

# *TEAM Referendum Monitoring Report - version II*

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## Table of contents

### Introduction

1. Suggested criteria for "fairness" in referendums	4
2. Monitoring criteria of "fairness" in referendums	5
2.1 Is the question fair?	5
Summary	7
2.2 Is there enough time for a full national debate?	8
Summary	9
2.3 Is maximum public participation encouraged?	10
Summary	12
2.4 Was there equality as regards the use of public resources?	12
Summary	15
2.5 Was there equality in the broadcast media?	15
Summary	17
2.6 Was there a ceiling on referendum spending by private interests?	17
Summary	19
2.7 Is foreign funding excluded where there is fair domestic funding?	19
Summary	20
2.8 Do outside bodies avoid interference in the referendum?	20
Summary	23
2.9 Are there agreed standards of fairness in the print media?	23
Summary	25
2.10 Does monitoring and enforcement of fair referendum rules exist?	25
Summary	27
3. Conclusions	28

## **Introduction**

This report is an attempt to test the quality of the nine EU-accession referendums and the euro-referendum in Sweden. By comparing ten criteria for "fairness" in referendums a picture can be given of how these have been conducted in the different countries. Under some of the criteria, comments have been collected from each country on the referendum process there. Then summaries are made, and finally, conclusions set out the most important findings.

The way a referendum is conducted also determines its political and moral legitimacy. Only by improving "fairness" in a referendum will citizens see it as a way of properly influencing their society - not just a tool for the political establishment to push the people in a certain direction. Therefore, we hope that the European Monitoring Project will be successful in formulating a European standard for free and fair referendums. This is needed for the sake of basic democracy, quite independently of differing views on the European Union itself.

We would like to thank the TEAM Board and many hard-working activists across Europe, which have contributed to this report.

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Note to the reader:

The first version of this report was presented at the European Referendum Monitoring Conference in Svaty Jur, Slovakia, 20-21 June 2003, covering the EU-related referendums held at that stage. This updated version was presented at the European Referendum Monitoring Workshop in Tartu, Estonia, 26-28 September 2003. Since then, the report has been slightly edited and expanded.

## 1. Suggested criteria for "fairness" in referendums

In January 2003 The European Alliance of EU-critical Movements (TEAM) formulated ten criteria for "fairness" in referendums. These centre on citizens' rights to participate in a referendum process on an equal basis as fundamental to democratic referendums. Citizens have a right to full information on the referendum proposition and the likely consequences of accepting or rejecting it. Fairness also requires that there be statutory rules to prevent inequality and one-sidedness in political funding and media opportunities, especially as regards public funding and the national media. The Government holding a referendum has a responsibility to guarantee rules for "fair play" in referendum campaigns, and to see that these rules are observed, if it is to act democratically.

Below are the ten criteria for free and fair referendums as set out by the TEAM's Board. Under each criterion there are brief descriptions of the referendum process in each of the seven Accession Countries where a referendum on EU-membership has been held. These are: Malta (8 March), Slovenia (23 March), Hungary (12 April), Lithuania (10-11 May), Slovakia (16-17 May), Poland (8 June), Czech Republic (15-16 June), Estonia (14 September) and Latvia (20 September). In addition to these Sweden held a referendum on adopting the euro (14 September).

We are fully aware that there are other important aspects of a referendum process that need to be addressed for the picture to be complete. For example whether the people are able to trigger a referendum by popular initiative, as in Switzerland and some states of the USA. Our aim in this report is not to explore that aspect, but to focus on how the EU-related referendums have been conducted in terms of "fairness".

There are of course other aspects of "fairness" than the ten criteria listed below. But this is at least a starting point for discussion. We are aware of the fact that the contributors to this report, whose words are put in italics, in many cases represent the No-side in the countries concerned, which may colour their perceptions. However, we hope that this report gives important personal evidence of a historical process in which people were given a say on their country's role in the European integration. The way that this was done will clearly affect peoples' confidence in the potential of direct democracy, as well as in the European Union.

## 2. Monitoring criteria of "fairness" in referendums

### 2.1 Is the question fair?

Is the referendum question fair, not one that is implicitly biased towards one side? The question put should be such as to give citizens some idea of the ramifications of the issue they are being asked to vote on. The question: "Are you in favour of joining the EU?" is likely to get a different pattern of response than the question: "Are you in favour of joining the EU and permitting EU law to override national law in any case of conflict?"

The referendum question should not be a trick one. In Ireland's second Nice Treaty referendum in 2002 voters were in effect asked "Do you say Yes to A and B?" - two different joined propositions to which only one answer, a Yes or a No, was possible. Other tricks used by some Governments is to hold several different referendums at the same time, in the hope that there will be a spill-over effect from one vote to another, or that there will not be an adequate debate on either issue. Ideally, a neutral Referendum Commission should advise or be consulted on the character of the referendum question, if it is not empowered actually to draw that up.

Below is a description of the turnout in the ten referendums and how the referendum question was formulated in each country. For some countries there are comments on the wording and other circumstances.

#### Malta

Result: 53.6 % Yes; 46.4 % No; Turnout: 91 %

Referendum question: "Do you agree that Malta should become a member of the European Union in the enlargement that is to take place on 1 May, 2004?"

