

**Why the Netherlands will convoke a referendum in order to ratify the European  
Constitution?  
On a way towards more direct democracy**

**Abstract**

This paper tends to explore how Netherlands will ratify the European Constitution with a special regard to the willingness of the national leaders for holding a referendum and consult their citizens on that issue. While the referendum is theoretically excluded from the principle of representation on which is based the Dutch political system, a majority of parliamentarians made that possible by introducing a special law. For the first time in the history of the country, a statewide referendum will be held.

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## Framework

The European Council in its meeting in Laeken in September 2001 instituted a European convention in order to identify the essential questions that the future development of the Union raises and to put forth recommendations on this subject. The Convention, which met from February 28, 2002 to July 17, 2003, had made its recommendations in the form of a project of a European Constitution, intended to modify and replace the contents of the existing treaties. One and a half year later, the Convention presented in July 2003 the 'Draft Treaty establishing a Constitution for Europe' which was finally signed in Rome on the 29<sup>th</sup> of October 2004 by the 25 European Heads of Government. So that the Constitution can come into force, all Member States (the actual and the future ones) have to ratify the text within less than two years. In order to carry out their ratification process, some of the Member states, including Netherlands, will hold a referendum.

Netherlands is one of the few European countries that have never held a statewide referendum<sup>1</sup>. The national Constitution does not provide any regulation for it. The principle of representation is the fundamental basis of the Dutch political system. According to article 50 of the Constitution, "*the Parliament shall represent the entire people of the Netherlands*". Its members shall not be bound by a mandate or instructions when casting their votes (article 67§2 ConstNet). In what concern the approval of a transfer of sovereignty towards an international institution, the national Constitution establish it has to be made by a majority of votes from both chambers (Art. 91 I, 67 II ConstNet). A place for a voice of the people is not envisaged here.

However, in what concern the ratification of the European Constitution, the willingness of a group of politicians made possible the holding of a referendum on that issue by introducing a special law<sup>2</sup> which was approved by the First and the Second Chamber. This law allow the possibility to hold a referendum without any modification of the Constitution.

This paper tends to explore how the Netherlands will ratify the European Constitution with a special regard to the willingness of the leaders for holding a referendum on that issue. Why will they convoke a referendum while the ratification process is constitutionally attributed to the Parliament? Because the referendum an instrument that makes participate the people in the decision-making, it is theoretically difficult to imagine it in a representative regime where policy has to be made by representatives elected by the people. However, the two are not incompatible. We can observe the gradual use of direct democratic instruments in many countries even if there are based on the representation principle. So, the first section tends to resume the evolution of the place of direct democracy in the Dutch political system. The following section analyses the political parties' positions concerning the referendum on the European Constitution. The third section completes the analysis by regarding the attitudes of the public opinion and the mobilisation in the civil society on that issue. This could give us an idea of the expectations for the result of the poll. Then, in a more practical approach, the fourth section resumes how the referendum on the European Constitution will be organised.

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<sup>1</sup> Israel, the US and the Czech Republic until 2003 are the other countries that have never had a referendum on the national level.

<sup>2</sup>Karimi (GroenLinks), Dubbelboer (PvdA); Van der Ham (D66) "Initiatiefvoorstel-Karimi c.s. inzake een Wet raadplegend referendum Europese Grondwet (28.885)", 20th of May 2003 and "Nouvelle Wet raadplegend referendum Europese Grondwet (29.608)", 26th of May 2004.

