaty was neither social nor democratic enough and would push towards further enlargement, advancing Turkish EU accession, and would increase the Dutch net contribution to the EU. The "No" camp got unexpected support of the Dutch conservative magazine *Elsevier*, the conservative *Edmund Burke* think tank (supported by CU and SGP) and the popular columnist-scientist (current Labour Interior Minister) Ronald Plasterk. As Atikcan concludes: "These "No" campaign frames were strong because they carried negative information and invoked existing fears of globalization concerning the loss of social standards and Dutch values". The poster of the Socialist Party probably best grasps the frame of the "No" camp, including a map of Europe without the Netherlands, emphasizing the loss of sovereignty – or even 'disappearance' of the country to the benefit of Europe. The merely rational, technical, institutional arguments of the "Yes" camp could not overcome the emotional and more irrational arguments of the "No" camp. A report of the Scientific Council for Government Policy (WRR) stated that the governing parties and most cabinet members not only voiced their positions far too late in the debate, but also had no idea of how to talk about Europe in the media, sometimes with dramatic performances: VVD MEP Maaten "cancelled a TV spot showing images of Auschwitz, the genocide in Srebrenica, and the terrorist bombings in Madrid," aiming to persuade to a "Yes" vote. The spot was withdrawn within a matter of hours (Atikcan, 2015, p.152-3). By that time, Geert Wilders had already left the VVD in 2004 after a series of controversies, surmounting in his opposition against possible Turkish EU membership. As independent MP he fiercely, and successfully, opposed the European Constitution.

2.1.4.   EU-Ukraine Association Agreement

Being leader of the larger PVV in parliament in 2015 (although 3 MPs had split-up), Wilders copied this strategy together with the Socialist Party (SP), and Party for Animals (PvdD). Whereas the PVV considered a rejection of the AA also a backlash for the 'elites' in Brussels, the PvdD opposed the agreement because it would lead to a 'race to the bottom' in animal welfare standards. The referendum was not received with great enthusiasm among the great majority of MPs. This time the small confessional parties ChristianUnion (CU) and the Reformed Political Party (SGP) had supported the government's proposal, however this did not mean that they would actively support the coalition parties securing a majority for the AA. Both parties merely supported the AA in order to stimulate good relations with the EU's neighbours. Voters of both parties were, like in 2005, rather Eurosceptic and too strong support of their party leaders for the European case could possibly estrange them in the course towards the general elections of 2017. This certainly also applied to the Christian Democrats (CDA). Party leader Van Haersma Buma disliked the referendum as such and warned that a possible "No" could pose the Dutch to 'enormous problems'.[115] CDA evolved into a critical proponent of the AA, a stance comparable to its opposition against Romanian

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[115] S. van Haersma Buma, TV talk show *Pauw*, 1 September 2015.

and Bulgarian EU membership in 2007 (Otjes, 2016, p.141-2). Already in autumn 2015, it was reported that the "Yes" camp was 'listless'. During the campaign, leading CDA and VVD MPs were almost invisible. Whereas D66 and GreenLeft organized a modest campaign in favour, the incumbent PvdA and VVD announced that they would participate in (small) debates if requested, but did not organize anything itself. Like had been the case with the CT in 2005, the politicians had no idea how to defend such a comprehensive, technical agreement in the media.

A dominant argument dividing the "Yes" camp, was whether or not proponents of the AA should turn up on the polling day, regarding the turnout threshold of 30 percent. As the first polls indicated that turnout figures would be about 25 to 40 percent, it might well be that the interests of the proponents would be served best if all "Yes" voters stayed at home, because the "No" voters would not be able to pass the turnout threshold on their own (cf. Passchier and Voermans, 2016).[116] This would make the outcome of the referendum void, so parliament had ratified the AA without any problems. Several (former) politicians and public opinion figures therefore recommended not to vote.[117] Only as the polls indicated that the turnout threshold could be met indeed, the government and main parties hastily started to call for a "Yes" vote.

An often-heard argument against the AA was that political and economic integration with a corrupt country like Ukraine was undesirable, and that the agreement would be a first step towards Ukrainian EU membership. Moreover, the opponents argued that the AA would lead to more influx of Ukrainian migrant workers in the Netherlands and a waste of money for development cooperation in terms of culture, environment, justice and anti-terrorism policies. Indeed, the AA did not mention anything about future membership, but up to its conclusion EU leaders had cheered that it was the most far-reaching AA ever concluded by the EU and a third country, which gave impetus to the opponents' claim. This claim was fiercely disputed by the proponents. The geopolitical conflict between the Europe-oriented Western part of Ukraine and the Russia-oriented Eastern part could be triggered by the AA. *GeenPeil* positioned Ukraine as a 'civil war country' and the 'most corrupt European country'.[118]Arguments in favour emphasized the moral duty to help Ukraine, like previously other CEECs, to reform into a full-fledged democracy, and to keep it out of Russia's sphere of influence. The "Yes" parties stressed that the AA would benefit Ukrainian democracy and human rights, economy and thus the Ukrainian citizens (Hollander and Van Kessel, 2016). The welfare for both Ukraine as well as the Netherlands was framed in terms of the advantages of the extended trade agreement, the Netherlands being the second largest investor in Ukraine (Otjes, 2016, p.135-6).

From the moment it was known that the referendum would take place, questions arose about the way parliament and the government would handle the outcome. Whereas the government did not want to disclose its strategy in case of a No, before the vote had actually taken place, a majority of the parties[119] declared that it would consider the outcome as 'binding' and respect it, in case the turnout threshold of 30 percent was met. Although the MPs are constitutionally free to vote whatever they want in parliament, a scholarly discussion started

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[116] The Yes voter's dilemma: "vote 'for – and risk contributing to rendering the no-vote majority outcome valid; or not turn up to vote – and risk the turnout requirement being met anyway, lose out on your vote in favour, thereby helping the no-vote-camp to an even greater majority".

[117] Those included D66 Laurens Jan Brinkhorst (former Economic Affairs minister at time of the CT, who warned that the "lights went off" in case of a Dutch No), VVD Frits Bolkestein (former European Commissioner for the Internal Market), VVD Hans Wiegel (former party leader and Senator who had always been against referendums), Bas de Gaay Fortman (former ARP, PPR MP) and GreenLeft youth organisation DWARS.

[118] GeenPeil (2016). GeenPeil-flyers

[119] CDA, PvdA, PVV, SP, CU, SGP, PvdD, VNL, 50PLUS | Kamer: uitslag Oekraïnereferendum overnemen. Telegraaf, 24 November 2015.

whether respecting the outcome *ex ante* would constitute an implicit binding referendum, which as such is constitutional (Heringa, 2016, p.17).

2.2.   Other important stakeholders

The limited campaigning in 2016 failed to foster a well-informed public debate. Up till the last weeks of the campaign, discussions (even litigation) about the number of voting booths per municipality and the allocation of campaign subsidies hampered a proper debate on the substance of the agreement. Municipalities complained to the national government that the €30 million (initially €20 million) was not sufficient to organize the referendum, as the budget was considerably smaller than for national elections. Several reports state that the 2005 referendum had cost €35 million. The cabinet answered on questions in parliament that he expected less costs, due to a lower expected turnout (and municipalities anticipated on this by offering less polling stations) and less complicated vote counting procedures compared to national elections (Engelkes, 2016, p.145-150). Illustrative for this was the discussion on a €48,000 grant by the **Referendum Commission** to a one-person legal entity (notably called *Raspoetin BV*) to print toilet paper with (partly) misleading arguments against the AA, such as the suggestion that Ukrainians would be allowed to work in the EU without a visa (Hollander and Van Kessel, 2016). Although the Referendum Commission was obliged to "provide information to every voter on the referendum issue" (art. 90 ARA), this time the Commission did not distribute information. It limited its informing actions to its website[120] without distributing any brochure (digital or in print) to the voters. Voters only received their polling card at home. In its own evaluation, the Referendum Commission concluded that the information provided to the voters was indeed insufficient, but it blamed the government for this, which had allocated the -limited- budget.[121] Instead, fifteen municipalities decided to enclose a brochure, which was offered and designed by the largest private postal company, *PostNL.* This caused some criticism, as the "No" camp complained that the summary would be biased towards the "Yes" camp (Visser and Mebius, 2016). The complete allocated budget of €2 million was spent on a first-come-first-serve basis. As a result, voters had to rely completely on information (made) available to them via other channels. The organization behind the voting-advice application *Referendumwijzer* which was used in 2005, was refused a subsidy this time because the Commission ran out of money (although another VAA, *Kieskompas* did receive subsidy).

As political parties did not take a clear position, the "Yes" campaign was led by the foundation *StemVoorNederland* (Vote for the Netherlands), established by former Labour MEP Michiel van Hulten and conservative activist Joshua Livestro. Billionaire George Soros' Open Society Foundation donated *StemVoorNederland* by €200,000.[122] Van Hulten characterized the first months of the campaign as a 'phoney war', with arguments about campaign subsidies and the number of polling stations as main disputes.[123] A large event on the central Dam square in Amsterdam (symbolically called '*Maidam*') organized by the "Yes" campaign (*StemVoorNederland*) on the Sunday before the vote, attracted only some hundreds of non-

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[120] Although the provided information was accurate this time and relatively easy to grasp, the printable version of the brochure was difficult to find. This was confirmed by the evaluation of some experts: *"Echter door de structuur van de website was de informatie niet al te makkelijk te vinden. Dat kan de toegankelijkheid negatief hebben beïnvloed"* (Referendumcommissie, 2016, p.12).

[121] *"De keuze is gemaakt om de informatie voor de kiezer beschikbaar te stellen via een eigen website (www.referendum-commissie.nl). Deze keuze is mede ingegeven door het budget dat door het ministerie van BZK op dat moment beschikbaar werd gesteld (...) Het ministerie van BZK heeft initieel € 200.000 beschikbaar gesteld voor alle communicatieactiviteiten van de commissie. Later heeft het ministerie nog € 90.000 beschikbaar gesteld voor de radiospotjes en banners op internet."* (Referendumcommissie, 2016, p.7).

[122] B. Dirks and J. Visser (2016). 'De dans om de referendumgelden'. De Volkskrant, 1 February.

[123] T. Niemantsverdriet (2016) 'De voorstander is een beetje lui'. NRC Handelsblad.

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partisan supporters and few media attention, despite of the prominent speakers such as Dutch (and Ukrainian) ministers, and leaders of political parties (CDA, D66, PvdA, VVD) and main employers' organization *VNO-NCW*. The employers were only willing to participate in the "Yes" campaign if this was supported widely by the trade unions and civil society. As the "Yes" campaign actually never took off, the wide support of civil society stayed away. The "No" camp, despite small parliamentary support, proved to mobilize itself much more effective. *GeenPeil*, using their popular *GeenStijl* blog and network as main outlet, mobilized a 'canvassing army' of 1,500 volunteers for a grassroots campaign, *Forum voor Democratie* and *Burgercomité-EU* organized debates, had published a manifesto and gave remarkable performances in the media.[124]

Notably, in 2005 Van Hulten had also played a prominent role as director of the Foundation for a Better Europe. He mentioned that although they coordinated with the trade unions and employment organizations, this was 'all lacklustre'. They did not take a public stance (Lucardie, 2005, p.114). "The civil society supported the Constitutional Treaty widely, including all the business organizations and trade unions; however, none of these launched a substantial campaign." (Atikcan, 2015, p.155). The "No" camp lacked support from broad civil society organizations, but the SP formed the '*GrondwetNee*' (ConstitutionNo) group which was able to dominate the frame-setting, helped by the comments of the "Yes" camp (see above) or Executive Director of the Dutch Central Bank Brouwer, who admitted that during the transfer to the Euro, the Dutch Guilder had been undervalued by 5-10 percent vis-à-vis the Deutschmark.