*"The EU Referendum in Malta was consultative and therefore the result did not necessarily bind the government. The problem with the Malta referendum is that there are no clear rules for the interpretation of the result. The opposition Malta Labour Party, which was against EU membership, did not agree that a referendum could be fair in the circumstances, so it partially boycotted the referendum by advising its supporters to vote No, to abstain from voting, or to invalidate their vote. Following the referendum result the Labour Party quoted as precedent the 1956 'Integration with Britain' Referendum in which Britain had refused to accept the Yes-majority vote because this did not constitute the majority of the whole electorate".*

#### Slovenia

Result: EU-accession: 89.6 % Yes; 10.4 % No; Turnout: 60.3 %  
Nato-membership: 66 % Yes; 34 % No; Turnout: 60.3 %

Referendum question: "Do you agree that the Republic of Slovenia becomes a member of the European Union?"

### **Hungary**

Result: 83.7 % Yes; 16.3 % No; Turnout: 45.6 %

Referendum question: "Are you in favour of the Hungarian Republic becoming a member of the European Union?"

*"The referendum was held on the decision of the Hungarian Parliament. The way they got it through was by amending the Hungarian Constitution of 1949. Although the question was slightly modified, some Hungarian legal experts doubt its validity, not to mention that its spirit is alien to traditional Hungarian constitutional thinking, which is a result of a millenium's organic development. Loosely translated, the new constitutional law, Art. 79, says that 'a peremptory referendum has to be held on the Hungarian Republic's accession to the European Union under the conditions set down in the Treaty of Accession...' and it then goes on to the referendum question.*

### **Lithuania**

Result: 89.9 % Yes; 8.9 % No; Turnout: 63.3 %

Referendum question: "I support Lithuania's membership of the European Union".

*"This is not exactly a referendum question but a statement, better answered in a 'True' or 'False' fashion, than a Yes or a No".*

### **Slovakia**

Result: 92.4 % Yes; 7.6 % No; Turnout: 52.2 %

Referendum question: "Are you in favour of joining the EU?"

*"This wording is likely to get a different response from the question: 'Are you in favour of joining the EU and permitting EU law to override national law in any case of conflict?'"*

### **Poland**

Result: 77.5 % Yes; 22.5 % No; Turnout: 58.8 %

Referendum question: "Are you for the accession of Poland to the EU?"

*"There were no attempts to influence public opinion in the question. The referendum was initiated by the Polish Parliament, which could, however, annul the results of the referendum".*

## **Czech Republic**

Result: 77.3 % Yes; 22.7 % No; Turnout: 55 %

Referendum question. "Do you agree to the Czech Republic's entry to the EU under the conditions drawn up in the Treaty of accession of the Czech Republic to the EU?"

## **Estonia**

Result: 66.83 % Yes; 33.17 % No; Turnout: 64.06 %

Referendum question: "Do you support joining the European Union and adopting the changes to the Estonian Constitution?"

*"The question actually consists of two questions; one about accession to the EU, and one about changing Estonia's Constitution. The wording of the question can be criticised in legal terms, since the constitution has to be changed before entering the EU. This has not been done formally. The wording is also confusing for the informed voter, since you can be in favour of EU-membership, but not changing the constitution, and vice versa".*

## **Sweden**

Result: 55.9 % No; 42 % Yes; Turnout: 82.6 %

Referendum question: "Should Sweden introduce the euro as its currency?"

*"The question, which was decided on by the Yes-side political parties, gives the impression that membership of the Economic and Monetary Union is just about changing one currency with another. It does not say anything about handing over control of the monetary policy to a very powerful bank, which lacks accountability and openness".*

## **Latvia**

Result: 67 % Yes; 33 % No; Turnout: 72.53 %

Referendum question: "Do you support Latvia's participation in the European Union"

## **Summary**

It can be said that the questions posed to the people in the ten referendums, in most cases have been clear. The questions were formulated in a generally neutral way, and in some cases only deal with narrow aspects of the issue. The Swedish referendum, where the voters were asked about introducing a new currency, is one example of this. An exception is the Lithuanian referendum, where the question looked more like a statement.

Generally, the question asked did not give any indications of the wider consequences of the decision.

The formulation of the question also reveals a lack of preparations of the referendum. In Malta, given the precedent in the interpretation of a previous referendum result, it was unclear how the result should be politically interpreted, according to No-side proponents. In Estonia, the legal preparations for changing the Constitution had not been made. Without this, EU-accession is not valid, some No-side organisations claimed.

## **2.2 Was there enough time for a full national debate?**

Is there sufficient time for the issue to be debated and citizens to be adequately informed on the pros and cons of the referendum proposition? In most countries that hold referendums the official referendum period begins when the measure providing for the referendum goes through Parliament. An adequate amount of time should pass between that and the referendum day to allow a full national discussion to be held. International best practice points to a minimum of eight weeks for this.

### **Malta**

*"The referendum date was announced five weeks before, but the membership debate had started early in Malta, before 2000. This is because in Malta the main opposition party was EU-critical. However, the national tone for the debate was set by the Malta-EU Information Centre (MIC), which was Government funded, but was totally pro-EU membership. It was only during the final two weeks of the campaigns that a noticeable swing towards the No-side became evident, but this was not enough to compensate for the pro-EU information from MIC over a long period of time and the splitting of the No-vote into three by the opposition party's partial boycott, which was seen as a grave mistake by independent No-campaigners".*

### **Slovenia**

*"One good month was not enough for at least two reasons: there had been too much unbalanced EU propaganda over the past years, and there was a parallel debate on Nato membership, which completely distorted the arguments".*

### **Hungary**

*"The time-span between the referendum and the announcement of its date (23 December 2002 - 12 April 2003) could have been enough to provide for the conditions of a fair referendum. But the "unofficial" version of the 5000-page Treaty of Accession appeared on the web-site of the Ministry of Foreign Affairs only three to five days before the referendum. According to the Copenhagen Declaration at least a half-year long public debate is desirable".*