## Direct democracy in Netherlands: on a evolutionary way

In Netherlands, the debate relating to the use of referendums goes up to about hundred years. At the end of the 19th century, two socialist's parties introduced in their program a possibility for a "direct legislation by the people" (SDB in 1882 and SDAP 1895)<sup>3</sup>. In 1903, the Parliament, for the first time, debated over the possibility of introducing the popular referendum. Initiated by the president of the SDAP, Troelstra, the proposition didn't find any support from the other political parties. During the 20<sup>th</sup> century, the Parliament disputed several times the principle of referendum and created parliamentary commissions with the aim to work on this issue and to examine the possibilities to include direct democracy mechanisms in the political system. The most famous one was the commission "Biesheuvel", created in 1982 when a national committee ('Actiecomite Referendum: Ja') collected enough signatures so as to obtain the introduction of a new consideration concerning the use of referendum. B.W. Biesheuvel, its president, was a former Prime Minister from the Christian democrats CDA. In 1985, the Commission recommends at the unanimity the introduction at the same time of the popular initiative (with a threshold of 300000 signatures) and the referendum obligatory.

It is worth noting that the Christian democrats, gathered since 1980 in the "Christen Democratisch Appel" and which is one of the most important parties of the country, blocked many initiatives for more direct democracy in the Dutch political system. The CDA was present in the government without interruption between 1917 and 1994 and constituted the centre of the power for all that period<sup>4</sup>. It always was the hard core of the opponents to direct democracy and the only party that never changed its position regarding to it. The CDA is a fundamental and consistent antagonist of that kind of decision-making. Its principal argument is that direct democracy is in contradiction with the Dutch historical tradition of representative democracy.

As regards the other parties, the socialist party PvdA<sup>5</sup> is also critical against the referendum and the popular initiative. The initial SDAP turned against the referendum after the workers in 1917 gained voting rights and appeared to be less 'socialist' than the SDAP would like them<sup>6</sup>. It was pleading against the referendum because it could lead to many conflicts with citizens. In reality, the party was always divided on the question and they never proposed initiatives in the sense of more direct democracy. The socialists never mentioned the subject in their program. However, it can be observed that since the 1980s the party moved its positions in favour of the 'corrective referendum' that is a citizen initiated popular vote on a law proposal by parliament (Cfr *Infra*).

The third most important party of the country, the VVD<sup>7</sup> (right liberal) opposes also to the referendum. However, some important personalities of the Dutch liberalism as P.J. Oud have advocated in favour of it. In 1918 and in 1946, they were the only ones who supported a bill for the introduction of a (limited) referendum. This party can be characterized by an absence

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<sup>3</sup> SDB signify the "Sociaal democratische bond", the Social Democratic League, and the SDAP, the "Sociaal-Democratische Arbeiderspartij », which is the Social Democratic Workers Party.

<sup>4</sup> They often had the support of the right-liberals: since 1948 with the popular party for liberty and democracy (VVD) and the Socialist Labour Party (PvdA) who amalgamated with the historical SDAP.

<sup>5</sup> "Partij van de Arbeid", Party of the Workers.

<sup>6</sup> NIJEBOER A., "Standpunten van de politieke partijen", *Tijdschrift voor Directe democratie*, n°3, 2000, pp. 9-12.

<sup>7</sup> "Volkspartij voor Vrijheid en Democratie", Popular Party for Liberty and Democracy.

of internal homogeneity on that issue. In 1994, they agreed with the D66 initiative to insert in the government program the possibility for a corrective referendum because they wanted a coalition without the CDA. This is a good example that their positions over direct democracy are often utilized as a political tool: support or not the referendums depends on their coalition strategy<sup>8</sup>.

Finally, the relatively new liberal Democratic party D66 (party for new politics) is often described as the ‘referendum party’<sup>9</sup>. However, it hasn’t a clear and well-established position on the question<sup>10</sup>. In their program of 1967, they briefly indicated that the introduction of the use of referendum deserved at least to be discussed. The first time they approached the question in their program was in 1981 when they plead for a ‘corrective referendum’. According to them, this referendum take place after a law already voted at the Parliament. The result is obligatory what confers to the citizens a right of veto on the legislator. They asked the other parties to consider their proposition. In their program from 1989, the corrective referendum appeared in the foreground and in 1994, they added the possibility for the popular initiative (a defined number of citizen can present a law proposition and submit it to the authorities, in that case the legislative power is moved and resides in the hands of the people). They however approach it with prudence.

