

## Referendum in the Netherlands

A VOTE ON THE EU OR A VOTE ON THE EUROPEAN PATH OF UKRAINE?

**On 6 April the Netherlands will be holding a referendum on the EU Association Agreement with Ukraine. The latest polls are showing a small lead for the opponents of the Agreement, but many voters remain undecided. While opponents of the Agreement are driven by Euroscepticism and political disaffection, many observers are warning that the referendum could send a negative political signal on the European Union and Ukraine's European path.**

On 6 April 2016 the Netherlands will vote in a consultative referendum on the free trade agreement with Ukraine. But the referendum is less about the EU's Association Agreement with Ukraine than about Euroscepticism, EU expansion fatigue and political disaffection. Some of the referendum's Eurosceptic initiators are organising an active "No" campaign to reject the Agreement. In Brussels and The Hague, there is no unified view about the legal and political consequences of rejecting the Agreement. While Jean-Claude Juncker warns of a "continental crisis" for Europe that equates to an "easy victory" for Russia, others suggest that it will simply be necessary to make a technical modification to the Agreement, which has already provisionally come into force.

### **More or less Europe, and the tragic role of Ukraine**

Since 1 July 2015, Dutch citizens are in a position to call for referendums on national laws shortly after they have been passed by parliament. A referendum is allowed if a petition is submitted containing 300,000 signatures of Dutch nationals. This right will be applied for the first time on 6 April 2016. On this day, Dutch citizens will be asked the following

question on their voting papers: "Do you support or oppose the law that approves the Association Agreement between the European Union and Ukraine?" The Agreement was signed in June 2015 and the majority of its provisions came into force on 1 January 2016.

A vote is being held on the Association Agreement because the ratification of this Agreement is the first opportunity to put the new "referendum law" into practice. Some observers think the role of Ukraine in the referendum is "tragic" as it could have been triggered by any other law. But it is rather convenient for Eurosceptic groups – particularly the GeenPeil<sup>1</sup> grouping comprising the right-wing blog GeenStijl and the two Eurosceptic organisations Forum for Democracy and Citizen Committee EU – that they have implicitly been given an opportunity to vote on the European Union. The group rapidly acquired more than 427,000 signatures. This topic is particularly controversial at the moment because the Netherlands currently holds the Presidency of the European Council (until 30 June 2016). This means the country has a particularly prominent role to play.

### **Euroscepticism, political disaffection and Ukraine's tarnished image**

The last 30 years have seen an increase in Eurosceptic sentiments, despite the fact that the Netherlands was one of the EU's founding members. This was made particularly clear in the 2005 referendum on the European Constitution. Many politicians remember all too well

<sup>1</sup> GeenPeil has for the first time become visible in 2014 during the European Parliament elections. The right-wing blog GeenStijl, which stands behind GeenPeil, is frequently criticized for publishing highly offensive content.

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how the Dutch voted No, and fear this could be repeated in 2016. On 6 April many voters will not feel they are voting on an abstract agreement with what they perceive as far-off Ukraine. Instead, they will feel they are voting on whether they want less or more Europe.

But to the extent that Ukraine plays a role in this referendum, for many Dutch people it has a negative image. When they think of Ukraine, they think of the war in Donbass, the downing of Malaysia Airlines flight 17, killing all 192 Dutch passengers on board, and the general problem of corruption and unstable government. This negative image has been intensified by the fact that the paintings stolen from a Dutch museum 10 years ago turned up in Eastern Ukraine in December 2015.

The trend has also been fuelled by an obviously fake video purported to be from the Ukrainian volunteer battalion Asov, in which armed, masked men threaten the Netherlands with retribution if they vote against the EU Association Agreement. Many observers suspect the Russians were behind this video, but this has not been proven. According to media reports, the US intelligence services have also voiced their suspicions that Russia manipulated the initiators of the referendum.

In this morass of rumours it not surprising that so many Dutch people fear the EU Association Agreement will lead to Ukraine joining the European Union, with all the attendant images of floods of migrant workers. It has somehow failed to get through that the Agreement has nothing to do with Ukrainian accession, and that it does not open up the European labour market to Ukrainian workers. In March, President of the European Commission Jean-Claude Juncker found himself forced to underline the fact that Ukraine will not be joining the EU or NATO within the next 20-25 years.