## **Lithuania**

*"Announcing the referendum with just two weeks notice was not enough, considering that there was no debate before this and then the participation was only from the Government and the Yes-side".*

## **Slovakia**

*"The official Slovak referendum campaign lasted only twelve days".*

## **Poland**

*"The date of the referendum was known a few months before. The question was whether the voting should be organised over one day or two so as to increase the participation (given that the Polish referendum needed an over 50 % participation rate to be constitutional). After the first day of the referendum only 18 % had voted, so the President and Prime Minister decided to encourage the public to vote by making special appeals, which is not normally allowed. The national debate took place on all the levels of the national governments".*

## **Czech Republic**

*"The real campaign started in the beginning of this year. There wasn't enough time for a full national debate to take place and people are still unaware of many aspects of the issue. More time was needed because this was an important historical decision".*

## **Estonia**

*"The real campaign started in the beginning of August. There was not any real debate between the Yes-side and the No-side or a debate between different arguments".*

*"The campaign was very emotional in the end, however, although before August it was more balanced and focused on the issues".*

## **Sweden**

*"The date of the referendum was announced in December 2002, which gave about nine months for the referendum campaign. But the state funding was distributed to the campaign organisations during April, which gave about four months for active campaigning".*

## **Latvia**

*"The government's Yes-campaign started on 1 May, which gave almost five months for campaigning".*

## Summary

The campaign period is mainly determined by two factors, the announcement of the referendum date and the date when funding is given to campaigning organisations, if that occurs. In practice, the EU-debate in many countries started long before this. Considering the first aspect, the period differed from two weeks to nine months. The Lithuanian Government's announcement of the referendum date, with only two weeks notice, is clearly not acceptable. In the countries where public funding was available, the campaigning period was at least two to five months.

### 2.3 Is maximum public participation encouraged?

Have citizens enough time to enable everyone to cast their vote in circumstances minimising inconvenience? Is the issue people are voting on – for example to ratify or not an EU Treaty – available to citizens in their own language? Governments have been known to attempt to influence referendum outcomes by imposing onerous voting rules or holding the poll at inconvenient hours or in inconvenient places, so as to influence voter turnout.

#### Malta

*"Since the opposition party in Malta was against membership, public participation was in its usual political form – very heated and bipolar, with participation rates in general elections at 96% of the electorate. The lower turnout for the referendum was not because the debate was any less heated (in fact it was more heated than an election campaign), but because of the partial boycott from the No-side. The result was that relatively 'only' 91 % turned out to vote."*

*"The Treaty was not publicly available until a few days before the referendum. It was not available in Maltese, but English is generally understood. However, the complexity of the Treaty is such that it makes little difference whether the people can or cannot read it".*

#### Slovenia

*"Not much interest was aroused. There were only some round- table talks of little significance, but nothing more".*

#### Hungary

*"It is a question of interpretation. Formally yes, and very aggressively, but as the final participation rate showed, it was a complete failure. No official investigation was made to find out the reasons for the aloofness of people towards such an historic event. We believe we can explain this attitude. This was a one-sided, countrywide, aggressive, all-media campaign. It was associated with the memories of the anomalies of the previous parliamentary election, followed by brutal police attacks on peaceful demonstrators".*

*"All this developed a climate that led many people to believe that it would be completely useless to vote, as their votes would not count anyway. They were convinced that, like in the old days, the outcome would be independent of the voting: "It was decided long ago," they said. I spoke to various skilled workers who expressed this opinion and declared that they did not intend to vote. So considering the above, responsible public participation was not encouraged at all".*

### **Lithuania**

*"Maximum participation was not really encouraged. People got fed up of continuously listening to the Government and Yes-media. There were no debates that offered counter arguments. All we heard was that 'we need the EU.'"*

### **Slovakia**

*"The two days allowed for the referendum were sufficient. But whether the citizens knew what they were voting for is not clear, the Accession Treaty is a complicated piece. In fact, generally nobody cares about it. The prospects of a sound referendum were destroyed with public announcements of a 'back door solution' in case the Yes-side fails to clinch a victory. This does not mobilise the people for active participation. It breaches every code of ethics."*

*"Participation was only encouraged to the extent of securing a turnout of more than 50 % for the referendum result to hold".*

### **Poland**

*"The information campaign was targeted mostly to encourage people to participate in the referendum so as to have a participation rate of at least over 50 % of the electorate. In any case, the final decision depended on the Parliament."*

*"The formal information strategy of the Polish government encouraged people to vote Yes, while 'informal' actions, like demonstrations, came mainly from the No-side".*

### **Czech Republic**

*"Public participation was not particularly encouraged because, unlike Poland and Slovakia, it did not need the participation of more than 50% of the electorate. Only 55.2% turned out to vote".*

### **Estonia**

*"Public participation was not really encouraged, and there was no real interest in having an informative and balanced debate".*

*"Estonia and Latvia were the only countries that translated the Accession Treaty into their own languages. In Estonia it was presented only one week before the referendum".*

## **Sweden**

*"Public participation was encouraged in the sense that public funding was given to the campaigning organisations. After the tragic murder of Foreign Minister Anna Lindh, four days before the referendum, all active campaigning closed. The leaders of all parties agreed to encourage people to vote. In this way, the high referendum turnout became a manifestation of democracy and a reaction against violence".*

## **Latvia**

*"Participation was encouraged both by Government and No-side".*

## **Summary**

Generally, it can be said that the governments did not encourage a broad, balanced public debate. They were more interested in achieving a Yes-vote. Massive resources and a generally biased media helped to achieve this aim. Participation was encouraged, since a high turnout was needed to secure Yes-victories in some countries. This was evident in Poland and Slovakia, which had a 50 % quorum for the referendum to be valid.

