

THE EU AND REFERENDA: THREE DENIALS OF DEMOCRACY

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The Dutch “no” expressed on 6 April 2016 revived the myth claiming that “Brussels” is incapable of acknowledging the outcomes of national referenda, which supposedly highlight a democratic split between the EU and its citizens. This myth conveys a triple denial of democracy which requires a timely reaction in view of the approaching referenda in other Member States and against the current backdrop of Pavlovian-style “Europe-bashing”. Yves Bertoncini takes a stand in this Viewpoint. A shorter version was published by the French newspaper *Le Monde* and EurActiv.com.

1. The denial of European democracy: the outcomes of referenda on the EU are respected

57 referenda concerning issues related to the EU have been held since 1972, and their outcomes were followed by consequences: to say the contrary represents the first denial of the European democratic reality.

Almost three quarters of these referenda (41) resulted in the approval of the proposed European treaty or text: all their results were taken into account, with the exception of the two votes in favour of the European Constitutional Treaty by Spain and Luxembourg, which did not lead to its entry into force.

The negative results of the six “membership referenda” (EU membership or possible exit) were also duly acknowledged – the same naturally goes in the event of a negative result at the British referendum to be held on 23 June, because the Union is neither a prison nor an empire: no peoples are obliged to join or to remain members against their will.

The four negative “deepening referenda” (in particular possible participation in the EMU) have also been taken into consideration. For example, Denmark has held an opt-out with regard to police and judicial cooperation since a negative referendum held in 1992; the Danes rejected the abolition of this opt-out during a referendum in December 2015, and there has been no opposition to its wishes.

It is only when “governance referenda” concerning issues that are more indivisible by nature have negative outcomes (as has happened six times), that it is more delicate to take their verdicts into account. When the Irish rejected the Treaty of Lisbon, which modified the EU’s rules of functioning and scope of competence, how was it possible to satisfy them without shelving this Treaty and all future ones, knowing that the next

Treaty would be accused of being too similar to its predecessor? When [the Dutch reject the Association Agreement between the EU and Ukraine](#), how could they be exempted from these mainly economic and commercial provisions, and how could they be fully satisfied without once again giving up on any new agreements between the EU and Ukraine?

In such cases, the political solution must be sought through a meticulous assessment of the reasons urging a majority of voters to say “no”, when they have a direct connection with the rejected text. This strategy was used to convert the European Constitutional Treaty into the Treaty of Lisbon, [by expurgating it of many features that were rejected in France and the Netherlands](#). This strategy will be used again thanks to the identification of the motivations of the Dutch people, who in particular expressed their concerns over the financial assistance granted to the allegedly corrupt Ukrainian regime and a possible liberalisation of the visas issued to Ukrainians.

2. The denial of other national democracies: one people against all others

The few negative votes expressed during “governance referenda” are also very difficult to satisfy as they come from one people whose position cannot be unilaterally imposed on the 27 other peoples in the EU.

It requires a great level of intellectual laziness and political bad faith to promote the idea that negative referendum results on European issues are successive manifestations of a split between “Brussels and the European peoples”: in reality, these referenda reflect [a split between EU peoples](#), which is of course worrying, but is not an indication of a “deficit of democracy”.

Stakeholders and observers believing that a referendum “no” should be imposed on all other EU

peoples constitutes the actual “denial of democracy”, as many of these peoples have differing views. Is the [EU-Ukraine Association Agreement](#) rejected by all EU peoples, in particular those of Central and Eastern Europe, and what is to be said to the 27 other national parliaments who have already approved it? It would not be democratic to ratify the primacy of one people over the other peoples of the EU: we cannot therefore base considerations on a referendum outcome to attempt to impose one’s opinions on others, or to interpret the difficulty in finding a new compromise similar to the rejected proposal as a symptom of a denial of democracy in Europe.

While some heads of state are tempted to wield the weapon of referendum in support of a power balance, such as Greece in July 2015 and Hungary in autumn 2016, this changes nothing: this power balance opposes heads of state who represent the voices of their people just as legitimately.

Untangling this authentic democratic contradiction without denying the legitimacy of public consultation would imply the organisation of pan-European referenda open to all EU citizens, and of which the outcome must be accepted by the outvoted European citizens and the representatives of their States. Failing such a prospect, Europeans must patiently forge compromises between 28 national democracies, while none may lay down its law to others.

3. The denial of representative democracies: the people rather than the elected representatives of the people

The third denial of democracy expressed following the negative outcomes of the European “governance referenda” stems from the idea according to which a single popular “no” is more legitimate than one or several parliaments’ “no”.

It is hardly surprising that such an idea is championed by minority, often extremist, political forces, which fail to obtain power through the channels of representative democracy, as they are lacking the trust of a majority of citizens in their country. This is precisely why they are tempted to rely on referenda following which their circumstantial, protesting and sometimes unnatural alliances are likely to win the majority of votes. Their denial of the virtues of representative democracy resembles an admission of failure, which they attempt to convert into a one-off political victory when a referendum works in their favour: this does not constitute a reason why such a denial should not be denounced.

Even if they suffer from disrepute, national representative authorities should not grant the monopoly over peoples to political forces which criticise the elected representatives in areas that go far beyond European issues, especially while they themselves are lacking such elected representatives. European representative authorities must accept the primacy of national referendum democracy even less, as it is unworkable in many EU Member States in which referenda on European issues are not permitted (for example in Germany and Belgium).

The EU’s governance includes an irreducible representative dimension: national authorities must be able to commit their country and people, consulting them where necessary ahead of their participation in the decisions made in Brussels. It would struggle to cope with the multiplication of national referenda with outcomes in contradiction with the positions defended by the authorities of the country concerned and with those of the other peoples of the EU; the EU would become ungovernable, to the detriment of its citizens, without being any more democratic.

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