Compared to the warnings in case of a "No" vote in 2005, in 2016 politicians of the "Yes" camp refrained from 'project fear'-like comments. The main exceptions came from Brussels. European Commission President Juncker who warned the Dutch population, that a "No" vote could 'open the door to a large continental crisis' without however clarifying why this would be the case.[125] Former European Council President Van Rompuy declared that a "No" vote would be a 'disgrace for the Dutch government' and would make the Netherlands 'a less reliable partner' on the international scene.[126]

2.3.   The votes

From September 2004 to January 2005, polls had indicated that about 60 percent of the Dutch was in favour of the Constitutional Treaty. Nevertheless, on 1 June 61.5 percent of the voters voted against. In 2005, polls showed that the Balkenende government was far from being popular. Mid-May 2005, only 19 percent of the respondents were satisfied with the government. The cabinet had embarked a major welfare reform since 2003, and the political assassinations on Pim Fortuyn in 2002 and film-producer Theo van Gogh in 2004 increased the general anxiety in Dutch public opinion after 9/11. (Atikcan, 2005, p.131-153). The surveys by Aarts and Van der Kolk suggest that the "No" campaign frames on losing sovereignty, jobs and welfare, security and contributing more money to the EU, resonated much more than the "Yes" frame (cf. Aarts and Van der Kolk, 2005). Also dissatisfaction with the Euro became closely linked with the CT. The breakdown of the reasons to vote show very marginal second order dynamics: only 2.5 percent of the "Yes" voters did so because of the

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[124] An interview in *NRC Handelsblad* one week before the vote, the leading campaigners of *Burgercomité-EU* repeated ostentatiously their argument that they did not care about Ukraine but just the EU. This caused a storm of criticism in the Yes camp (mainly D66), which accused the initiators of calling the referendum on 'fake arguments'.
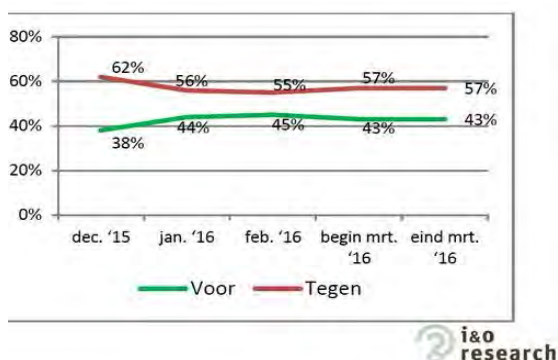[125] Alonso, S. (2016). Juncker: 'Nederlands nee kan leiden tot grote continentale crisis'. NRC Handelsblad, 9 January 2016.
[126] Schmidt, C. (2016). Van Rompuy: 'Een nee bij referendum is blamage voor Nederland'. Trouw, 14 March 2016.

authority of politicians or political parties, while only 2.6 percent of the "No" voters did so because they rejected the present government.
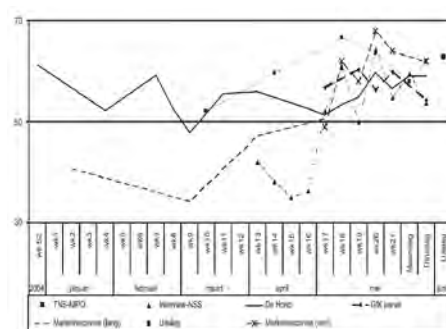
On the other hand, the surveys reveal that the parties favouring the CT were much less able to convince their supporters to follow their voting recommendation (D66 and CDA scored highest in favour, PvdA scored lowest) than the "No" parties (more than 80 percent against; see figures below). As party choice in the 2003 election is only weakly related to voting behaviour in the referendum, this showed a huge gap between the elite and the electorate on the issue (Aarts and Van der Kolk, 2006, p.245). Instead the three main reasons to vote "Yes" favoured deepening European integration, a stronger Europe and the need of a constitution, whereas the three main reasons to vote "No"dealt with the power of the Netherlands, the loss of sovereignty, and the shortage of information, unclear Constitution and unknown consequences (Atikcan, 2015, p.162).[127]

Figure 1. 2016 Yes/No votes progression

Source: I&O Research. Slotpeiling 31 maart 2016

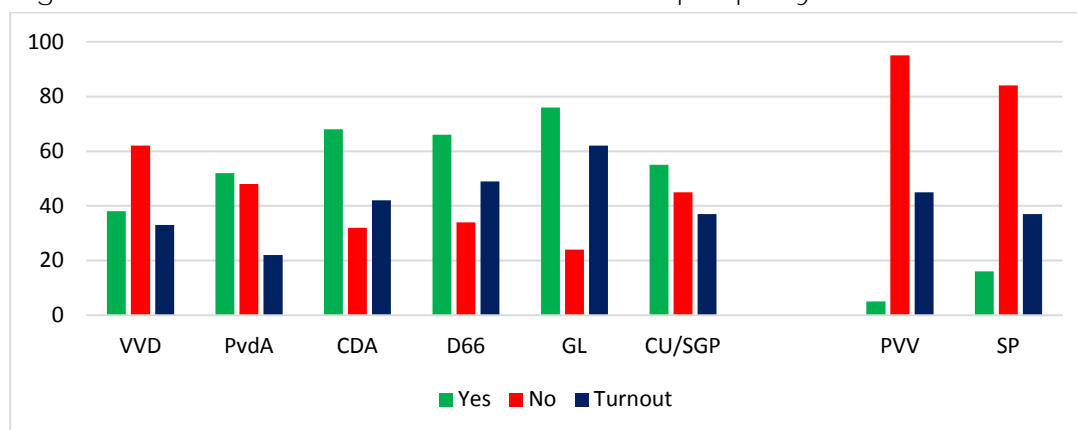Figure 2. 2016 Yes/No votes progression

Source: Aarts and Van der Kolk, 2005, p.148

In 2005 as well as in 2016, the "Yes" campaigns were perceived poorly in the media. Moreover, in 2016, the context was not only dominated by the upcoming Brexit referendum, but also by events like the publication of the 'Panama papers' two days before the vote, and the miscommunication between Dutch, European and US intelligence agencies after the Brussels attacks. Criticism on the behaviour of the Dutch AIVD and the responsible VVD Justice Minister Van der Steur marked parliamentary debates in the weeks before the referendum.

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[127] E.g. the flash Eurobarometer reported that 56% of the respondents disagreed they had all necessary information. 32% of the No voters indicated a lack of information as reason to do so. Moreover, 67% responded that the debates about the CT in the Netherlands started too late (Eurobarometer, 2005, p.6-7).
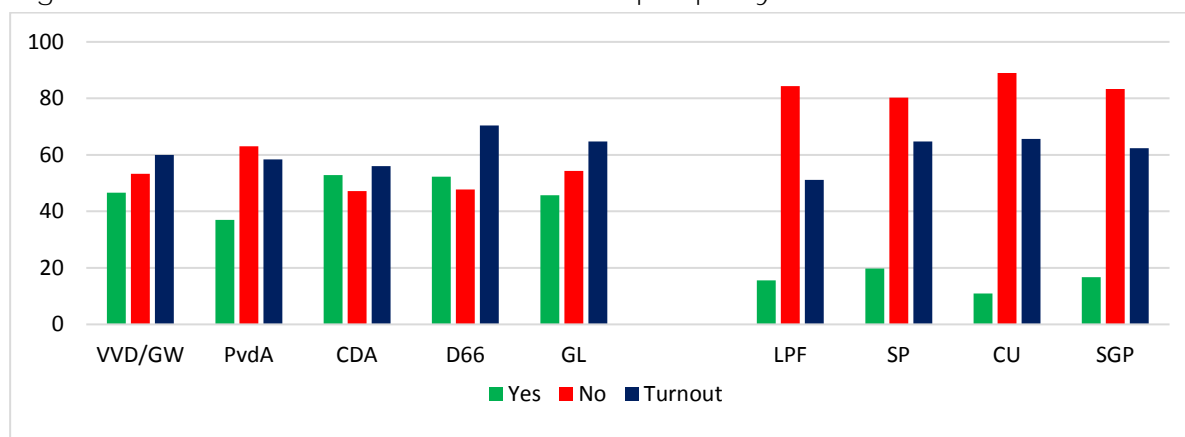
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Figure 3. 2016 "Yes"/No votes and turnout per party

Source: Ipsos exit poll, 6 April 2016

The results of both referendums marked a huge victory for the "No" camps: 61.8 percent voted against the CT in 2005 and 61.5 percent against the AA in 2016. This was all in line with the polls which had predicted a "No" vote from December 2015 onwards.[128] The polls in 2005 were less univocal until the last weeks before the vote (Aarts and Van der Kolk, 2005; see the charts below). Despite both outcomes were valid, the 63.3 percent turnout in 2005 was almost twice as high as the 32.3 percent in 2016. Polls indicate[129] that indeed quite some "Yes" voters abstained strategically (16 percent of the non-voters), hoping that the turnout quorum was not met. Even more, compared to the CT, the "Yes" parties were not able to convince their own voters (see Figure 2). They did either abstain (78% of PvdA voters; 51% of D66 voters) or voted contrary to the party's stance (62% of VVD voters).[130] The "No" parties were better able to mobilize: of the 45 percent PVV voters who turned up, 95 percent voted against the AA; as did 84 percent of the SP voters of which 37 percent turned up.

Figure 4. 2005 Yes/No votes and turnout per party

Source: Dutch Election Study 2006

Hollander and Van Kessel claim that, given the complex and technical substance of the AA and the fact that only 29 percent of the respondents knew well what the referendum was about, one week before the vote, the referendum outcome reflects merely "a proxy for the

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[128] I&O Research, EenVandaag Opiniepanel, Ipsos, TNS-NIPO.
[129] Poort, A. (2016). *Boze man tegen? Vooral boze vrouw.* NRC Handelsblad, 8 April 2016.
[130] Of the 22% PvdA voters, 52% voted in favour; of the 33% VVD voters, 38% voted in favour; of the 51% D66 voters, 66% voted in favour.

prevailing Eurosceptic and anti-establishment sentiments among the Dutch population". Since only 32 percent of the electorate turned out, one has to be careful to draw these conclusions. The first Ipsos survey results also reveal that many voters abstained because i) the government would neglect the outcome anyway; ii) they did not know what to vote; iii) they were against this referendum in particular. Hence, more and more survey research is necessary, such as the collected by I&O Research. Their first survey analyses of polls taken in December 2015 show that the level of support for European integration is a much stronger predictor of the vote than government support, albeit that the interaction of these factors shows that if voters are not satisfied with the government, they are also negative on the EU (Rosema et al., 2016, p.116). Hence, the vote was not about the government or Russia, but merely about the overarching position of the EU, which had become a salient topic definitely since the Euro crisis of 2010.

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3. Political consequences

3.1.   Constitutional Treaty

After a fierce campaign, the Dutch electorate voted massively to reject the Constitutional Treaty by 61.5 percent with an unexpectedly high turnout of 62 percent (Harmsen, 2005, pp.1-3). Despite of the consultative nature of the referendum, in practice a consensus progressively emerged amongst almost all of the main political parties that the result would be respected. The official treaty was taken off the parliamentary agenda. The European Council initiated a reflection period of a year, which the Dutch government used to organize a broad public discussion and a survey[131] on citizens' opinions about the future of Europe. The government reported on the one hand that many citizens perceived they did not grasp the decision-making in Brussels and that they were worried on the speed of European integration and the enlargement process, the large Dutch net contribution to the EU, the 'Brussels' law-making bureaucracy, the 'expensive' transition from the Dutch currency towards the Euro and the increasing globalization. Besides, citizens worried about the possible evolution towards a European 'super state', due to the title, symbols, charter of fundamental rights and the introduction of a European 'foreign minister' in the proposed CT. On the other hand, the surveys revealed general support for more European integration in tackling cross-border problems, and adaptation of the existing decision-making mechanisms in an enlarged Union, albeit in a different form than the rejected CT.[132]

When the discussion in Brussels on the CT calmed down, so did the saliency of the issue in the Dutch public opinion. After the Dutch government had fallen in June 2006, 'Europe' did not play a large role in the campaign towards the elections in November 2006. Despite this, the opposing Labour Party stated in its manifesto that a referendum on a new (constitutional) treaty was necessary. Also future Turkish accession should be put to a – binding - referendum.[1] After the elections, the Labour Party ended up in government, but did not push through a definite second referendum. Particularly the largest coalition party CDA of incumbent Prime Minister Balkenende wanted to avoid a second referendum, supported by its other new confessional coalition partner, Christian Union. After the failed Constitution, the rotating German EU Presidency was determined to reach a compromise on a new reform treaty during the first half of 2007. As a consequence, the new Dutch government had to take a position whether it aimed for a referendum or not on such a new treaty.