Participation was not encouraged in the sense that the voters did not get the actual text that they were voting on. Each country's Accession Treaty was in most cases not translated into its own national language. This only occurred in Estonia and Latvia, where, however, the treaty was presented very late.

## **2.4 Was there equality between both sides as regards the use of public resources?**

Are state and public resources made equally available to both sides of the argument? The resources can be given directly by public funding of umbrella groups on each side, or indirectly by means of a neutral, publicly financed body.

## **Malta**

*"The Commission allocated 700,000 euros for activities related to EU information during the referendum campaign, according to Commissioner Gunter Verheugen's answer to Daniel Hannan MEP on 14 February 2003 (P-0207/03EN). The Government-owned information body, the Malta-EU Information Centre (MIC), was the main proponent of a Yes-vote in the referendum campaign. It was funded by the Maltese Government with 2 million Maltese Liri (4.8 million euros). In addition, it received 200.000 Maltese Liri (475.000 euros) from the Commission".*

*"The earlier proponents of the No vote, CNI, received in total only 7,000 euros from the government and no financial support from the Commission. The so-called 'Yes – Malta is in Europe' group also received 7000 euros from the government. Meanwhile, all political parties, including the Greens, funded their own campaigns, as did a number of unions and federated entities. They were all for the Yes vote, except for the Labour Party and the General Workers Union, which campaigned for a No vote together with the two anti-membership groups, CNI and No2EU."*

## **Slovenia**

*"The government funded its pro-EU campaign and the media followed the tune. The anti-membership side was not funded and it had no platform. The media did not recognise the existence of an anti-membership side. Only if they are faced with facts would they confess that they had heard of Neutro, NOVA stranka or the group '23th December' on the No-side. These groups all lacked sufficient funding to balance the government and media propaganda."*

## **Hungary**

*"The Government established the so-called EU Communication Public Foundation with the task of preparing people for the referendum. The Movement for Free Hungary sent a letter to the Head of the Foundation, who said in his reply that he could not interpret the expression 'sides'. He described their task as 'to make people's feelings resonant to the referendum'. His advice to us was to make use of the Internet on its own and expressed his appreciation that this way the orientation of people will be more 'multi-coloured'. When we regularly applied for financial support, it was refused without any explanation. Yet, not only the 'Association for Nature Conservation and Bird Protection' was supported after they promised to join the Yes campaign, but even the 'Association for Mental Illness'. This is not a joke, but a fact."*

*"The Foundation disposed of about 8 million forints. But all the ministries and municipalities had their own referendum budget. There are newspaper estimates of expenses of up to 30-40 million forints. There were some hidden expenses, too. For example, the army constructed a boat-bridge across the Danube in Budapest, called 'Bridge to Europe', embellished with EU decorations. It was stated that it cost nothing as it was constructed in the frame of a regular war-game. It was only a fortunate coincidence that the construction drill happened to be in Budapest just before the referendum. So the expenses were covered by the army budget. All this money was spent on pro-EU propaganda. Not a single penny was given to the other side, to the opponents of the Treaty".*

## **Lithuania**

*"There was no equality. Eurosceptics were not given a platform and only some parliamentarians spoke against it, but very few, since most parliamentarians are in favour and the government is obsessed with EU membership. It was neither balanced nor*

*objective. The EU info centre had around 400,000 euros at their disposal and they bought airtime on TV, newspapers, radio, posters and billboards. Researchers from the No side complained that they could not get their information across to the public. Government said it would only give funds to eurosceptics if they proposed a particular project, after the Government would have decided whether or not to give funds to the No side. No one proposed any such projects, so no funds were given to eurosceptics."*

## **Slovakia**

*"The anti-membership group Agora tried to get funding for workshops on the EU and Direct Democracy, but was denied each time. Later it received some funds from the EU Commission's delegation to Slovakia, but this was not enough to rectify the great imbalance."*

## **Poland**

*"There was no equality - the anti-membership side was in the minority, but it organised manifestations and distributed leaflets. The Government gave no money for campaigning before the referendum. But it ran its own campaign advocating a Yes-vote."*

## **Czech Republic**

*"There was no equality between the two sides as regard the use of public resources. Anti-EU organisations asked for support but did not receive any. Yet the Government has spent 200 million CZK (about 7 million EUR) on EU information campaigns. The federalists have been supported, but the EU-critics and opponents have received no funds. Add to this that the federalists and the Yes supporters are generally well treated by the media."*

## **Estonia**

*"The No-side received 32,000 euros from a private fund, Open Estonia Foundation, for advertisements. The Yes-side used both tax payers' money and foreign funding, which was in total 60 times greater than the No-side's budget."*

## **Sweden**

*"The campaign organisations on both sides, as well as the parties, received public funding. The organisations on the No-side got 48 million SEK, and on the Yes-side they got 42 million SEK. Besides these funds, the parties got funds in relation to their number of seats in the parliament. The funding ranged from 7.5 million SEK to the three parties (Centre Party, Green Party and Left Party) arguing for a No-vote to about 10.5 million SEK to the Social Democrats. This may give the impression that both sides were fairly equally funded. That is true only if one considers State funds. But not if one considers that only three of the seven parties were on the No-side. And especially if one considers that the main sponsor on the Yes-side was the Confederation of Swedish Businesses, who*

*never wanted to reveal their donations. Figures in the media spoke of about 300 million SEK, other figures suggest at least double that amount, in private expenditure on the Yes-side."*

## **Latvia**

*"The Yes-side got 1.6 million euros in state funding, and the No-side received nothing."*

## **Summary**

Even though the exact figures for what the Yes-side and No-side actually received in state and private funding, and how much was spent in the campaign remain unclear, the comments give a clear picture: All the Accession referendums can be considered significantly "unfair" in terms of the resources used. In most of the countries the No-side was not allowed any State funding in order to counter the Yes-side, backed by the Government, big business and most of the media.