#### **The position of the political parties and the voting behaviour of their supporters**

Despite this difficult mood, the "Yes" campaign in civil society has been intensifying in the run-up to the referendum, led by the Stem Voor group. Faced with the "No" camp's harsh criticism of the political establishment, the Dutch government waited a long time before clearly stating its position and launching

its campaign. It was only in January 2016 that Prime Minister Mark Rutte of the Volkspartij voor Vrijheid en Democratie (VVD) announced that the Dutch government would be campaigning in favour of the Agreement. But he also made it clear that the government would not be actively campaigning, saying: "We are not going to hit the road with flags and bells". A government strategy paper that was leaked in February also recommends focusing on the trade benefits and avoiding any mention of the conflict between Ukraine and Russia.

The Dutch parties have taken clear positions: Geert Wilder's right-wing Partij voor de Vrijheid (PCC), the Socialistische Partij (SP) and the Partij voor de Dieren (PvdD) are all against. The other parties represented in parliament – VVD, Partij van de Arbeid (PvdA), Christen Democratisch Appèl (CDA), Democraten66 (D66), Christen Unie (CU), GroenLinks, Staatkundig Gereformeerde Partij (SGP) and 50Plus all voted in favour of the EU Association Agreement in June 2015. But they fear it will backfire on them if they publicly campaign for the Agreement. "People no longer believe us", said one party official.

The result of the referendum will not only reveal what voters think about the Agreement, but above all it will demonstrate the ability of politicians to mobilise support. There are three general trends among voters:

1. The older people are, the more likely they are to oppose the Agreement.
2. The younger people are, the less they know about the Agreement.
3. The more educated people are, the more likely they are to vote for the Agreement.

Overall, opponents of the Agreement are better organised and more inclined to vote. The polls show that 61% of Dutch people who are generally Eurosceptic will vote against the Agreement. EU supporters have more of a problem, with 36% in favour of the Agreement and 28% against.

Large numbers of voters know very little about the content of the Agreement. It is true that the number of people who at least know that a referendum is being held went up from

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49% at the beginning of March to 80% by the end of March 2016, but predictions of the outcome remain inconclusive. The polls are predicting that the "No" vote will be between 25% and 35%, and only 25% of people are well-informed about the content of the actual Agreement.

This is because it has been given little coverage in the media – less than a quarter of the population have specifically listened to or read a report about the referendum. To some extent, the public's lack of knowledge is also due to the government's and political parties' limited efforts, who have basically done the bare minimum. They are still hoping that the referendum will fail to achieve the required 30% turnout, and that voters will accept their rational argument that the Agreement is good for Europe and therefore good for the Netherlands. It remains to be seen whether it is sufficient for the parties to hope for a low turnout and the persuasive power of their rational argument.

#### **The view from Brussels and hopes of a technical solution**

In Brussels there is no common position on the referendum. Overall, it appears to have been severely underestimated, or at least this is what is being whispered in the corridors of European institutions. The Dutch referendum has been overshadowed by the migration crisis and the Brexit issue. At first no-one believed that the required amount of signatures would be gathered, and now it is hoped that the turnout at the referendum will be below the necessary 30%. But many still believe it will be possible to find a technical solution, even if the vote goes against the Agreement.

In fact, experts believe there will be few legal consequences. Only 30% of the provisions of the Agreement fall under national jurisdiction, with the remaining 70% within EU competence particularly with regard to free trade issues. The Agreement was passed by the European Parliament on 16 September 2014, so it is questionable whether a rejection would actually have much effect. Legally, it would be possible to draw up some kind of adjustment protocol, similar to that produced for Switzerland when the European Economic Area was set up in 1990. It would mean that the Dutch

were no longer signatories to the Association Agreement. This would mean that the relatively few rulings that are purely within national jurisdiction, such as on employee mobility (Art. 18) or the application of import duties on agricultural products based on the WTO Agreement (Art. 40), would not come into force between the Netherlands and Ukraine.