The new cabinet strived for a modification of existing treaties which should 'convincingly differ from the previously rejected CT in *substance, size and name'*. The supporting coalition parties eventually left the question whether or not a referendum ought to be called to the Council of State. This advisory body of the government should assess whether the new EU treaty contained 'constitutional' elements, like the CT.[2] In a first report the Council of State concluded[3] that 'Unlike the Treaty establishing a Constitution for Europe,' the draft reform treaty 'provides no arguments for a gradual expansion of the EU towards a more explicit state or federation.' (cf. Van Keulen et al. 2007). It referred to the draft IGC mandate of the European Council of 21-23 June 2007, which abandoned the constitutional concept.[133] The Council did not consider the reform treaty as 'special justification' to supplement the ordinary

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[131] Surveys commissioned by the Dutch government on the Constitutional Treaty.
[132] Memorie van Toelichting bij Goedkeuring van het op 13 december 2007 te Lissabon totstandgekomen Verdrag van Lissabon, Kamerstuk 31.384 (R 1850) nr. 3.
[133] Presidency Conclusions – Brussels, 21/22 June 2007, p.15: "The constitutional concept, which consisted in repealing all existing Treaties and replacing them by a single text called "Constitution", is abandoned."

ratification procedure with a plebiscite. [134] Subsequently the Dutch cabinet shared the Council of State's opinion that the treaty distinguishes itself distinctly from the CT, considering it did not contain content or symbols towards a state or federal direction. [135] Given that the coalition parties CDA, CU and reluctantly PvdA, but also opposition party VVD considered that a plebiscite was not necessary, the proponents of another referendum (SP, PVV, PvdD, GreenLeft and D66) did not comprise a parliamentary majority. Hence, the Lisbon Treaty was ratified by parliament by simple majority. [136]

3.2.   EU-Ukraine Association Agreement

Following the 2016 Ukraine Association Agreement referendum Prime Minister Rutte made clear that the Dutch government had no intention of ignoring popular opinion and 'simply ratifying' the AA, especially as it will face elections by March 2017. Interior Minister Plasterk announced an evaluation of the Advisory Referendum Act (implying possible modification or abolition of the turnout quorum). Although, according to the ARA, the government had to withdraw or maintain the ratification act *as soon as* possible, parliament accepted that the matter was postponed until after the Brexit vote on 23 June 2016.

The European Council of 28 June invited the Council to seek a solution to address as soon as possible the concerns expressed in the debate preceding the Dutch referendum. [4] A range of legal means to respond to the Dutch vote have already been identified by legal scholars (cf. Van der Loo 2016; Van Elsuwege 2016; Wessel and Lazowski 2016). These include the least realistic scenario of reopening negotiations on the agreement or terminating it, to using interpretative declarations with a view to satisfying Dutch voters. Another option would be an adjusting protocol in which The Netherlands is not a separate party to the agreement but could remain bound as an EU member state for those matters within EU competence, or continuation of the status quo so that the Agreement, most of which had provisionally entered into force well before the Dutch vote, continues to apply provisionally on an indefinite basis. As Van Elsuwege already noted before the vote, a decision of the Dutch government not to ratify the AA may not have the same far-reaching consequences as did the Dutch "No" vote in 2005. The European Constitution was declared 'dead', whereas the Association Agreement with Ukraine is currently still alive. What this will mean in the near future however, is still unclear.

The most recent developments at the end of 2016 pointed to Dutch ratification in 2017. After the Dutch parliament unanimously had adopted a motion that the Dutch government should clarify by 1 November 2016 whether it intended to ratify or not, the Dutch government hinted it was looking for a 'binding' solution before the end of 2016. At the European Council of December 2016, the Heads of State or Government of the 28 Member States adopted a 'Decision' on the interpretation of some parts of the AA. This decision is legally binding on the 28 Member States (but not on Ukraine) and may only be repealed unanimously. It will only take effect once The Netherlands has ratified the agreement. Otherwise the Decision will cease to exist. The Decision contains six clauses as common understanding that the AA

i)   does not (constitute a commitment to) confer on Ukraine the status of candidate member state;

ii)   does not contain an obligation for the EU or Member States to provide collective security guarantees or other military aid or assistance to Ukraine;

iii)   does not grant EU or Ukrainian citizens to reside and work freely in each others territories;

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[134] Advice of the Council of State of 12 September 2007. W02.07.0254/II/E.

[135] Advice of the Council of State of 1 October 2007. Tweede Kamer, 2007–2008, 31.091, nr. 4.

[136] EuropaNu (n.d.). Totstandkoming Verdrag van Lissabon.

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    iv)   does not require additional financial support by the Member States to Ukraine

    v)   puts the fight against corruption central to enhancing the relationship between the EU and Ukraine;

    vi)   puts respect for democratic principles, human rights and fundamental freedoms and respect for the principle of the rule of law as its essential elements.[137]

Although these clauses do not change anything in the AA itself, Dutch Prime Minister Rutte hopes to convince a majority in both houses of parliament. While a majority in the Second Chamber seems secured with VVD, PvdA, D66, GreenLeft backing the agreement, these parties lack a majority in the First Chamber. They are dependent on the support of at least two other Senators and relying on some pro-European MPs of the Christian Democrats (Peeperkorn and Righton, 2016).

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[137] European Council meeting (15 December 2016) – Conclusions. EUCO 34/16

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[1] PvdA electoral manifesto 2006. *Samen sterker Werken aan een beter Nederland. p.103: "De toetreding van Turkije tot Europa kan door middel van een correctief referendum aan de kiezer worden voorgelegd. (...) Europa is er voor de burgers. De uitslag van het referendum over de grondwet was glashelder. De PvdA zal niet accepteren dat er via een omweg toch aan gemorreld wordt. Voor een nieuw (grondwettelijk) verdrag is een nieuw referendum nodig. De PvdA wil een nieuw verdrag op hoofdlijnen om de bevoegdheden van de lidstaten en de EU duidelijker vast te leggen en Europa simpeler, democratischer en beter te laten functioneren."*

[2] Coalition agreement CDA – PvdA – ChristenUnie. *'Samen werken, samen leven'. p.3: "Optimisme en zorgen gaan hand in hand. Groot is de behoefte aan houvast, geborgenheid en een herkenbare eigen identiteit. Die behoefte kwam onder meer naar voren bij de uitslag van het referendum van 1 juni 2005 over het Europees grondwettelijk verdrag en in de verkiezingsuitslag van 22 november 2006."*
p.13: "Europa 1. Gestreefd wordt naar een wijziging en eventuele bundeling van de bestaande verdragen van de Europese Unie waarin subsidiariteit en democratische controle zeker gesteld worden en die zich in inhoud, omvang en benaming overtuigend onderscheidt van het eerder verworpen 'grondwettelijk verdrag'. Over deze en andere aspecten van die verdragswijziging(en) zal de Raad van State advies gevraagd worden." (...)

[3] Advice Council of State, 12 September 2007: W02.07.0254/II/E.
3.1 (...) In its advisory opinion on the proposal by MPs Karimi, Dubbelboer and Van der Ham on the holding of a consultative referendum on the constitutional treaty for the European Union, the Council of State gave its views on the nature of the Treaty establishing a Constitution for Europe with respect to its approval. The Council did not comment on the desirability of holding a referendum, but made its remarks in the light of the proposers' wish to enable a consultative referendum on the Treaty to be held. It gave its views on the reasons that the proposers put forward for their proposal. In making this assessment of the possibility and desirability of holding a referendum, the Council of State concluded that approval of the Treaty establishing a Constitution for Europe, in which the fundamental rights were enshrined and the pillar structure was abandoned, was to some extent comparable to approval of a national constitutional amendment. However, its opinion also expressly pointed out the differences between a national constitution and the Treaty establishing a Constitution for Europe. The latter, it said, could not be equated with a national constitution, for the EU could not be considered a state. This is also apparent from the proposed Reform Treaty, which merely amends the existing treaties and is thus in line with the constitutional development of the Union as described above.
In its advisory opinion on the European Constitution (Consultative Referendum) Bill, the Council referred to elements of method and content in the Treaty establishing a Constitution for Europe and to elements associated with the symbolism of the Treaty. These elements led the Council to conclude that the Treaty establishing a Constitution for Europe was unusual in nature. In the following sections, the Council will assess, with reference to the same elements, the nature of a treaty as referred to in the conclusions of the Brussels European Council of 21-22 June 2007.

[4] Report on the European Council 28-29 June 2016, by the Dutch government:
"Dutch referendum on the Association Agreement with Ukraine. The Prime Minister has outlined the situation resulting from the referendum outcome in the Netherlands on 6 April. He indicated that the agreement cannot simply be ratified. He mentioned some concerns which appeared during the debates preceding the referendum, such as the concern that this Association Agreement implies Ukrainian EU membership in the long run, the concern that it will lead to comprehensive additional financial obligations, and the fear that military cooperation also constitutes a security guarantee for Ukraine. A satisfying solution needs to be found which addresses these concerns. The Prime Minister has made clear that such a solution should be legally binding. He also emphasized that the Netherlands does not intend to wait very long with this. It is agreed upon in the conclusions that a solution addressing the raised concerns, should be found as soon as possible." [translated by the author].

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WHITE PAPER ON THE
FUTURE OF EUROPE

*Reflections and scenarios
for the EU27 by 2025*

European Commission

Foreword

On 25 March 2017, 27 leaders of the European Union's Member States will stand united in peace and friendship in Rome.

That alone is an achievement that many would have thought unthinkable when the six founding Member States agreed on the Treaties of Rome 60 years ago.

As we mark this anniversary, our thoughts are with those before us whose dream for Europe has become a reality. Now is the time to reflect with pride on our achievements and to remind ourselves of the values that bind us together.

But Rome must also be the start of a new chapter. There are important challenges ahead of us, for our security, for the well-being of our people, for the role that Europe will need to play in an increasingly multipolar world. A united Europe at 27 needs to shape its own destiny and carve out a vision for its own future.

This White Paper is the European Commission's contribution to this new chapter of the European project. We want to launch a process in which Europe determines its own path. We want to map out the challenges and opportunities ahead of us and present how we can collectively choose to respond.

After a broad debate across our continent in the months to come, including the European Parliament, national Parliaments, local and regional authorities, and civil society at large, I will take these ideas forward and give my personal views on the future of Europe in my State of the Union speech in September 2017.

This should help the European Council draw first conclusions by the end of the year and decide on a course of action to be rolled out in time for the European Parliament elections in June 2019.

As we decide which way to go, we should remember that Europe has always been at its best when we are united, bold and confident that we can shape our future together.

The European Union has changed our lives for the better. We must ensure it keeps doing so for all of those that will follow us.

Jean-Claude Juncker
1 March 2017

'Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity.'

Robert Schuman
9 May 1950

Content

1. Introduction

For generations, Europe was always the future.

It took off with the vision of Altiero Spinelli and Ernesto Rossi, political prisoners locked up by a fascist regime on the isle of Ventotene during the Second World War. Their manifesto *For a Free and United Europe* painted a picture of a place in which allies and adversaries would come together to ensure that the "old absurdities" of Europe would never return.