## **2.5 Was there equality in the broadcast media?**

Publicly funded resources normally include the radio and TV media. In modern democracies fairness requires that there be equal coverage given to both sides on State-funded radio and TV. Some countries also require private broadcasters to give coverage that is fair, impartial and objective on issues of public controversy and debate in news and current affairs programming. That means broadly equal coverage as regards time and media weight of the personalities and presenters involved on radio and TV.

## **Malta**

*"The Broadcasting Authority exists to ensure equality on the public media, that is, national TV and radio channels. This equality was to a certain extent maintained so far as debates were concerned, although some debating programmes, shows and the News Room were generally biased in favour of EU membership. But then, of course, both main parties in Malta have their own radio and TV stations, so in this respect there was a balance. Another private channel was totally unbiased, as long as airtime was paid for. Most of the 12 or so radio stations, however, were generally in favour of EU membership, but since the debate and campaign occurred on partisan lines between the country's two main political parties, the debate was generally balanced."*

## **Slovenia**

*"The No-side is hardly given any platform on the public media, but worse is the private media, like POP TV and private radio stations, where the No-side is unheard of."*

## **Hungary**

*"Only pro-EU views were given air-time on TV and radio programmes, with the exception of four opportunities on one particular programme. This was an early afternoon programme, a kind of "talk show", broadcast by a national channel of countrywide coverage. The editor of this programme is notorious for creating scandals out of everything he deals with. He, probably misled by the general State propaganda that only uneducated people were against EU-membership, invited the experts of the Movement for Free Hungary on his own initiative and tried to make fun of them. After being unsuccessful in his efforts, he refused them all further participation. This put to an end the single opportunity for the opposition to explain their views on TV. Another scandalous case was when a commercial channel refused to broadcast a paid advertisement from the Green Party of Hungary, also against EU membership. We think this a clear case of censorship. And even in this single case, the real intention was not to stimulate a fair debate but to make the opposition look ridiculous."*

## **Lithuania**

*"There was no equality in broadcasting. People could only follow the Yes-side on TV, radio and print media and heard nothing from the No-side."*

## **Slovakia**

*"The Slovak broadcasting resources were not equally available to both sides of the argument. Pro-EU propaganda alone did not raise interest in the referendum. Most people cared little about the EU Constitution process. Whether everything is clear is not known because nobody is discussing anything."*

*"There was no organisation or group with sufficient media possibilities to distribute critical views of the EU – not even slightly eurosceptic. Citizens cannot possibly have had balanced comprehensive information. There is only one explanation for their support for EU membership: they have a false expectation that the Brussels-based Commission will be better than their national government".*

## **Poland**

*"There was no equality for the referendum information campaign. Television, especially public TV, was strongly engaged in encouraging people to vote for EU accession. The stars of the Polish media (actors, singers) were asked to say 'Yes' in front of the Polish public. It was very much biased towards the Yes-side."*

## **Czech Republic**

*"Broadcasting resources were only partially made available to the No-side. There was more coverage on the private TV stations, such as Nova and Prima, than on the public media. But generally broadcast media did not give space to the anti-membership*

organisations."

### **Estonia**

*"The media supported mainly the Yes-side. The largest newspaper 'Postimees' was very clearly on the Yes-side. But the No-side got occasional coverage in some media."*

### **Sweden**

*"Most of the Swedish daily newspapers were in favour of the euro. The major national newspapers made generally a good job informing the citizens about the euro. But when making 'news' priorities the Yes-side was generally favoured. This can generally also be said about State TV and radio, but to a lesser extent. According to their 'public service' policy balanced information should be given and different opinions should be heard. They did not fulfil their 'public service' responsibility when they decided to have a discussion on democracy and violence among the leaders of the parties following the killing of Anna Lindh, instead of a low-key discussion on the pros and cons of the euro. In this way, the euro-referendum was transformed into a 'party affair' and the non-party campaign organisations were shut out. The political elite's tight connections with the media is a democratic problem."*

### **Latvia**

*"There was no equality. All State and most private media resources were used for the Yes-campaign. Even if the No-side was permitted to debate occasionally on TV there were normally ten participants from the Yes-side and four from the No-side".*

### **Summary**

The general picture given is that both sides were not treated equally by the media. One reason for this is that the national "political elite" was on the Yes-side, and that the Yes-campaign in some of the applicant countries was better organised than the No-campaign. Another, and probably more likely, reason is that big media and their private owners simply were in favour of EU-membership.

## **2.6 Was there a ceiling on referendum spending by private interests?**

Democracy and fairness also require that there be a ceiling on private referendum expenditure, whether by political parties or non-party organisations and individuals. The fairest ideal referendum system would be one where there was exclusively public funding on a fifty-fifty basis and a ceiling on private funding.

In principle there should be a statutory ceiling on referendum expenditure by any single organisation or individual, and a system of public controls to enforce that. If political parties are publicly funded, usually in proportion to their size and parliamentary weight,

there should be controls on the extent to which the parties can divert the public funds they receive towards referendum purposes. The principles of democracy and fairness call for a recognition that the inequalities inherent in private funding are best countered by thorough and extensive public funding on an equal basis for both sides in referendums.