Since the nineties, some evolutions in the way for more direct democracy at the local level can be observed. This is mainly due to the D66 party that put at the agenda in 1989 the problem of the referendum. Its president, Hans Van Mierlo underlined the growing disinterest of the citizens for the policy. The media monopolized immediately the subject and, as a consequence, the national government obliged the communes to reserve a right of veto for the citizens. Since that time, a large number introduced their own referendum regulation with the collection of signatures as preliminary<sup>11</sup>. Most of them allow a government-initiated and/or a citizen-initiated ‘consultative’ referendum (a non-binding rejective<sup>12</sup> referendum on a government decision which is held before the government formally takes this decision). The requirements can vary, but most have a participation quorum and exclude some topics from the process. Currently, only two communes (Nijmegen and Oosterhout) allow the popular initiative. Some cities also allow referendums at the city district level (e.g. Amsterdam, Amsterfoort). At the provincial level, only the province of North Holland has organized its own referendum legislation in 1995<sup>13</sup>.

However, these first steps are relatively small evolutions. In this regard, A. Nijboer says:

“Because high participation quorums were often adopted, many important subjects were excluded and the outcomes were not legally binding, many municipal referendums failed. This caused some cynicism among the political

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<sup>8</sup> NIJEBOER A., *op. cit.*

<sup>9</sup> This party was created in 1966 by a group of young political personalities that the aim was to fight the purely ideological points of view and wanted to make lead an in-depth reform of the Constitution.

<sup>10</sup> NIJEBOER A., *op. cit.*

<sup>11</sup> [www.referendumplatform.nl](http://www.referendumplatform.nl).

<sup>12</sup> According to the typology of Lawrence LeDuc, a rejective referendum, which is also called an abrogative or facultative referendum, is a procedure to force a vote of the people on a law that has been passed by the legislature. In LeDuc L., “*Theoretical and practical issues in the Study and conduct of Initiatives and Referendum*”, Department of Political Sciences, University of Toronto, March 2004.

<sup>13</sup> This which makes possible a citizen-initiated rejective referendum with many excluded topics and a participation quorum of 50% of the turnout of the last provincial elections.

elite, which had (falsely) hoped that the widespread political malaise among the population would disappear once some referendums had been held.”<sup>14</sup>

While referendums are possible at lower political levels, no possibilities for a statewide referendum (national level) existed until January 2005. Since 1994, when the CDA lost the elections and that a purple cabinet was formed (PvdA, VVD and D66), a process took place in order to introduce the possibility for the referendum into the Dutch Constitution. The governmental agreement included the introduction of the referendum (but not the popular initiative). In 1996, a law proposal<sup>15</sup> was introduced in order to allow the corrective binding referendum. The bill work out on the base of the Biesheuvel Commission work (Cfr *Supra*) allows also this referendum on decisions at provincial and municipal levels. The text was adopted by the Two Chambers but failed, later, at the second reading in 1999 because of the resistance of the Senate<sup>16</sup>. Mainly, the fractions SGP and CDA voted against. Only one voice was missing for obtaining the majority of two thirds required for modifying the Constitution. The principal reason of it is that the old minister Wiegel from the VVD came in the Upper House with a number of objections against the corrective referendum. His principal argument was its attack to the parliamentary democracy. This caused a governmental crisis and its dismissal in May 1999 (“de Nacht van Wiegel”). According to Arijn Nijeboer, the founder of the ‘Referendumplatform’ (Cfr *Infra*), “the brittleness of the project was in fact the translation of the opposition to direct democracy amongst the Dutch political class. Effectively, it proved thereafter that the VVD deputies boycotted the project”<sup>17</sup>. It is worth noting that the popular support for this government initiative was relatively weak<sup>18</sup>.

The D66 party, which had left the coalition, was disappointed by this situation because one of their most important projects failed. They finally found a compromise with the Council of State and reinstate the coalition. Jointly, they considered that during the second Kok-government (1998-2002), a temporary law for referendum would be introduced (which requires only a simple majority). That project could be realised at the legislative level without a constitutional modification. It was also decided that the cabinet will summit again the constitution proposal for corrective referendum (but restarting at the first reading).