Ventotene Manifesto

Altiero Spinelli e Ernesto Rossi

IL

MANIFESTO

DI

VENTOTENE

Prefazione di Eugenio Colorni

Sixty years ago, inspired by that dream of a peaceful, shared future, the EU's founding members embarked on a unique and ambitious journey of European integration. They agreed to settle their conflicts around a table rather than in battlefields. They replaced the use of armed forces by the force of law. They opened up the path for other countries to join, reuniting Europe and making us stronger.

As a result, our troubled past has given way to a peace spanning seven decades and to an enlarged Union of 500 million citizens living in freedom in one of the world's most prosperous economies. The images of battles in trenches and fields in Verdun, or of a continent separated by the Iron Curtain and the Berlin Wall, have been replaced by a Union standing out as a beacon of peace and stability.

The sacrifice of previous generations should never be forgotten. Human dignity, freedom and democracy were hard-earned and can never be relinquished. Even if the attachment to peace is not one that all of today's Europeans can relate to in the same way as their parents or grandparents, these core values continue to bind us together.

The EU is now the place where Europeans can enjoy a unique diversity of culture, ideas and traditions in a Union covering four million square kilometres. It is where they have forged life-long bonds with other Europeans and can travel, study and work across national borders without changing currency. It is where the rule of law has replaced the rule of the iron fist. It is where equality is not just spoken about but continues to be fought for.

Despite this, many Europeans consider the Union as either too distant or too interfering in their day-to-day lives. Others question its added-value and ask how Europe improves their standard of living. And for too many, the EU fell short of their expectations as it struggled with its worst financial, economic and social crisis in post-war history.

Europe's challenges show no sign of abating. Our economy is recovering from the global financial crisis but this is still not felt evenly enough. Parts of our neighbourhood are destabilised, resulting in the largest refugee crisis since the Second World War. Terrorist attacks have struck at the heart of our cities. New global powers are emerging as old ones face new realities. And last year, one of our Member States voted to leave the Union.

The current situation need not necessarily be limiting for Europe's future. The Union has often been built on the back of crises and false starts. From the European Defence Community that never got off the ground in the 1950s, to the exchange rate shocks of the 1970s, through to aborted accessions and rejections in referenda in recent decades, Europe has always been at a crossroads and has always adapted and evolved.

70 years of lasting peace

1500   1700   1800   1900   2017

War   ● Peace

Source: European Commission

In the last 25 years alone, the Treaties of Maastricht, Amsterdam and Nice have profoundly reformed and transformed a Union that has more than doubled in size. The Lisbon Treaty, and the decade-long debate that preceded it, has opened a new chapter of European integration that still holds unfulfilled potential.
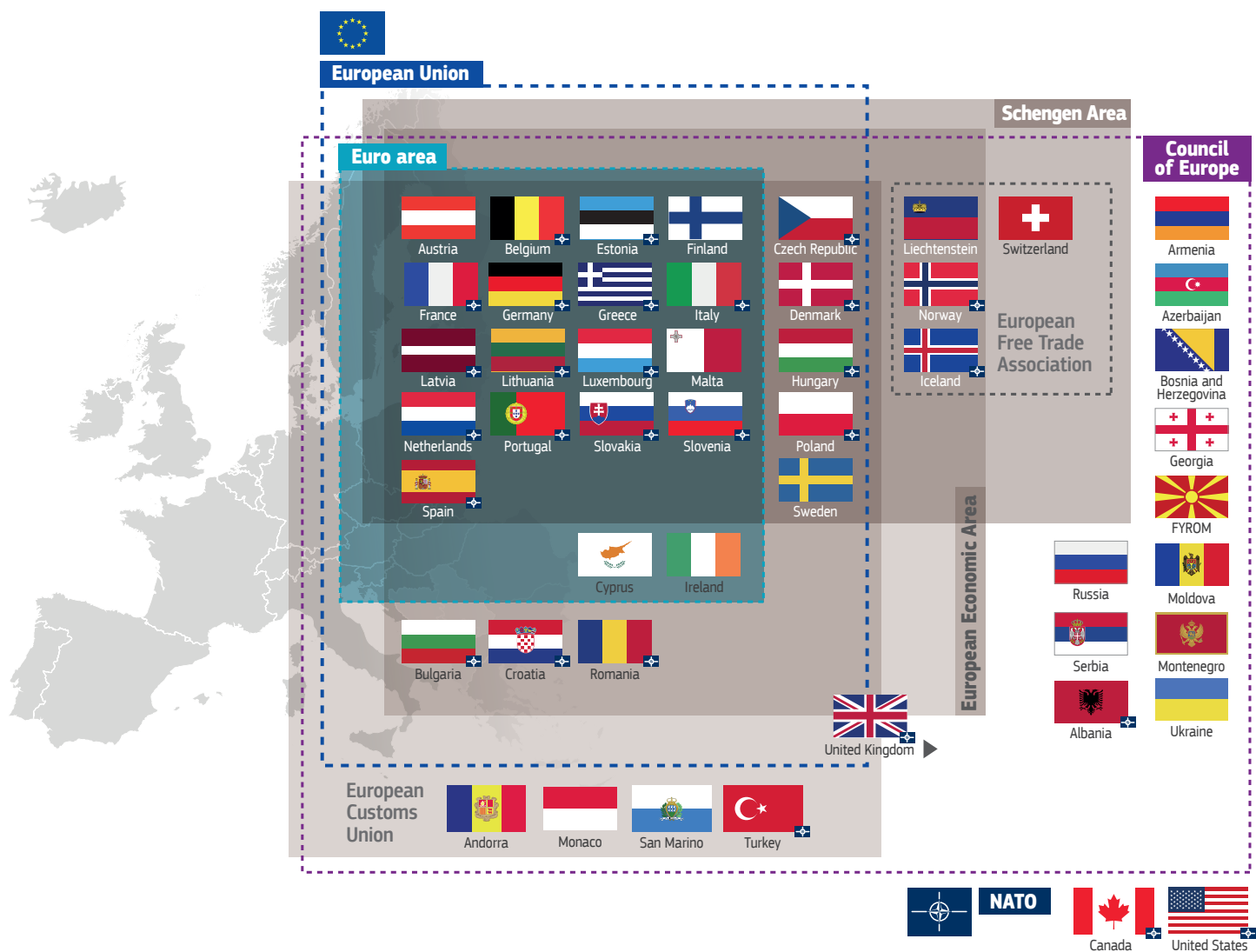
Like generations before us, our response to the task ahead cannot be nostalgic or short-term. It should be built on a common perspective, and on the shared conviction that by coming together, each of us will be better off.

As 27 EU Heads of State or Government meet in Rome to mark the 60th anniversary of our common project, we must once again look forward.

This White Paper maps out the drivers of change in the next decade and presents a range of scenarios for how Europe could evolve by 2025. In doing so, it starts a debate that should help focus minds and find new answers to an old question:

What future do we want for ourselves, for our children and for our Union?
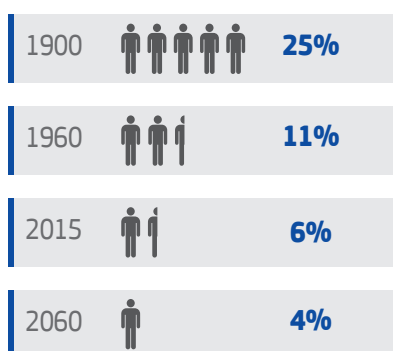
Europe today

Source: European Commission

2. The drivers of Europe's future

A CHANGING PLACE IN AN EVOLVING WORLD

Europe is home to the world's largest single market and second most used currency. It is the largest trade power and development and humanitarian aid donor. Thanks in part to Horizon 2020, the world's biggest multinational research programme, Europe is at the cutting edge of innovation. Its diplomacy holds real weight and helps keep the world safer and more sustainable, as shown by the historic deal with Iran on its nuclear programme or the leading role the EU played in the Paris Climate Agreement and the adoption by the United Nations of the Sustainable Development Goals for 2030. This influence is reinforced by our close cooperation with NATO and our active role in the Council of Europe.

Europe is attractive to many of its partners. While no further accession to the EU is expected in the short term, the prospect itself is a powerful tool to project stability and security along our borders. The EU works actively with its neighbourhood whether it be in the east or in the south. From our strengthened partnership with Ukraine to the wide-ranging cooperation with our African partners, Europe's role as a positive global force is more important than ever.

Europe represents a falling share of the world population

Source: UN Statistical Division and Eurostat, EU27

However, that status belies a simple reality: Europe's place in the world is shrinking, as other parts of the world grow. In 1900, Europe accounted for around 25% of global population. By 2060, it will account for less than 5%. No single Member State will have more than 1% of the world population by then.

Europe's relative economic power is also forecast to wane, accounting for much less than 20% of the
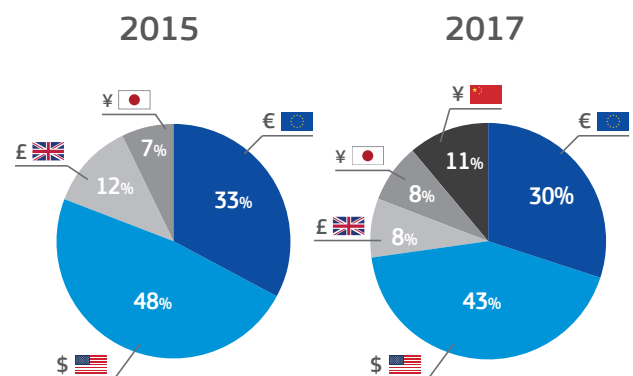
world's GDP in 2030, down from around 22% today. The rapidly rising influence of emerging economies accentuates the need for Europe to speak with one voice and to act with the collective weight of its individual parts.

Europe's share of global GDP is shrinking

	2004	2015	
United States of America	28%	24%	↘
EU27	26%	22%	↘
Japan	11%	6%	↘
UK	5%	4%	↘
China	5%	15%	↗
Canada	2%	2%	→
Mexico	2%	2%	→
Brazil	<2%	2%	↗
India	<2%	3%	↗
Rest of the world	18%	21%	↗

Source: Eurostat and UN Statistical Division

The euro is now a global currency but other players are gaining weight

Note: The charts show the recent change in the basket of currencies used as reference by the International Monetary Fund, its so-called "Special Drawing Rights"
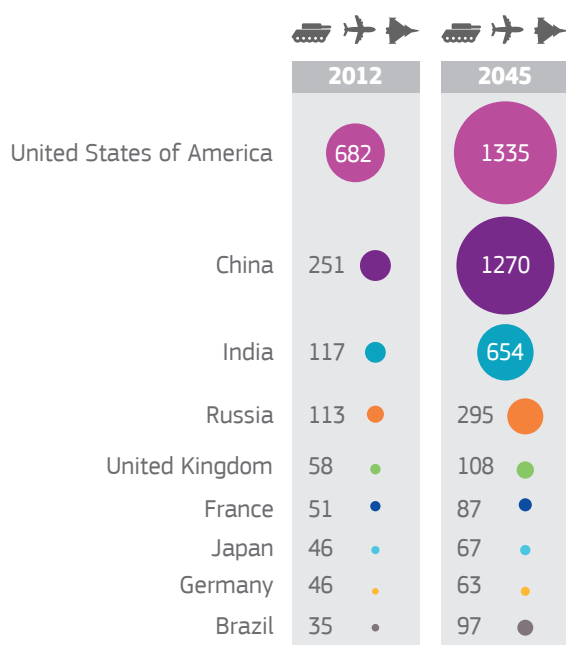
Source: International Monetary Fund, figures are for 30/11/2015 and 24/02/2017 respectively

The build-up of troops on our eastern borders, war and terrorism in the Middle East and Africa, and increasing militarisation around the world are vivid illustrations of an increasingly tense global context. The need to reflect on how to deter, respond and protect against threats, ranging from large-scale cyber-attacks to more traditional forms of aggression, has never been so critical. NATO will continue to provide hard security for most EU countries but Europe cannot be naïve and has to take care of its own

security. Being a "soft power" is no longer powerful enough when force can prevail over rules.