### **Malta**

*"There was no ceiling on any funding, be it public, private, or external. There were no controls over any expenditure, except accounting rules that usually exist in relation to government departments, NGOs and private companies. Otherwise, funding was a free-for-all occasion. This situation could never bother the pro-EU side since it was evident that the No side could never match the resources available to the Yes side."*

### **Slovenia**

*"There are no ceilings on referendum spending by private interests".*

### **Hungary**

*"Nobody attached importance to this possibility. This type of resource would have been significant for the opposition side, but entrepreneurs dared not take the risk of donating funds to the No-side. They were afraid of being boycotted and insulted by the authorities if it became public. There was only one entrepreneur, who donated 780 euro, and a private person, a former emigrant, who returned to Hungary, covered the expenses of printing a number of leaflets, the cost of which was about 1900 euro. The only other resources of the Movement for Free Hungary were small donations from the people on the street. The total budget of EU-critical material of the Movement was about 15,000 euro. The Hungarian Chamber of Commerce spent 200,000 euro on pro-EU propaganda from its own budget without the authorisation of its members. Although the magnitude of private funding was negligible compared to the state budget, more than ten times as much was spent on pro-EU propaganda as on critical material."*

### **Lithuania**

*"There are no limits on funding. And since there was no real eurosceptic organisation the Government did not have anyone to fight against or oppose."*

### **Slovakia**

*"Slovakia has no ceiling on private funding."*

### **Poland**

*"There was no ceiling on funding".*

## **Czech Republic**

*"There was no ceiling on referendum spending by private interests. But there was some private spending, such as by Skoda, the car manufacturers."*

## **Estonia**

*"There is no ceiling on funding."*

## **Sweden**

*"There is no ceiling on funding and organisations receiving funds are not required to inform the public who their donors are."*

## **Latvia**

*"There are no ceilings on referendum spending by private interests."*

## **Summary**

None of the ten countries has a ceiling for private spending. Private donations were overwhelmingly made to the Yes-campaign, although the No-campaigns also managed to get smaller donations.

## **2.7 Is foreign funding excluded where there is fair domestic funding?**

If a country has a system of fair referendum rules in place, its government is entitled to outlaw foreign referendum funding. The reason is that such outside funding, which is usually private, will be inherently unequal and designed to intervene in a State's domestic affairs and voting arrangements. Foreign funding may of course be justified if there is unfairness in domestic referendum funding and non-nationals are invited by locals to help counter that.

## **Malta**

*"Foreign funding was not restricted in Malta, although there are general rules over party funding."*

## **Slovenia**

*"Foreign funding actually could be done through civil society groups, but not through political parties. No amount of foreign funding available could balance government funding."*

## **Hungary**

*"Foreign funding was not an issue. The idea did not come across anyone's mind. If there was foreign funding, it remained secret and it was spent on the Yes-side. But there was no real need for this."*

## **Lithuania**

*"There were no restrictions on foreign funding, although there was no such funding as far as we know."*

## **Slovakia**

*"Foreign funding was not a problem. There was no particular foreign funding on both sides of the campaign. There was no need for foreign funding on the Yes-side as long as there was virtually no funding at all on the No side. The whole referendum affair in Slovakia was a one-sided sham."*

## **Poland**

*"There were no restrictions on foreign funding."*

## **Czech Republic**

*"Foreign funding is not excluded. There was huge foreign funding from the EU Commission Delegation and its information centres in the Czech Republic."*

## **Estonia**

*"Foreign funding was not an issue, and not restricted."*

## **Sweden**

*"Sweden has no restrictions on foreign funding."*

## **Latvia**

*"Foreign funding was not restricted."*

## **Summary**

None of the countries have rules that exclude foreign funding when the domestic funding is "fair". The Yes-side was mainly favoured by foreign funding, which came mainly from the EU Commission and its delegations in each country. The No-side in some countries got very limited financial support from like-minded organisations across Europe.

## **2.8 Did outside bodies avoid interference in the national Accession referendums?**

In EU-related referendums outside bodies such as the European Commission and European Parliament should avoid seeking to influence the result. Such interference is in breach of EU-law, which lays down that EU treaties shall be ratified by States in accordance with their own constitutional requirements. The EU Commission and Parliament have no role in national referendums or in the ratification of EU Treaties.

Non-interference in the domestic affairs of sovereign states is a basic principle of international good behaviour. Foreign governments should not intervene in domestic referendums. Foreign diplomats, ambassadors and the like, should not intervene in the internal politics of the countries they are accredited to. Foreign politicians should not make statements that seek to influence how the citizens of another country vote. These basic principles of international good behaviour and protocol have been widely breached in EU-related referendums in various countries over the years, not least in several of the EU Accession referendums.

### **Malta**

*"There are no restrictions to foreign interference. There was a whole procession of Commissioners and EU delegations appearing on TV interviews and shows, not least Commissioner Guenter Verheugen himself, who appeared twice on a popular TV show as the exclusive guest, as well as in numerous press-ops (he was nicknamed by the No-side the EU-salesman). This began well before the referendum and continued throughout the campaign, although high profile foreign personalities avoided doing the rounds closer to the referendum date."*

*"The opposition party avoided inviting EU-critical personalities to Malta, so this job was left to the non-party groups CNI and No2EU, which brought various EU-critical MEPs and activists from around Europe to counter the argument that "No one is against the EU." This aspect of the campaign had a huge impact and it was a determining factor in the final swing towards the No side (the polls had been at 60% for the Yes side, before coming down to 50 – 50 levels during the last week, only to be swayed in favour of the Yes side by the partial boycott from the No side (Labour Party))."*

### **Slovenia**

*"Outside bodies did not avoid interfering in the referendum. Commission President Romano Prodi, Commissioner Guenter Verheugen and many other EU personalities came to assure the Slovenian people how beneficial it will be for them to join the EU."*