The 2<sup>nd</sup> of March 2001 the government summit “Tijdelijke Referendumwet”<sup>19</sup>. The bill regulates the possibility for holding a citizen-initiated ‘consultative corrective referendum’

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<sup>14</sup> NIJEBOER A., “Analysis of the Dutch I&R legislation”, [www.referendumplatform.nl](http://www.referendumplatform.nl).

<sup>15</sup> “Opneming in de Grondwet van bepalingen inzake het correctief referendum” (25.153), 4th of December 1996.

<sup>16</sup> Remind that for a modification of the Dutch Constitution it is needed a majority of 2/3 of votes from both chambers after a law declares the necessity of a constitutional amendment, the disbandment of both chambers and their re-election, Art. 137 ConstNet.

<sup>17</sup> During the redaction of the proposal, the VVD already succeeded in decrease the range of the proposal by increasing the number of the number of the signatures needed and the subjects excluded to the referendum. In NIJEBOER A., “Analysis of the Dutch I&R legislation”, [www.referendumplatform.nl](http://www.referendumplatform.nl).

<sup>18</sup> About the proposition of the government for a very limited corrective referendum with high threshold, which failed in 1999, the support appears to be lower: only 49% support the proposition. NIPO-poll, May 1995, <http://www.nipo.nl/result/pers/2712>

<sup>19</sup> Tijdelijke referendumwet (27.034). According to that law, the Home Secretary announces whether the law can be the subject to a referendum. If so, then a three week period starts in which citizens can make an ‘initial request’ for a referendum by delivering 40000 signatures. After, the central Voting Bureau publicly announces whether enough valid signatures have been delivered, a 6-week period begins in which citizens can make the ‘definitive request’ by delivering 600000 signatures. The ‘Trw’, as it is often called, does not say who will draft the question or which rules should be applied. The Prime Minister is responsible for writing a summary of the law or treaty, which will be mailed by the mayor to the address of each voter no later than two weeks before the

(non-binding rejective/abrogative referendum) at the national, provincial and communal levels (which is very similar from the anterior rejected proposal). Only law and treaties can be the object of such referendum<sup>20</sup>. The law has a temporary character because it was supposed to exist until the introduction of a binding version in the Constitution. The two Chambers adopted the text. PvdA, VVD, D66, Groenlinks and SP voted in favour. However, it is worth noting that the referendum design was restrictive (high validity criteria, merely consultative), leaving the prospects for an extension of direct democracy not very promising. The law came into force in January 2002. Then, as it was envisaged, the proposition for a modification of the Constitution for establishing the corrective referendum was reintroduced in 2001. However the bill failed again at the second reading in 2004 when the Second Chamber rejected the text. The reason is that the government changed in 2002 after turbulent elections and a new coalition within which the new PLF party from Pim Fortyun replaced the D66. This one, which collected the voices of the dissatisfied of the political system, obtained 26 seats over 150 in the Parliament and started governing at the side of the CDA and the VVD. This new rightist-populist government announced a different attitude to direct democracy in comparison with the two precedent ones. The LPF did not give its support to a constitutional change and wanted the withdrawal of the “Temporary referendum law” (hereinafter the TRW).

This government broke apart on the 15<sup>th</sup> of October 2002 because of internal dissensions. The VVD and the CDA wanted to form a new government without the LPF. The following elections took place in January 2003 and lead to the same coalition excluding that party. The new government decided to keep the ‘TRW’ effective until its expiration in January 2005. According to their governmental declaration, it is expected that the two Chambers will organize the required changes in the Constitution.