While the world has never been smaller or better connected, the return of isolationism has cast doubts over the future of international trade and multilate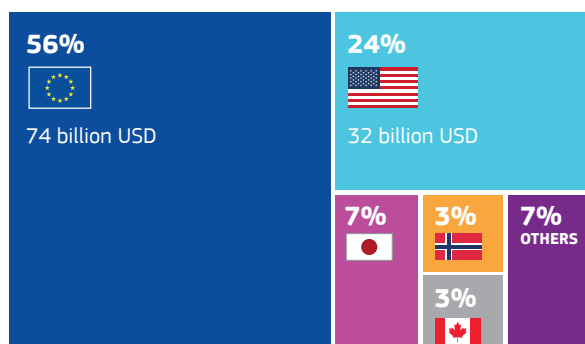ralism. Europe's prosperity and ability to uphold our values on the world stage will continue to depend on its openness and strong links with its partners. Yet, standing up for free and progressive trade and shaping globalisation so it benefits all will be a growing challenge.

Defence expenditure is expected to double for most major defence spenders by 2045 (in billion USD)

	2012	2045
United States of America	682	1335
China	251	1270
India	117	654
Russia	113	295
United Kingdom	58	108
France	51	87
Japan	46	67
Germany	46	63
Brazil	35	97

Source: Stockholm International Peace Research Institute

The EU is the biggest donor of development and humanitarian aid (% of total aid and in billion USD)

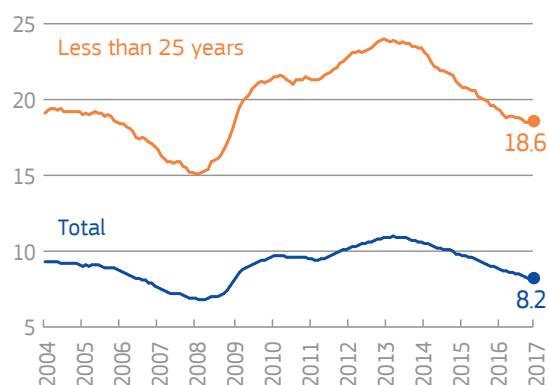| 56%	24%
74 billion USD	32 billion USD
	7% Japan · 3% Norway · 7% OTHERS · 3% Canada

Source: OECD, 2015, EU = EU and its Member States

A PROFOUNDLY TRANSFORMED ECONOMY AND SOCIETY

The global financial and economic crisis that started in 2008 in the United States shook Europe to its core. Thanks to determined action, the EU economy is now back on a more stable footing with unemployment falling to its lowest level since the "great recession" hit. However, the recovery is still unevenly distributed across society and regions. Addressing the legacy of the crisis, from long-term unemployment to high levels of public and private debt in many parts of Europe, remains an urgent priority.

The challenge is particularly acute for the younger generation. For the first time since the Second World War, there is a real risk that the generation of today's young adults ends up less well-off than their parents. Europe cannot afford to lose the most educated age group it has ever had and let generational inequality condemn its future.

Unemployment levels falling but still high in EU28

Less than 25 years — 18.6

Total — 8.2

(years 2004–2017)
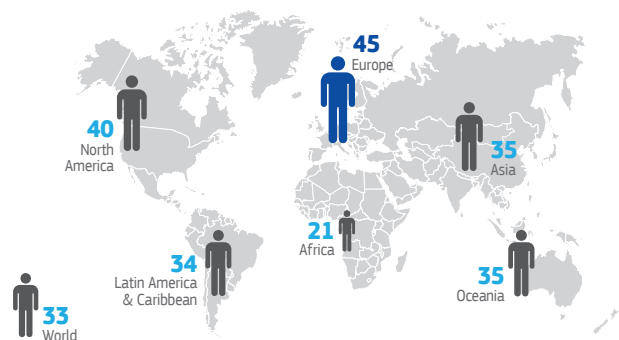
Source: European Commission

These developments have fuelled doubts about the EU's social market economy and its ability to deliver on its promise to leave no one behind and to ensure that every generation is better off than the previous one. This has been particularly felt within the euro area, highlighting the need to complete the Economic and Monetary Union and strengthen the convergence of economic and social performances. Making Europe's economy more inclusive, competitive, resilient and future-proof will be no less demanding in the years ahead.

Europe is ageing fast and life expectancy is reaching unprecedented levels. With a median age of 45, Europe will be the "oldest" region in the world by 2030. New family structures, a changing population, urbanisation and more diverse working lives are affecting the way social cohesion is built. In the space of a generation, the average European worker has gone from having a job for life to having more than ten in a career. There are more women in work than ever before but achieving real gender equality will mean breaking down persisting barriers. At a time when Europe's working age population is shrinking, it needs to mobilise the full potential of its talents.

Europeans will be the oldest in the world by 2030
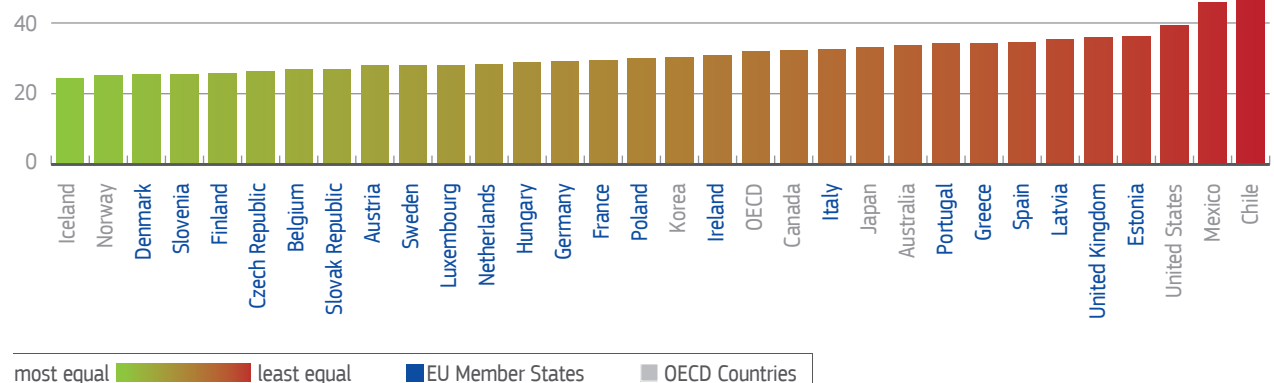(median age by regions of the world)

Source: Rand Europe

Europe already has the world's most advanced systems of welfare State that can provide solutions to societal challenges around the world. Its scientific community is at the vanguard of global research to tackle health challenges, such as for the treatment of Alzheimer's disease. Social protection systems will nevertheless

need to be significantly modernised to remain affordable and to keep pace with new demographic and work-life realities.

This is doubly important as Europe gets to grips with a profound digitisation of society which is already blurring the lines between workers and self-employed, goods and services, or consumers and producers. Many of today's jobs did not exist a decade ago. Many more will emerge in the years ahead. It is likely that most children entering primary school today will end up working in new job types that do not yet exist. The challenges of increased use of technology and automation will affect all jobs and industries. Making the most of the new opportunities whilst mitigating any negative impact will require a massive investment in skills and a major rethink of education and lifelong learning systems. It will also call for the roll-out of new social rights to accompany the changing world of work.

At the same time, Europe is committed to an ambitious decarbonisation of its economy and to cutting harmful emissions. And we will have to continue adapting to growing climate and environmental pressures. Our industry, cities and households will need to change the way they operate and are powered. We are already a leader in "smart cities", in the efficient use of natural resources and in the global fight against climate change. Our firms hold 40% of the world's patents for renewable energy technologies. One of our major challenges will be to bring innovative solutions to market, at home and abroad.

Europe is home to the most equal societies in the world

Note: This graph shows the distribution of income between individuals using the Gini coefficient where 0 represents perfect equality.

Source: OECD, latest available data

HEIGHTENED THREATS AND CONCERNS ABOUT SECURITY AND BORDERS

Europe is a remarkably free and stable place for its citizens in a world still full of discord and division. Of the 25 countries listed as the most peaceful in the world, 15 are from the EU.

However, the chilling effect of recent terrorist attacks has shaken our societies. The increasingly blurred lines between internal and external threats are changing the way people think about personal safety and borders. Paradoxically, this comes at a time when moving around the world for work and leisure is easier and more common than ever before.

The pressures driving migration will also multiply and flows will come from different parts of the world as the effects of population growth, widespread tensions and climate change take hold. The refugee crisis, which saw 1.2 million people coming to Europe in 2015, is of a scale unprecedented since the Second World War. This has led to a contentious debate about solidarity and responsibility among the Member States and fuelled a broader questioning of the future of border management and free movement within Europe.
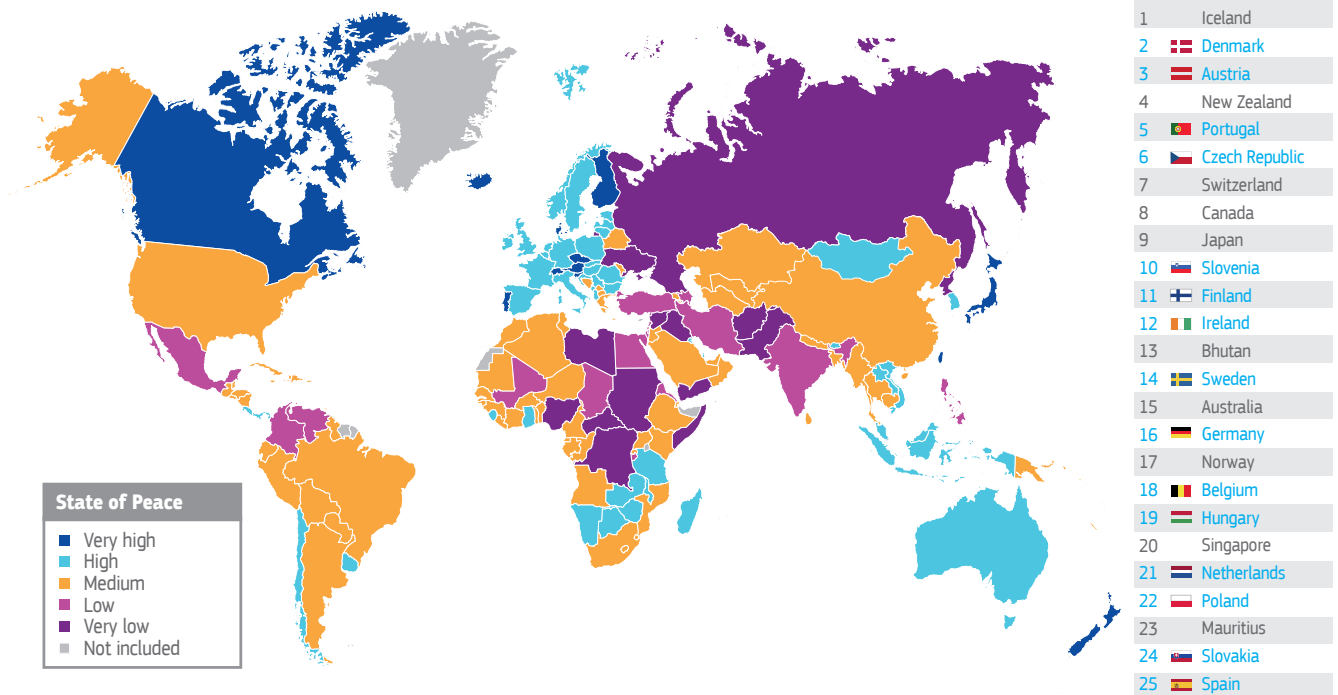
For the 1.7 million Europeans who commute to another Member State every day, and for the hundreds of millions who travel across Europe for family, tourism or business reasons every year, borders are a thing of the past. Yet, for the first time since walls were torn down a generation ago, the recent crises have led to temporary controls being reintroduced at certain borders within Europe.