#### **Ukraine's path to Europe: "This is what we fought for on Maidan!"**

The 1,200 pages of the EU Association Agreement may be viewed by most citizens of the Netherlands and the European Union as being dry and unexciting, but for Ukraine the Agreement is extremely significant and also harbours emotional elements. Representatives of civil society and the government all clearly state that their protests on Maidan during the winter of 2013-2014 were based on a desire to build closer ties with Europe. It was former President Victor Yanukovich's refusal to sign the EU Association Agreement that triggered months of demonstrations and led to the deaths of more than 100 people. After the end of the Yanukovich regime, the new, pro-European government worked hard to advance the Agreement. Recent polls show that 68% of Ukrainians support the EU Association Agreement.

Ukrainian politicians are working to support the Association Agreement in the Netherlands and are calling on people to show solidarity with Ukraine. In November 2015 Ukrainian President Petro Poroshenko held talks with the Dutch government and spoke to students at the University of Leiden. Volodymyr Groysman, the President of the Ukrainian Parliament, visited the Netherlands in March and Ukrainian Foreign Minister Pavlo Klimkin is expected at the beginning of April. Ukrainian politicians are convinced that the Dutch government supports Ukraine in the referendum. In order to improve Ukraine's image in the eyes of Dutch voters, the Klitschko brothers visited the Netherlands at the end of March. They appeared on chat shows and gave interviews in the Dutch media, in which they asked the Dutch people to show their support for a democratic, stable Ukraine.

But at the same time, Ukrainian politicians and high-ranking representatives have found

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they have limited room for manoeuvre, as if they get too involved it could be interpreted as meddling. So the Ukrainian "Yes" campaign is concentrating on representatives of Ukrainian civil society. The Ukrainian diaspora in the Netherlands has set up the Oekraine-Referendum website to explain the Association Agreement in simple language and argue in favour of the "Yes" vote.

Ukrainian intellectuals have come together with heads of leading think tanks and NGOs in Ukraine to proclaim their support for the "Yes" campaign. Video clips about Ukraine, such as "Hop, Nederland, hop!" and "Tak is Ja", have been spreading on social media. Ukrainian civil society has set itself a strategic goal: even if the Agreement is rejected, the campaign is to give Dutch people a better understanding of Ukraine and provide a foundation for closer future relations.

As a result, they are fairly relaxed about the possibility of a negative result. Over recent weeks the Ukrainian media has prepared Ukrainians for the possibility that the Agreement could be rejected. In this case, the Foreign Ministry also believes it will be possible to find a technical solution.

#### **Far-reaching political consequences**

Along with the possibility of a technical solution, the fact that the referendum is non-binding also seems to reduce its significance. The Dutch government is not obliged to implement the result. Indeed, the referendum on the European Constitution in 2005 was not legally binding either. But in conjunction with the French rejection, the Dutch "No" vote had sufficient political clout to effectively prevent ratification and plunge the EU into a deep political crisis. 48% of Dutch people believe the government should abide by the result of the 6 April referendum, whereas 41% think it should be up to the government to make its own decision. However, experts suggest that politicians will find it difficult to go against the will of the people if there is a high turnout and a clear "No" vote.

Domestically, the referendum can be viewed as an indicator of trends in the run-up to the Dutch parliamentary elections, planned for March 2017. If the EU Association Agreement is rejected, this will signal a lack of support for

the government and highlight the growing popularity of the Eurosceptic parties.

Rejection of the EU Association Agreement would have a clear symbolic impact that would resonate beyond the borders of the Netherlands. It would be political dynamite if the vote implicitly went against the European Union and closer ties with Ukraine at a time when the Netherlands holds the Presidency of the European Council. With regard to the referendum on whether the United Kingdom will remain in the European Union, to be held on 23 June 2016, observers assume that a Dutch refusal would provide additional stimulus for the Brexit campaign in the UK. Other Eurosceptic parties and groups in the EU could also use such a result to boost their campaigns.

Apart from Juncker's warning about a victory for Russia – for Moscow the Agreement has long been a thorn in the side and it has already suspended free trade with Ukraine as a consequence – a rejection would also be a manifestation of lack of support for the European path of Ukraine. There is no doubt that the EU will continue to support Ukraine whatever the outcome of the referendum, but its symbolic effect on the European Union's foreign affairs, particularly with regard to the Eastern Partnership, should not be underestimated.