## **Hungary**

*"When it became clear that the Government would not spend a single copper to inform people about the case for the opposing side, the Movement for Free Hungary sent a letter to Mr Thomas Glaser, Head of Information Section of EC-Delegation, Budapest, informing him about the unlawful partiality of the Hungarian official organs. The answer was a polite refusal stating that they had no right to 'interfere in Hungary's internal political affairs'. So, it seems that there are rightful violations of human rights, as well as wrongful, depending on who the interested party is."*

*"It was seen as a real impertinence when Mr Glaser warned the Movement about the 'non partisan nature of the EU Public Foundation, as well as the fact that it has pledged to administer the funds according to EU rules'. This, in a case where its 'partisan nature' was actually being objected to. Unfortunately Mr Glaser did not list any EU-rules for a fair referendum, so we are not in the position to compare them either to the practice of the Fund, or to the standards of TEAM."*

*"It can be regarded a ironical in the light of this that Otto von Habsburg campaigned for EU membership. His argument was that if the number of Yes-votes in Hungary would be higher than in the other candidate countries, Hungary would be the leader among the new members. A more serious case was that Romano Prodi and Gunter Verheugen personally participated in the campaign."*

*"The requirement that the referendum shall be ratified according to the State's own constitutional rules was also broken. Some legal experts state that the whole Hungarian referendum was unconstitutional and some organisations petitioned the Constitutional Court about this, but it refused to take a stand."*

## **Lithuania**

*"Commissioner Guenter Verheugen visited Lithuania, together with the Lithuanian President and some parliamentarians from the EU. They had good press coverage and Mr Verheugen appeared on TV and had newspaper interviews saying the EU was good for Lithuanians."*

## **Slovakia**

*"The visit of MEP Jan Marius Wiersma during the last days of the referendum campaign was heavily biased in favour of EU membership, as were the activities of the EC Delegation in Slovakia."*

## **Poland**

*"Outside bodies, such as EU personalities and MEPs, participated in the referendum process in order to encourage people to vote Yes in the referendum".*

## **Czech Republic**

*"EP Parliament President Pat Cox, Constitutional Convention President Valery Giscard d'Estaing, ex-EU Commission President Jacques Delors, as well as some other MEPs, visited the Czech Republic before the referendum and their message was heavily biased in favour of membership."*

## **Estonia**

*"There was a whole procession of Commissioners, MEPs and EU-delegations appearing on TV interviews and shows, not least Commissioner Guenter Verheugen himself. Here different embassies spent time and resources to support only the Yes-side in various euro-propaganda actions. The No-side invited a few foreign activists and speakers."*

## **Sweden**

*"The Yes-side had active support from governments and EU-leaders, advocating a Swedish Yes-vote. The No-side tried to counter that to some extent by inviting some foreign politicians and economists".*

## **Latvia**

*"Commissioner Guenter Verheugen, the Prime Ministers of Estonia and Finland, and the Presidents of Lithuania and Finland visited Latvia. The EU Commission ran its own 'information campaign'".*

## **Summary**

It is obvious that the Commission, both financially and through its personnel, played an important role in influencing the outcome of the referendums in the EU Applicant countries. The No-side also used foreigner visitors in their campaigns to some extent, but their political cannot be compared to that of visits by EU Commissioners or Presidents or Prime Ministers.

### **2.9 Were there agreed standards of fairness in the print media?**

The main source of unfairness here arises from monopoly control of the private print media and the absence of competition, especially on the part of newspapers dissenting from a predominant consensus. This gives rise to one-sided editorial and feature coverage of referendum issues, or facilitates private advertising that is heavily biased. Some countries, for example Britain, have bodies like a national Press Council to which people may make complaints and whose judgements newspapers agree voluntarily to be bound by. This can be helpful in advancing fairness in referendum and other contexts.

## **Malta**

*"The Press Club in Malta does not concern itself with fairness in Referendum campaigns. As far as the print media is concerned, this does not fall under any authority that ensures campaign ethics. The English language newspapers were all in favour of membership. The Malta Labour Party's weekly newspaper and the General Workers' Union daily and weekly were the only mainstream print media against membership (these are in the Maltese language). The Labour Party also has a website, maltastar.com, with daily news that was also EU-critical. As far as the print media was concerned, in all there were eight main weeklies or dailies in favour and three against EU membership."*

## **Slovenia**

*"There are no standards of fairness. To be given a platform one needs to be recognised. In Slovenia's case there was no recognition of the No-campaigners."*

## **Hungary**

*"There is a Press Law, and the associations of journalists have some Code of Ethics, but these do not cover fairness in Referendum campaigns. Perhaps it is worth mentioning that more than 90 % of the Hungarian press is under Western ownership, so their commitment to the EU is clear. One could read EU-critical opinions only in the remaining 10 %, which tried to strike a balance between both sides".*

## **Lithuania**

*"There are no standards of fairness and the media can print just one side. It does not have to balance its output with counter arguments. Lithuanians only received 'Yes' media reports and no eurosceptic reports."*

## **Slovakia**

*"Under such conditions as mentioned above, these standards of fairness do not exist. The media is generally biased in favour of the Yes side. Only some editorials were critical."*

## **Poland**

*"There were no special standards of fairness, only standard media ethics."*

## **Czech Republic**

*"There were no voluntarily agreed standards of fairness in the print media. Foreign interests who support EU membership own the majority of the print media in the Czech Republic."*

## **Estonia**

*"There were no voluntarily agreed standards of fairness in the print media. Foreigners who support EU membership own the majority of the print media in Estonia."*