25 years ago: celebrating the fall of the Berlin Wall

25 most peaceful countries in the world

1		Iceland
2		Denmark
3		Austria
4		New Zealand
5		Portugal
6		Czech Republic
7		Switzerland
8		Canada
9		Japan
10		Slovenia
11		Finland
12		Ireland
13		Bhutan
14		Sweden
15		Australia
16		Germany
17		Norway
18		Belgium
19		Hungary
20		Singapore
21		Netherlands
22		Poland
23		Mauritius
24		Slovakia
25		Spain

State of Peace
- Very high
- High
- Medium
- Low
- Very low
- Not included

Source: Global Peace Index

A QUESTIONING OF TRUST AND LEGITIMACY

The various changes affecting the world and the real sense of insecurity felt by many have given rise to a growing disaffection with mainstream politics and institutions at all levels. This often manifests itself through indifference and mistrust towards the action of public authorities. And it also creates a vacuum too easily filled by populist and nationalist rhetoric.

Blaming *"Brussels"* for problems while taking credit for success at home, the lack of ownership of joint decisions and the habit of finger-pointing at others have already proved damaging. Europeans are not immune to these stark images of disunity.

There is still strong support for the European project, but it is no longer unconditional. Over two thirds of Europeans see the EU as a place of stability in a troubled word. More than 80% support the EU's four founding freedoms. 70% of euro area citizens support the common currency.

However, citizens' trust in the EU has decreased in line with that for national authorities. Around a third of citizens trust the EU today, when about half of Europeans did so ten years ago.

Closing the gap between promise and delivery is a continuous challenge. This is partly because the EU is not an easy construct to understand as it combines both the European level and Member States. Who does what is not well explained enough and the EU's positive role in daily life is not visible if the story is not told locally. Communities are not always aware that their farm nearby, their transport network or universities are partly funded by the EU.
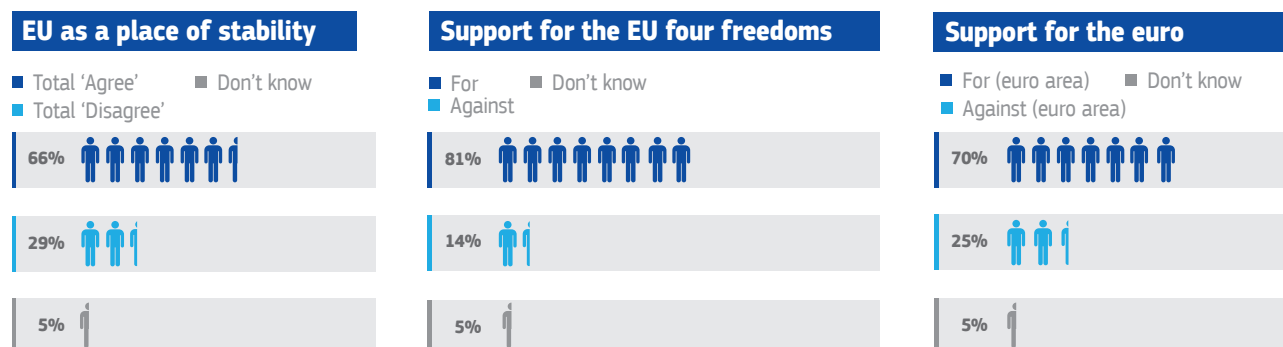
There is also a mismatch between expectations and the EU's capacity to meet them. Take the example of youth unemployment: in spite of many high-level summits and useful EU supporting measures, the tools and powers remain in the hands of national, regional and local authorities. Resources available at European level in the social field account for only 0.3% of what Member States spend in total in that area.

Restoring trust, building consensus and creating a sense of belonging is harder in an era where information has never been so plentiful, so accessible, yet so difficult to grasp. The 24/7 nature of the news cycle is quicker and harder to keep up with and respond to than it ever has been before. More tweets are now sent every day than in a whole year ten years ago. And by 2018, around a third of the world's population will use social media networks.

These trends will only accelerate and continue to change the way democracy works. This creates new opportunities to facilitate public debate and to engage Europeans. However, Europe and its Member States must move quicker to interact with citizens, be more accountable and deliver better and faster on what has been collectively agreed.

How do Europeans see the EU?

EU as a place of stability

■ Total 'Agree'   ■ Don't know
■ Total 'Disagree'

66%
29%
5%

Support for the EU four freedoms

■ For   ■ Don't know
■ Against

81%
14%
5%

Support for the euro

■ For (euro area)   ■ Don't know
■ Against (euro area)

70%
25%
5%

Source: Eurobarometer, October and November 2016, EU28

3. Five scenarios for Europe by 2025

Many of the profound transformations Europe is currently undergoing are inevitable and irreversible. Others are harder to predict and will come unexpectedly. Europe can either be carried by those events or it can seek to shape them. We must now decide.

The five scenarios presented in this White Paper will help steer a debate on the future of Europe. They offer a series of glimpses into the potential state of the Union by 2025 depending on the choices we will jointly make.

The starting point for each scenario is that the 27 Member States move forward together as a Union.

The five scenarios are illustrative in nature to provoke thinking. They are not detailed blueprints or policy prescriptions. Likewise, they deliberately make no mention of legal or institutional processes – the form will follow the function.

Too often, the discussion on Europe's future has been boiled down to a binary choice between more or less Europe. That approach is misleading and simplistic. The possibilities covered here range from the status quo, to a change of scope and priorities, to a partial or collective leap forward. There are many overlaps between each scenario and they are therefore neither mutually exclusive, nor exhaustive.

The final outcome will undoubtedly look different to the way the scenarios are presented here. The EU27 will decide together which combination of features from the five scenarios they believe will best help advance our project in the interest of our citizens.

Scenario 1: Carrying on

THE EUROPEAN UNION FOCUSES ON DELIVERING ITS POSITIVE REFORM AGENDA.

Why and how?

In a scenario where the EU27 sticks to its course, it focuses on implementing and upgrading its current reform agenda. This is done in the spirit of the Commission's *New Start for Europe* in 2014 and of the Bratislava Declaration agreed by all 27 Member States in 2016. Priorities are regularly updated, problems are tackled as they arise and new legislation is rolled out accordingly.

As a result, the 27 Member States and the EU Institutions pursue a joint agenda for action. The speed of decision-making depends on overcoming differences of views in order to deliver on collective long-term priorities. EU legislation is checked regularly to see whether it is fit for purpose. Outdated legislation is withdrawn.

By 2025, this means:

The EU27 continues to focus on jobs, growth and investment by strengthening the single market and by stepping up investment in digital, transport and energy infrastructure.

There is incremental progress on improving the functioning of the single currency in order to drive growth and prevent shocks starting at home or abroad. Further steps are taken to strengthen financial supervision, to ensure the sustainability of public finances and to develop capital markets to finance the real economy.

The Commission's reform of State aid law ensures that 90% of all State aid measures are in the hands of national, regional and local authorities.

The fight against terrorism is stepped up in line with the willingness of national authorities to share intelligence. Defence cooperation is deepened in terms of research, industry and joint procurement. Member States decide to pool some military capabilities and to enhance financial solidarity for EU missions abroad.

On foreign policy, progress is made on speaking with one voice. The EU27 actively pursues trade agreements with partners from around the world, in the same way as it does today. Management of external borders is the primary responsibility of individual countries, but cooperation is reinforced thanks to the operational support of the European Border and Coast Guard. Continuous improvement to border management is needed to keep up with new challenges. If this is not done, some countries may wish to maintain targeted internal controls.

The EU27 manages to positively shape the global agenda in a number of fields such as climate, financial stability and sustainable development.

Pros and cons:

The positive agenda of action continues to deliver concrete results, based on a shared sense of purpose. Citizens' rights derived from EU law are upheld. The unity of the EU27 is preserved but may still be tested in the event of major disputes. Only a collective resolve to deliver jointly on the things that matter will help close the gap between promises on paper and citizens' expectations.

Impact on policies

Single market & trade	Economic & Monetary Union	Schengen, migration & security	Foreign policy & defence	EU budget	Capacity to deliver
Single market is strengthened, including in the energy and digital sectors; the EU27 pursues progressive trade agreements	Incremental progress on improving the functioning of the euro area	Cooperation in the management of external borders stepped up gradually; progress towards a common asylum system; improved coordination on security matters	Progress is made on speaking with one voice on foreign affairs; closer defence cooperation	Partly modernised to reflect the reform agenda agreed at 27	Positive agenda for action yields concrete results; decision-making remains complex to grasp; capacity to deliver does not always match expectations

Illustrative snapshots

- Households and business are incentivised to reduce their energy consumption and produce their own clean energy. They can easily change providers. On average, bills become cheaper but half the sum is still paid to non-EU suppliers.

- Europeans can use connected cars but may still face some legal and technical obstacles when crossing borders.

- High-quality and high-speed broadband can be accessed in Europe's town centres as well as rural areas. E-commerce picks up but it remains disproportionately expensive to have products delivered from another Member State.

- Europeans are mostly able to travel across borders without having to stop for checks. Reinforced security controls mean having to arrive at airports and train stations well in advance of departure.

- The EU concludes targeted and progressive trade deals with like-minded partners such as Japan, Australia, New Zealand, Latin America and others. The ratification process is lengthy and often delayed by discussions and disagreements in some national and regional Parliaments.

Scenario 2: Nothing but the single market

THE EUROPEAN UNION IS GRADUALLY
RE-CENTRED ON THE SINGLE MARKET.

Why and how?

In a scenario where the EU27 cannot agree to do more in many policy areas, it increasingly focuses on deepening certain key aspects of the single market. There is no shared resolve to work more together in areas such as migration, security or defence.

As a result, the EU27 does not step up its work in most policy domains. Cooperation on new issues of common concern is often managed bilaterally. The EU27 also significantly reduces regulatory burden by withdrawing two existing pieces of legislation for every new initiative proposed.

By 2025, this means:

The functioning of the single market becomes the main "raison d'être" of the EU27. Further progress depends on the capacity to agree related policies and standards. This proves easier for the free movement of capital and of goods, which continues tariff-free, than it does in other areas.

Given the strong focus on reducing regulation at EU level, differences persist or increase in areas such as consumer, social and environmental standards, as well as in taxation and in the use of public subsidies. This creates a risk of a "race to the bottom". It is also difficult to agree new common rules on the mobility of workers or for the access to regulated professions. As a result, the free movement of workers and services is not fully guaranteed.
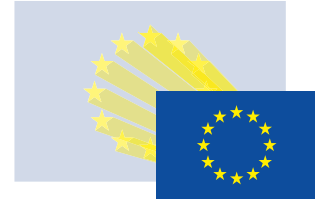
The euro facilitates trade exchanges but growing divergence and limited cooperation are major sources of vulnerability. This puts at risk the integrity of the single currency and its capacity to respond to a new financial crisis.

There are more systematic checks of people at national borders due to insufficient cooperation on security and migration matters.

Internal disagreements on the approach to international trade mean the EU struggles to conclude deals with its partners. Migration and some foreign policy issues are increasingly left to bilateral cooperation. Humanitarian and development aid is dealt with nationally. The EU as a whole is no longer represented in a number of international fora as it fails to agree on a common position on issues of relevance to global partners such as climate change, fighting tax evasion, harnessing globalisation and promoting international trade.

Pros and cons:

The EU's re-centred priorities mean that differences of views between Member States on new emerging issues often need to be solved bilaterally, on a case-by-case basis. Citizens' rights derived from EU law may become restricted over time. Decision-making may be simpler to understand but the capacity to act collectively is limited. This may widen the gap between expectations and delivery at all levels.