The last attempt for more direct democracy occurred in 2003 when three members of the Parliament (respectively from the Groenlinks, PvdA and D66 parties) presented a proposal<sup>21</sup> which allow a referendum at the national level in order to consult the citizen opinion over the European Constitution (but only over that issue). The proposal was accepted in November 2003 in the Second Chamber (SP, GroenLinks, PvdA, D66, LPF en VVD voted in favour). This text has to be read with an additional proposal<sup>22</sup> introduced on the 26<sup>th</sup> of May 2004 that complete the first text. This one was adopted on the 5<sup>th</sup> of October in the Chamber of representatives. The Senate have on the 25<sup>th</sup> of January of this year give his approval on the two bills (CDA, ChristenUnie en SGP voted against). Now, with the approval by the two Chambers of these laws, for the first time, a referendum at the national level can be organized. The consultation of the population over the new European Constitution is legally possible. To arrive at that, a wide debate between politicians took place in the political arena over the opportunity to hold a referendum on the European Constitution issue. This debate will now be discussed and further developed in the next section.

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referendum. The outcome is only valid when a majority votes against the law, and when this majority comprises at the same time at least 30% of the electorate.

<sup>20</sup> Constitutional changes, as well as laws on monarchy, the royal house, the budget, laws that are valid in the entire Kingdom and laws that only serve to implement international decisions, are excluded.

<sup>21</sup> “Initiatiefvoorstel-Karimi c.s. inzake een Wet raadplegend referendum Europese Grondwet” (28.885).

<sup>22</sup> “Nouvelle Wet raadplegend referendum Europese Grondwet” (29.608).

## Positions of the political parties

The CDA showed many objections about the opportunity of holding a referendum over the European Constitution. First, as we have seen it before, according to an historical vision of the authorities and their vocations, the party do not support the principle of direct democracy and its most important manifestation: the referendum. Moreover, according to the senator Alfons Dölle, the party had many reserves on its consultative character. He said, "*In a modern democracy, the legislator can't, or with many difficulties, deny the judgement of the people*"<sup>23</sup>. This is one of the most important reasons why the CDA voted against the bill. They also fear of what could occur in case of a 'no' majority. How could we understand the reasons why people voted against? Is it the result of dissatisfaction with the introduction of the Euro, the refusal of a new transfer of sovereignty, or an objection to the integration of Turkey? It could also be a rejection of the liberal European program or on the basis of the national issues it could also be a way for citizens to contest their own government. They underline that such referendum could fail and that is not properly considered by the other parties. They name it a 'pseudo-consultative referendum' which is in fact obligatory and which could lead to multi-interpretable results. Two others objections advanced by the Christen democrats are that the treaty isn't a real constitution in the traditional sense of the word and that such referendum is introduced without constitutional basis.

However, even if they voted against the bill, the majority accepted it. With that constrain and because the party relatively agree with the results of the European Convention, it affirmed that it will campaign strongly to convince the citizens to go to vote, and more, to vote 'yes'. The CDA do not want to miss the referendum. This means that it the party want to avoid that it will be held on other issues (like the integration of Turkey for example). They want to make campaign on issues which are contained in the constitutional text and that are important for them (like asylum policy, security policy, first step to drug policy, or more democracy in the Union decision making).

The socialists of the PvdA want a referendum over the European Constitution. According to this party, the Dutch State should have had referendum much earlier on the formation of the European Union. It is imperative that people can have a say on the new constitutional text and this has to be made as soon as possible. Effectively, citizens should decide at the final stage on such as an important subject. Another socialist argument is that there is a considerable transfer of sovereignty between Netherlands and EU. The PvdA indicates its acceptance of the outcome and that it will conform to the result of the poll.

The VVD liberal party was the most hesitating one with the idea of convoking a referendum. During the debate in the Senate in January, it appeared that their main objection concern the 'consultative' aspect of the referendum. They have some doubts about it. According to them, it takes off the promise made by the representatives that their behaviour will not be influenced when taking a decision. This could put into question the independent character of the parliament. They finally support the bill but by specifying that it do not signify that they will support other referendum in the future. The liberals consider that the event can't avoid a direct consultation of the population. It is the only way for the Dutch citizens to express themselves on the new constitution which will prime over the national one and which will effectively reach their fundamental rights. The importance of the subject can't circumvent such

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<sup>23</sup> CDA Web site.

referendum. At least, VVD affirm it will make an active campaign for the European constitution principally because it acts of a liberal text that gives more influence to citizens in the European arena and better care for their interests.