## **Sweden**

*"The Swedish Union of Journalists has a code of ethical conduct. There is also a 'press ombudsman' who can act on behalf of the citizens and file complaints against press, TV and radio. A permanent committee (Granskningsnämnden), set up to handle the complaints, can then fine the media companies. Sweden has no regulation such as exists in Denmark, which requires for example TV to give both sides equal coverage."*

## **Latvia**

*"There were no voluntarily agreed standards of fairness in the print media. Foreigners who supported EU membership owned important sectors of the print media. For example the Swedish Bonnier group business daily 'Dienas Bizness' even offered special one-sided advertising discounts to pro-EU advertising."*

## **Summary**

Generally there are no agreed standards of fairness in the print media, although several countries have informal codes of ethics that journalists are urged or expected to observe. Extensive foreign ownership of newspapers and magazines, which were generally very much in favour of EU-membership, was seen as a problem in many EU Applicant countries.

### **2.10 Does monitoring and enforcement of fair referendum rules exist?**

This is best done by a statutory neutral Referendum Commission that is given sufficient powers to supervise and intervene in all stages of the referendum process, to remedy abuses where they occur, and to evaluate and report on the conduct of the referendum after it is held.

## **Malta**

*"There are no such provisions, but representatives of the EU-critical Labour Party were involved as monitoring and counting agents, in which case the election rules generally apply in relation to the actual voting and counting process."*

## **Slovenia**

*"There are no provisions for impartial monitoring and enforcement of fair referendum rules."*

## **Hungary**

*"There are no provisions for impartial monitoring and enforcement of fair referendum rules. It was quite the opposite. Only the parties in Parliament were allowed to send delegates to the local vote-counting commissions, and since all of these were ardent EU supporters, the opposition was completely excluded from such monitoring. The National Election Committee refused the request of the Movement for Free Hungary to send delegates to the national count. Concerning the enforcement of fair referendum rules: nobody has ever said a single word in the media concerning the fairness of a referendum. This was not a topic to be discussed or make provision for."*

## **Lithuania**

*"There was a referendum commission that took care of the logistical organisation of the referendum. It cannot be said that they did a bad job."*

## **Slovakia**

*"We do not have a neutral referendum body that monitors and enforces referendum rules."*

## **Poland**

*"The Government handled the organisation of the referendum."*

## **Czech Republic**

*"There was impartial monitoring and enforcement of fair referendum rules."*

## **Estonia**

*"There are no provisions for impartial monitoring and enforcement of fair referendum rules."*

## **Sweden**

*"Sweden has no impartial monitoring of a referendum process that is able to decide whether it has been unfair or not."*

## **Latvia**

*"There are no provisions for impartial monitoring and enforcement of fair referendum rules."*

## **Summary**

None of the countries studied has an impartial monitoring of the referendum process or of referendum rules where these exist. And without proper monitoring and evaluation by some impartial body, the aspect of "fairness" cannot be adequately assessed.

### 3. Conclusions

The contributors from the ten EU Accession referendums show that in general, with exceptions for some minor elements, they have not been conducted in a fair and democratic manner. Governments in most of the EU Applicant countries that held referendums showed no interest in encouraging "fairness" or genuine democratic debate. They strongly pushed the Yes-side agenda and were animated throughout by an overriding concern to win the referendum. Even though there is room for debate on the criteria for fair and democratic referendums, there is overwhelming evidence that these exercises in supposed popular democracy were highly unfair.

This raises the question of a government's role in a referendum. Should it be neutral? Is that possible? Should not the government, as the executive arm of the State, be neutral and act impartially when citizens are deciding a matter, even if the political parties and politicians that make up the government at any one time, are not neutral and cannot be? How can it be fair or democratic for a Government to use public resources, which come from citizen taxpayers on both sides of a referendum proposition, to push the point of view of only one side?

Do not peoples' right to receive and impart information, expressed for instance in Article 10 of the European Convention of Human Rights, imply that governments should exercise restraint in referendum and election contests so as to avoid imbalance and unfairness and achieve equality, at least so far as the allocation of public resources are concerned? Do not the values of fairness and democracy also require that there be limits on the inequality that is inherent in the use of private resources, and hence that there should be some public controls over these, ceilings on expenditure and the like? Rules of this kind are provided for in the election and referendum law of various countries.

The most important aspect of unfairness in the EU Accession referendums was the financial inequality between the Yes-side and No-side proponents. Malta, where one of the two main political parties, the Labour Party, argued for a "No", can be seen as an exception. But even there the No-side was financially discriminated against by the Maltese Government, and the EU Commission weighed in on the Yes-side. The governments of for example Slovenia, Hungary, Poland, the Czech Republic and Latvia allocated no funds whatever to the No-side interests.

All of the countries surveyed showed a lack of good democratic standards on how a "fair" referendum can be conducted. They also lack an impartial body, such as the neutral Electoral Commission in Britain or Referendum Commission in Ireland, with their role in monitoring the referendum process. Without such institutional structures, and of course higher national standards of democracy generally, the aspect of fairness can be easily ignored.

Referendums then become mere exercises in giving some kind of popular rubber-stamp to policies Governments have already decided. This in turn induces cynicism and apathy among citizens and lowers standards generally in public life. People become

depoliticized and stay at home. The political legitimacy of decisions taken on the basis of such flawed referendums is dubious, even if they are legally and constitutionally valid. It would be surprising if the flawed character of the referendums on the EU Accession Treaties did not in time come back to haunt some of those responsible for them.

From the standpoint of basic democracy the responsibility of governments to ensure that referendums are as fair and free as possible is fundamental. To encourage such responsibility a generally agreed guiding standard - a European Democratic Referendum Standard - is very much needed.