Impact on policies

Single market & trade	Economic & Monetary Union	Schengen, migration & security	Foreign policy & defence	EU budget	Capacity to deliver
Single market for goods and capital strengthened; standards continue to differ; free movement of people and services not fully guaranteed	Cooperation in the euro area is limited	No single migration or asylum policy; further coordination on security dealt with bilaterally; internal border controls are more systematic	Some foreign policy issues are increasingly dealt with bilaterally; defence cooperation remains as it is today	Refocused to finance essential functions needed for the single market	Decision-making may be easier to understand but capacity to act collectively is limited; issues of common concern often need to be solved bilaterally

Illustrative snapshots

- Air quality differs greatly across Europe with some countries choosing to remove standards and regulations on harmful emissions. Water quality may differ along transnational rivers such as the Danube or the Rhine.

- Europeans are reluctant to use connected cars due to the absence of EU-wide rules and technical standards.

- Crossing internal borders for business or tourism is made difficult due to regular checks. Finding a job abroad is also harder and the transfer of pension rights to another Member State is not guaranteed. Those falling ill abroad face expensive medical bills.

- The EU27 fails to conclude new trade agreements as Member States are unable to agree on common priorities or some block ratification.

- Citizens in a country subject to airspace violations or large-scale cyber-attacks by a foreign power struggle to understand why sanctions are not agreed by the EU27 or even neighbouring countries.

- The renationalisation of development aid makes it harder to build comprehensive partnerships with African countries, limiting economic opportunities in a growing market and failing to tackle the root causes of migration.

Scenario 3: Those who want more do more

Why and how?

In a scenario where the EU27 proceeds as today but where certain Member States want to do more in common, one or several "coalitions of the willing" emerge to work together in specific policy areas. These may cover policies such as defence, internal security, taxation or social matters.

As a result, new groups of Member States agree on specific legal and budgetary arrangements to deepen their cooperation in chosen domains. As was done for the Schengen area or the euro, this can build on the shared EU27 framework and requires a clarification of rights and responsibilities. The status of other Member States is preserved, and they retain the possibility to join those doing more over time.

By 2025, this means:

A group of Member States decides to cooperate much closer on defence matters, making use of the existing legal possibilities. This includes a strong common research and industrial base, joint procurement, more integrated capabilities and enhanced military readiness for joint missions abroad.

Several countries move ahead in security and justice matters. They decide to strengthen cooperation between police forces and intelligence services. They exchange all information in the fight against organised crime and terrorism related activities. Thanks to a joint public prosecutor's office, they collectively investigate fraud, money laundering and the trafficking of drugs and weapons. They decide to go further in creating a common justice area in civil matters.

A group of countries, including the euro area and possibly a few others, chooses to work much closer notably on taxation and social matters. Greater harmonisation of tax rules and rates reduces compliance costs and limits tax evasion. Agreed social standards provide certainty for business and contribute to improved working conditions. Industrial cooperation is strengthened in a number of cutting edge technologies, products and services, and rules on their usage are developed collectively.

Further progress is made at 27 to strengthen the single market and reinforce its four freedoms. Relations with third countries, including trade, remain managed at EU level on behalf of all Member States.

Pros and cons:

The unity of the EU at 27 is preserved while further cooperation is made possible for those who want. Citizens' rights derived from EU law start to vary depending on whether or not they live in a country that has chosen to do more. Questions arise about the transparency and accountability of the different layers of decision-making. The gap between expectations and delivery starts to close in the countries that want and choose to do more.

Impact on policies

Single market & trade	Economic & Monetary Union	Schengen, migration & security	Foreign policy & defence	EU budget	Capacity to deliver
As in "Carrying on", single market is strengthened and the EU27 pursues progressive trade agreements	As in "Carrying on" except for a group of countries who deepen cooperation in areas such as taxation and social standards	As in "Carrying on" except for a group of countries who deepen cooperation on security and justice matters	As in "Carrying on" except for a group of countries who deepen cooperation on defence, focusing on military coordination and joint equipment	As in "Carrying on"; additional budgets are made available by some Member States for the areas where they decide to do more	As in "Carrying on", a positive agenda for action at 27 yields results; some groups achieve more together in certain domains; decision-making becomes more complex

Illustrative snapshots

- A group of countries establishes a corps of police officers and prosecutors to investigate cross-border criminal activities. Security information is immediately exchanged as databases are fully interconnected. Criminal evidence produced in one country is automatically recognised in the others.

- Connected cars are widely used in the 12 Member States that have agreed to harmonise their rules and standards. The same Member States develop a set of rules to clarify ownership and liability issues linked to the Internet of Things.

- A group of countries works together and agree on a common "Business Law Code" unifying corporate, commercial and related domains of law, helping businesses of all sizes to easily operate across borders.

- Workers in 21 Member States can access additional and increasingly similar labour rights and social protection regardless of their nationality or place of residence.

- Six countries acquire a drone for military purposes. This can be used for sea and land surveillance, as well as in humanitarian rescue operations. A joint defence programme is set up to protect critical infrastructure against cyber-attacks.

Scenario 4: Doing less more efficiently

THE EUROPEAN UNION FOCUSES ON DELIVERING MORE AND FASTER IN SELECTED POLICY AREAS, WHILE DOING LESS ELSEWHERE.

Why and how?

In a scenario where there is a consensus on the need to better tackle certain priorities together, the EU27 decides to focus its attention and limited resources on a reduced number of areas.

As a result, the EU27 is able to act much quicker and more decisively in its chosen priority areas. For these policies, stronger tools are given to the EU27 to directly implement and enforce collective decisions, as it does today in competition policy or for banking supervision. Elsewhere, the EU27 stops acting or does less.

In choosing its new priorities, the EU27 seeks to better align promises, expectations and delivery. A typical example of recent mismatch is the car emissions scandal where the EU is widely expected to protect consumers from cheating manufacturers but has no powers or tools to do so in a direct and visible manner.

By 2025, this means:

The EU27 steps up its work in fields such as innovation, trade, security, migration, the management of borders and defence. It develops new rules and enforcement tools to deepen the single market in key new areas. It focuses on excellence in R&D and invests in new EU-wide projects to support decarbonisation and digitisation.

Typical examples include further cooperation on space, high-tech clusters and the completion of regional energy hubs. The EU27 is able to decide quickly to negotiate and conclude trade deals. Cooperation between police and judicial authorities on terrorism-related issues is systematic and facilitated by a common European Counter-terrorism Agency.

The European Border and Coast Guard fully takes over the management of external borders. All asylum claims are processed by a single European Asylum Agency. Joint defence capacities are established.
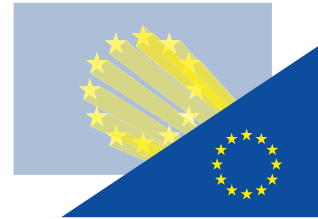
Conversely, the EU27 stops acting or does less in domains where it is perceived as having more limited added value, or as being unable to deliver on promises. This includes areas such as regional development, public health, or parts of employment and social policy not directly related to the functioning of the single market.

State aid control is further delegated to national authorities. New standards for consumer protection, the environment and health and safety at work move away from detailed harmonisation towards a strict minimum. More flexibility is left to Member States to experiment in certain areas. However, for those domains regulated at EU level, greater enforcement powers ensure full compliance.

Elsewhere, steps continue to be taken to consolidate the euro area and ensure the stability of the common currency. The EU's weight in the world changes in line with its recalibrated responsibilities.

Pros and cons:

Ultimately, a clearer division of responsibilities helps European citizens to better understand what is handled at EU27, national and regional level. This helps to close the gap between promise and delivery, even if expectations remain unmet in certain domains. Citizens' rights derived from EU law are strengthened in areas where we choose to do more and reduced elsewhere. To start with, the EU27 has real difficulty in agreeing which areas it should prioritise or where it should do less.

Impact on policies

Single market & trade	Economic & Monetary Union	Schengen, migration & security	Foreign policy & defence	EU budget	Capacity to deliver
Common standards set to a minimum but enforcement is strengthened in areas regulated at EU level; trade exclusively dealt with at EU level	Several steps are taken to consolidate the euro area and ensure its stability; the EU27 does less in some parts of employment and social policy	Cooperation on border management, asylum policies and counter-terrorism matters are systematic	The EU speaks with one voice on all foreign policy issues; a European Defence Union is created	Significantly redesigned to fit the new priorities agreed at the level of the EU27	Initial agreement on tasks to prioritise or give up is challenging; once in place, decision-making may be easier to understand; the EU acts quicker and more decisively where it has a greater role

Illustrative snapshots

- A European Telecoms Authority has the power to free up frequencies for cross-border communication services, such as the ones needed for the use of connected cars across Europe. It acts as a regulator to protect the rights of mobile and internet users wherever they are in the EU.

- A new European Counter-terrorism Agency helps to deter and prevent serious attacks in European cities by the systematic tracking and flagging of suspects. National police authorities can easily access European databases containing the biometric information of criminals.

- The European Border and Coast Guard fully takes over the management of external borders.

- Salaries, social legislation and taxation levels continue to vary significantly across Europe.

- European consumers misled by car manufacturers can now rely on the EU to sanction such companies and obtain compensation.

- Farmers can access affordable, real-time weather and crop management data thanks to a fully-functioning European satellite system.

Scenario 5: Doing much more together

THE EUROPEAN UNION DECIDES TO DO MUCH MORE TOGETHER ACROSS ALL POLICY AREAS.

Why and how?

In a scenario where there is consensus that neither the EU27 as it is, nor European countries on their own, are well-equipped enough to face the challenges of the day, Member States decide to share more power, resources and decision-making across the board.

As a result, cooperation between all Member States goes further than ever before in all domains. Similarly, the euro area is strengthened with the clear understanding that whatever is beneficial for countries sharing the common currency is also beneficial for all. Decisions are agreed faster at European level and are rapidly enforced.

By 2025, this means:

On the international scene, Europe speaks and acts as one in trade and is represented by one seat in most international fora. The European Parliament has the final say on international trade agreements. Defence and security are prioritised. In full complementarity with NATO, a European Defence Union is created. Cooperation in security matters is routine. The EU27 continues to lead the global fight against climate change and strengthens its role as the world's largest humanitarian and development aid donor.

The EU's broad-ranging foreign policy leads it to reinforce its joint approach on migration. Closer partnerships and increased investment in Europe's neighbourhood and beyond help to create economic opportunities, manage regular migration and tackle irregular channels.

Within the EU27, there is a strong focus and ambition to complete the single market in the field of energy, digital and services. Thanks to joint investment in innovation and research, several European "Silicon Valleys" emerge to host clusters of venture capitalists, start-ups, large companies and research centers. Fully integrated capital markets help mobilise finance for SMEs and major infrastructure projects across the EU.

Within the euro area, but also for those Member States wishing to join, there is much greater coordination on fiscal, social and taxation matters, as well as European supervision of financial services. Additional EU financial support is made available to boost economic development and respond to shocks at regional, sectoral and national level.

Pros and cons:

There is far greater and quicker decision-making at EU level. Citizens have more rights derived directly from EU law. However, there is the risk of alienating parts of society which feel that the EU lacks legitimacy or has taken too much power away from national authorities.

Impact on policies

Single market & trade	Economic & Monetary Union	Schengen, migration & security	Foreign policy & defence	EU budget	Capacity to deliver
Single market strengthened through harmonisation of standards and stronger enforcement; trade exclusively dealt with at EU level	Economic, financial and fiscal Union is achieved as envisioned in the report of the Five Presidents of June 2015	As in "Doing less more efficiently", cooperation on border management, asylum policies and counter-terrorism matters are systematic	As in "Doing less more efficiently", the EU speaks with one voice on all foreign policy issues; a European Defence Union is created	Significantly modernised and increased, backed up by own resources; a euro area fiscal stabilisation function is operational	Decision-making is faster and enforcement is stronger across the board; questions of accountability arise for some who feel that the EU has taken too much power away from the Member States

Illustrative snapshots

- Trade agreements are actively pursued. They are initiated, negotiated and swiftly ratified by the EU on behalf of its 27 Member States.