During the negotiations, the other liberal party D66 showed many hesitations concerning the consultative character of the referendum. It would prefer a corrective referendum initiated by the citizens and with a binding result. By that way, they could benefit of a veto right on the issue. According to them, it should be very problematic if the Second Chamber supports the Constitution while the referendum lead to a 'no' majority. This could affect the credibility of the Parliament, the political class and the value of the use of referendums.

The Social Party (SP) also thinks that the consultative character of the referendum is doubtful, they would prefer a binding one. According to far socialists, this referendum risks to be dishonest. They underline that none of the political parties have clearly expressed how they will consider the result. Moreover they emitted doubts concerning the neutral character of the campaign and fear that the situation will be reduced to a fight between interests groups. Although their reserves on that question, they will finally vote for, "because it's better than nothing"<sup>24</sup>.

However, while the party officially plead in favour of more cooperation at the European level, it criticizes the European Constitution as a text which will lead to an 'undemocratic super-state', an extreme liberalism and even militarism (because it incites the states to act always more for the defence and to have a common external policy for legitimate an expensive army). According to the representative Hary van Bommel, it does not proceed over a Constitution but rather a political program. There are many details inside and it goes further than it should be expected for a constitution. He adds that the competences of the Union are increased to the detriment of the national powers. The constitution is described as the more capitalist one over the world because it is constructed on a neoliberal ideology and that the market interests precede over the social and the environmental ones. For all that reasons, the SP has affirmed it will start a 'no-campaign'.

The two small protestant parties, Christenunie and SGP, join the position of the CDA and voted against the proposition for a consultative referendum on the European Constitution. They want to save the competences of the Parliament and its power to debate freely over the ratification of the European constitution. They accuse the initiators of the proposal to attempt to avoid this debate within the Chamber.

The red green party Groenlinks, as D66, would prefer a corrective referendum with which citizens give a judgement over a parliamentary law that have been already adopted. It emphasise on the fact that Netherlands will leave the group of country that have never hold referendum. This is an important step they want to support. The party underline that there is no question of a binding character of the referendum and that the two Chambers will decide in all freedom. About the content of the text, Groenlinks was the last one who gives his opinion. According to their leader Femke Halsema, this Constitution is for them a good base for the Union. Their main objection is the introduction of the possibility for some Member States to form a head group on the defence area and that national parliament doesn't have enough time for considering the increasing in the defence expenditure.

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<sup>24</sup>Senator VAN RAAK, Stenogram from the Senate, 25 January 2005.

In general, it can be observed among the internal debate that one of the most important argument against the occasion of holding a referendum on the European Constitution is that it removes the liberty of action of the representatives of the nation. While the Christian parties express it clearly, many other parties have shown their doubts in what concern how the parliament have to consider the result of the poll.

### **Civil society and public opinion**

In Netherlands, we can find many kinds of organisation within the civil society with the aim to mobilize the citizens over the European Constitution issue (Referendumplatform<sup>25</sup>, Committee for “no”). We can observe for example on the web site of the Ministry for the Interior Business or the Ministry for the Exterior Business, a place where information over the EU Constitution are gathered: information about the ratification and the way through which the referendum will be held, but also, complete information over its contents. In general, there are many web sites on which citizens can find all information and explanations relating to the Dutch political system, its institutions, and the national and internal policy of the country. One can thus deduce from it that the authorities are well eager to inform their citizens over the political system, its functioning and its evolution.