- Europeans use connected cars seamlessly across Europe thanks to EU-wide rules and the work of an EU enforcement agency.

- Europeans wanting to have a say on a proposed EU-funded wind turbine project in their local area struggle to identify the responsible European authority.

- Citizens travelling abroad receive consular protection and assistance from EU embassies, which in some parts of the world have replaced national ones. Non-EU citizens wishing to travel to Europe can process visa applications through the same network.

- The European Stability Mechanism becomes the European Monetary Fund. It is subject to the control of the European Parliament and takes up new responsibilities to support the European Investment Bank in raising the financing of the third generation of the "Juncker Plan" to boost investment across Europe.

4. The way ahead

Much of the progress that seemed impossible 60 years ago in Europe is now taken for granted. Our darkest days are still far brighter than any spent by our forefathers imprisoned in Ventotene.

Even for visionary minds like theirs, the freedoms, rights and opportunities that the EU has since created would have been unimaginable. As a united Europe marks its anniversary, it is time to renew our vows, rediscover our pride and shape our own future.

Change in all things may be inevitable, but what we want from our lives and the European values that we hold dear remain the same. We want a society in which peace, freedom, tolerance and solidarity are placed above all else. We want to live in a democracy with a diversity of views and a critical, independent and free press. We want to be free to speak our mind and be sure that no individual or institution is above the law. We want a Union in which all citizens and all Member States are treated equally. We want to create a better life for our children than we had for ourselves.

Regardless of which of the scenarios presented here ends up closest to reality, these values and aspirations will continue to bind Europeans and are worth fighting for.

The EU is a unique project in which domestic priorities have been combined and sovereignty voluntarily pooled to better serve national and collective interests. It has not always been an easy journey, it has never been perfect, but it has shown its capacity to reform itself and has proven its value over time. Following the motto of "unity in diversity", the EU and its Member States have been able to draw on the unique strengths and richness of their nations to achieve unprecedented progress.

In an uncertain world, the allure of isolation may be tempting to some, but the consequences of division and fragmentation would be far-reaching. It would expose European countries and citizens to the spectre of their divided past and make them prey to the interests of stronger powers.

Europe must now choose. There are as many opportunities as there are challenges. This can be Europe's hour, but it can only be seized by all 27 Member States acting together with common resolve.

This White Paper should open an honest and wide-ranging debate with citizens on how Europe should evolve in the years to come. Every voice should be heard. The European Commission, together with the European Parliament and Member States, will host a series of "Future of Europe Debates" across Europe's national Parliaments, cities and regions. The ideas and determination of the hundreds of millions of Europeans will be the catalyst of our progress.

The White Paper is the European Commission's contribution to the Rome Summit. Like all anniversaries, Rome will be a natural time to reflect on the success of the last 60 years. However, it should also be viewed as the beginning of a process for the EU27 to decide together on the future of their Union.

The European Commission will contribute to that discussion in the months ahead with a series of reflection papers on the following topics:

- developing the social dimension of Europe;
- deepening the Economic and Monetary Union, on the basis of the Five Presidents' Report of June 2015;
- harnessing globalisation;
- the future of Europe's defence;
- the future of EU finances.

Like this White Paper, these reflection papers will offer different ideas, proposals, options or scenarios for Europe in 2025 to open a debate without presenting definitive decisions at this stage.
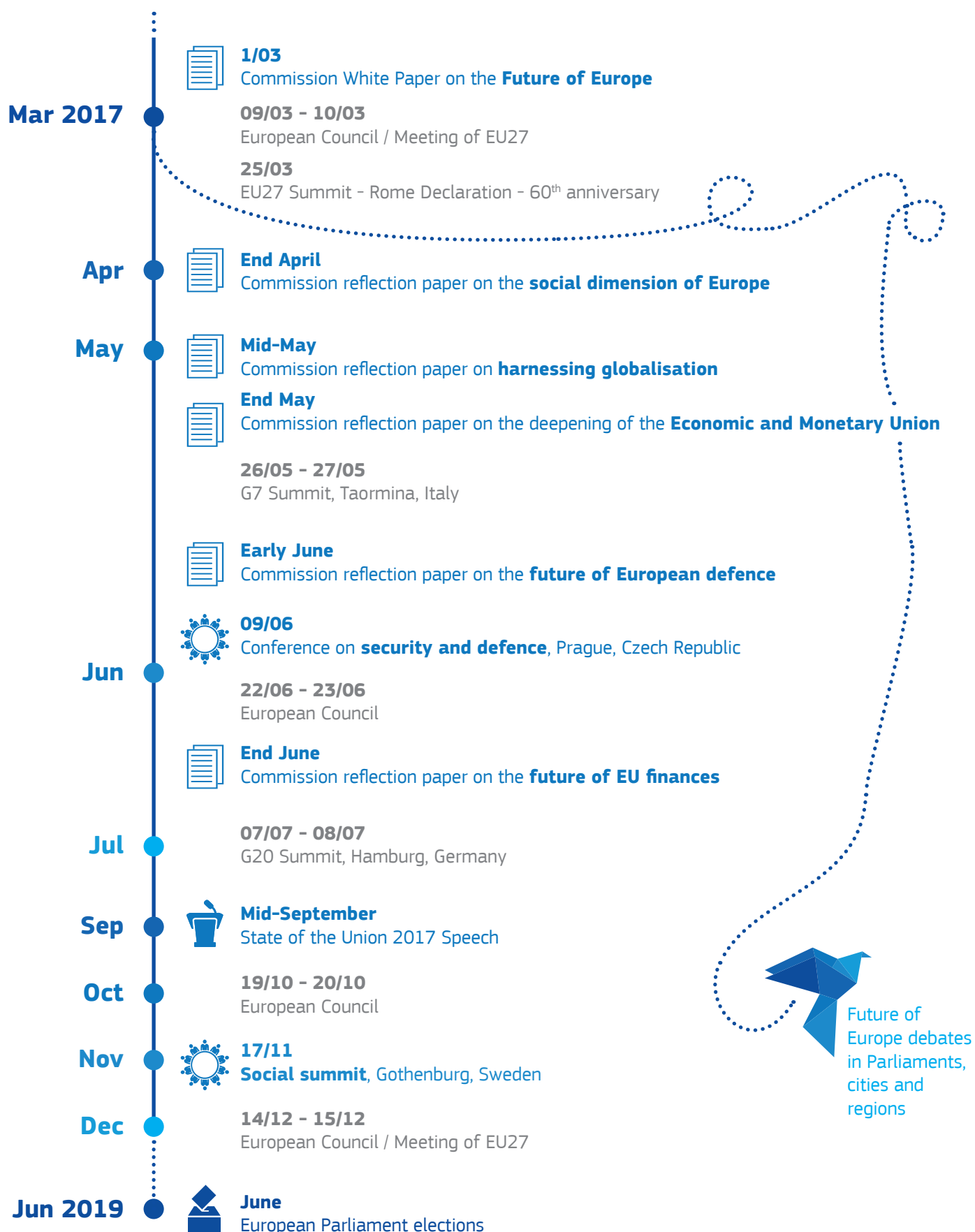
President Juncker's 2017 State of the Union speech will take these ideas forward before first conclusions could be drawn at the December 2017 European Council. This should help decide on a course of action to be rolled out in time for the European Parliament elections in June 2019.

It is our collective will that will drive Europe forward. Like the generations before us, we have Europe's future in our own hands.

ANNEXES

The White Paper process:
from Rome to the European Parliament elections in 2019

1/03
Commission White Paper on the **Future of Europe**

Mar 2017

09/03 – 10/03
European Council / Meeting of EU27

25/03
EU27 Summit – Rome Declaration – 60th anniversary

Apr

End April
Commission reflection paper on the **social dimension of Europe**

May

Mid-May
Commission reflection paper on **harnessing globalisation**

End May
Commission reflection paper on the deepening of the **Economic and Monetary Union**

26/05 – 27/05
G7 Summit, Taormina, Italy

Early June
Commission reflection paper on the **future of European defence**

09/06
Conference on **security and defence**, Prague, Czech Republic

Jun

22/06 – 23/06
European Council

End June
Commission reflection paper on the **future of EU finances**

Jul

07/07 – 08/07
G20 Summit, Hamburg, Germany

Sep

Mid-September
State of the Union 2017 Speech

Oct

19/10 – 20/10
European Council

Nov

17/11
Social summit, Gothenburg, Sweden

Dec

14/12 – 15/12
European Council / Meeting of EU27

Jun 2019

June
European Parliament elections

Future of Europe debates in Parliaments, cities and regions

The five scenarios: policy overview

	Carrying on	Nothing but the single market	Those who want more do more	Doing less more efficiently	Doing much more together
Single market & trade	Single market is strengthened, including in the energy and digital sectors; the EU27 pursues progressive trade agreements	Single market for goods and capital strengthened; standards continue to differ; free movement of people and services not fully guaranteed	As in "Carrying on", single market is strengthened and the EU27 pursues progressive trade agreements	Common standards set to a minimum but enforcement is strengthened in areas regulated at EU level; trade exclusively dealt with at EU level	Single market strengthened through harmonisation of standards and stronger enforcement; trade exclusively dealt with at EU level
Economic & Monetary Union	Incremental progress on improving the functioning of the euro area	Cooperation in the euro area is limited	As in "Carrying on" except for a group of countries who deepen cooperation in areas such as taxation and social standards	Several steps are taken to consolidate the euro area and ensure its stability; the EU27 does less in some parts of employment and social policy	Economic, financial and fiscal Union is achieved as envisioned in the report of the Five Presidents of June 2015
Schengen, migration & security	Cooperation in the management of external borders stepped up gradually; progress towards a common asylum system; improved coordination on security matters	No single migration or asylum policy; further coordination on security dealt with bilaterally; internal border controls are more systematic	As in "Carrying on" except for a group of countries who deepen cooperation on security and justice matters	Cooperation on border management, asylum policies and counter-terrorism matters are systematic	As in "Doing less more efficiently", cooperation on border management, asylum policies and counter-terrorism matters are systematic
Foreign policy & defence	Progress is made on speaking with one voice on foreign affairs; closer defence cooperation	Some foreign policy issues are increasingly dealt with bilaterally; defence cooperation remains as it is today	As in "Carrying on" except for a group of countries who deepen cooperation on defence, focusing on military coordination and joint equipment	The EU speaks with one voice on all foreign policy issues; a European Defence Union is created	As in "Doing less more efficiently", the EU speaks with one voice on all foreign policy issues; a European Defence Union is created
EU budget	Partly modernised to reflect the reform agenda agreed at 27	Refocused to finance essential functions needed for the single market	As in "Carrying on"; additional budgets are made available by some Member States for the areas where they decide to do more	Significantly redesigned to fit the new priorities agreed at the level of the EU27	Significantly modernised and increased, backed up by own resources; a euro area fiscal stabilisation function is operational
Capacity to deliver	Positive agenda for action yields concrete results; decision-making remains complex to grasp; capacity to deliver does not always match expectations	Decision-making may be easier to understand but capacity to act collectively is limited; issues of common concern often need to be solved bilaterally	As in "Carrying on", a positive agenda for action at 27 yields results; some groups achieve more together in certain domains; decision-making becomes more complex	Initial agreement on tasks to prioritise or give up is challenging; once in place, decision-making may be easier to understand; the EU acts quicker and more decisively where it has a greater role	Decision-making is faster and enforcement is stronger across the board; questions of accountability arise for some who feel that the EU has taken too much power away from the Member States