At the level of the population, a survey made in 1998 by the Sociaal en Cultureel Planbureau shows that 80% of the Dutch are in favour of a greater use of direct democracy instruments. Among the four enquired parties (PvdA, CDA, VVD and D66), a large majority of their electorate was in favour of the referendum although the rejection by the VVD and the CDA of such instruments: 70% for the CDA; 81% for the VVD; 83% for the PvdA and 86% for the D66<sup>26</sup>. In February 1997, the NIPO made a survey over the European Union. This one shows that 64% of the Dutch found that the population should have the possibility to give its opinion concerning a transfer of power to the EU and 62% wanted a referendum over the change to Euro<sup>27</sup>. In April 1998, the same question sees its percentage growing to 73%.

We can observe a favourable position of the population for more direct democracy and the use of referendums. Now, how could we evaluate the future situation when for the first time all Dutch citizens are going to pronounce over the new European Constitution? The last Eurobarometer<sup>28</sup> shows that to the question “have you personally heard about the draft European Constitution?” 78% of the Dutch respond “yes” (average: 67%). This is one of the best results in comparison with other Member States. It is probably due to an abundant publicity in the country because of the Dutch presidency during the second half of 2004<sup>29</sup>. According to this survey, it appears that Dutch citizens perceive themselves very well

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<sup>25</sup>Referendumplatform is important Dutch organisation that gathers person and institutions that are fighting for a reinforcement of the use of the referendum at every decision level. They are not attached to a party or a political group. They act as a lobby for the right legislation at every administrative level and make a critical follow-up on how the rules for the application of referendum are well respected. Via their web site, they put at the disposition of the citizens all information about referendum in Netherlands and in other part of the world. They are in contact with the media and are following the actuality over the referendum. Moreover, many experts are working in and interact with other European organisation for the referendum as Democracy international and Initiative & Referendum Institute Europe. More information can be founded on its website: [www.referendumplatform.nl](http://www.referendumplatform.nl).

<sup>26</sup> SCP, Sociaal-Culturele Verkenningen, 1998, pp. 36-38.

<sup>27</sup> <http://www.sp.nl/nieuws/actie/euro-nee/enquete.stm>

<sup>28</sup> “*The future Constitutional Treaty. First results.*” Special Eurobarometer 214, European Commission, January 2005.

<sup>29</sup> If we compare these results with the latest Eurobarometer of July 2004 (5 month before) where there were only 25% who felt well informed over the constitution.

acknowledged on the subject (more than all other Member States population's). However, on the basis of precise questions relating to UE, it appears that they aren't those who are in reality the best informed<sup>30</sup>. To the question "based on what you know, would you say that you are in favour of or opposed to the draft European Constitution?" 63% respond "yes" (average 49%). This is the third best result among all member States. The essential reasons why they would vote for are 1) it is essential for the smooth running of the European institutions, 2) strengthens democracy in Europe, 3) a first step towards/symbol of a political unification of Europe. On the other hand, one of the most important reason why they would vote against is the "loss of national sovereignty" (84% of the Dutch are thinking the national citizenship will disappear against 63% at the European level), and to a lesser extend because they "do not want Turkey in the EU/opposition to further enlargement" and "too technocratic / juridical / too much regulation".

On the other hand, a very recent survey held by the government near 800 citizens during January 2005 shows that about 30% of the population are going to vote for; 20% against and 50% still don't know<sup>31</sup>. The half of the 80% said that they probably or certainly would go to vote. These results appear to be relatively low in comparison with the rest of EU. Moreover, 84% does not know or has very low idea about the content of the Constitution. After an explication of what the constitution is saying, 61% said that they would vote in favour. A third of them think that the constitution will replace the national one. It appears also that two third of them does not know that there will be a referendum. 43% think that the referendum will be held by the government and only 3% that the referendum is an initiative of the Parliament. 60% consider that the government will nevertheless approve the treaty even if a majority votes against. The Cabinet want to use the research to have an insight over the plans of the Dutch electorate.

### **The organisation of the referendum**

For recall, the referendum will be consultative which imply that the result will not be obligatory. For that reason, there is no threshold of participation imposed. It will take place before the Parliament takes its decision over the approval of the Constitution so that it can take the public opinion into account for its judgement (that will be done through an approval law). The PvdA, D66 and Groenlinks said that they will respect the result of the referendum especially if the rate of participation is high (some says more than 30%) and if the result appears clearly<sup>32</sup>.

In what concern the organisation of the campaign, an independent referendum commission have been created by the parliament. This one decided with the Ministry of Interior Business and Kingdom Relations, the date of the poll that is fixed at the 1<sup>st</sup> of June 2005. Another role attributed to the commission is to inform the citizens over the contents of the European constitution through a neutral way. This has to be done by the redaction of an objective summary that citizens will receive two weeks before the poll. Finally, the commission will

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<sup>30</sup> An example is that only 43% respond correctively to the affirmation « the position of a foreign affair minister of the EU will be created » although on European average, 52% respond correctively. In contradiction to this it is the third country that responds correctively to the question "the president of the European Council is directly elected by European citizens" with 59% against an average of 38%.

<sup>31</sup> "Rapportage. Europese grondwettelijk verdrag. Kwantitatief onderzoek." Rijksvoorlichtings dienst, Den Haag, 18 January 2005.

<sup>32</sup> "Kiezer beslist over EU-Grondwet", *The Volkskrant*, 12th of February 2005.

also determinate the regulation for the subsidy (by indicating when the subsidy can be asked and the conditions for that request) and then, supply it for the campaigns. In the bill, a sum of a million is envisaged for subsidize the campaign activities as well as for the 'for', 'against', or neutral organisations. According to last news, the Dutch government has reserved 1,5 million euros to fight the 'no' campaign against the EU Constitution. This met many criticisms. The Cabinet put aside the money in case to 'no' camp runs a successful campaign in the run-up to the referendum<sup>33</sup>. This money comes in addition to the 1million euro from the official state funding. The Socialist Party talk about a state propaganda with an abuse of tax money and the 'Comité Grondwet Nee' (No Constitution Committee) that the Cabinet acts in an undemocratic way. The Second Chamber finally decided that the special campaign reserve would be removed.

## Conclusion

Dutch citizens will then be convened on the 1<sup>st</sup> of June to pronounce over the European Constitution. The Parliament, which normally has to ratify international treaties on his own, decided for the first time to do it jointly with the participation of the people. It appears that the traditional principle of representation on which is based the Dutch political system is progressively reconsidered in order to allow more place for direct democracy.

About direct democracy in Netherlands, in a general way, one can say that parties on the right (CDA, VVD and small religious parties Christenunie/SGP) are traditionally opposed to the use of all forms of referendum than those on the left side (the Red Greens Groenlinks, the socialists SP and D66)<sup>34</sup>. Because of the composition of the Dutch governmental coalitions that generally include the VVD or the CDA, the question of the referendum was often excluded to their governmental agreements. Dutch elite seems to shows a fundamental and systematic opposition against the principle of popular sovereignty<sup>35</sup>. The two failed attempts in 1999 and 2004 for modifying the national Constitution in that way are good examples that illustrate his affirmation.

The question of the ratification of the European Constitution led the political leaders to debate one more time over the referendum issue. It was an opportunity for them to end with those discussions and to initiate a new way in the decision-making process. For the first time, a majority is arisen on that question and the proposition for holding a consultative referendum at the national level succeed. This could be a very important step for the political history of the country. By regarding the results, they would be able to draw conclusions from that experience. A positive evaluation of this new experience could lead them to repeat it thereafter. It is also rather probable to observe some change in the national Constitution for more direct democracy.

Anyway, the result will largely depend on the Dutch voters. According to the last survey made by the government, there are always 49% who don't know yet what they will vote. By considering this large number of undecided, the way in which the campaign will be held will certainly have a great influence over that group. On that point, it is worth noting that organisations for a 'no' campaigns are well present in the country.

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<sup>33</sup> « Dutch row over EU referendum campaign », *EUObserver*, 31 January 2005.

<sup>34</sup> Arjen Nijeboer "direct Democracy in Netherland », [www.referendumplatform.nl](http://www.referendumplatform.nl).

<sup>35</sup> *Ibidem*.

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